

# Policy Manual for the Victoria College Board of Trustees



Developed as a reference with consultation from the  
*Policy Reference Manual for Texas Community Colleges*,  
Texas Association of Community Colleges.

Adopted 2000

Revised 2001, 2003, 2004, 2006, 2008, 2011, 2012, 2013, 2014



The Policy Manual for the Victoria College Board of Trustees  
may be viewed on the VC website at [www.victoriacollege.edu](http://www.victoriacollege.edu)  
Click on: About VC, Board of Trustees, VC Board of Trustees Policy Manual

Updated November 2014

## **Introduction**

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The **Policy Manual for the Victoria College Board of Trustees** contains the policies of the governing board of The Victoria County Junior College District, referred to as the Board of Trustees (“the Board”). It is developed as a reference with consultation from the Policy Reference Manual for Texas Community Colleges, Texas Association of Community Colleges. Updates are provided by the Texas Association of School Boards.

The policies are organized into eight regulations, each containing: 1) Legal Reference, noting the applicable TASB manual section and citing appropriate U.S. and Texas Constitution sections, statutes, the Texas Education Code, the Texas Administrative Code and or Texas Higher Education Coordinating Board rules and 2) Local Policy. A Table of Contents follows this introductory page.

The Victoria College Board will function as a whole, rather than as individual Trustees and will communicate institutional policy through written policies which will be shared with all constituencies. In the legal referenced policies, Board members are referred to as Trustees or Board members, and the presiding officer is referred to as the President of the Board or President. In the local policies, Board members may be referred to as Trustees or Board members, and the presiding officer is called the Chair of the Board or Chair. The terms used in legally referenced policies and local policies are synonymous. Local terminology shall be used throughout this manual for locally generated material.

The Victoria County Junior College District Board of Trustees adopted this revised policy on December 16, 2013 and approved a revision on November 17, 2014.

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POLICY MANUAL  
for the VICTORIA COLLEGE BOARD of  
TRUSTEES

Regulation  
001

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## **Educational Role and Mission, Purpose and Responsibility**

### **I. LEGAL REFERENCE**

*TASB Policy Manual, AD*

#### **A. Role and Mission**

The college district shall be a two-year institution primarily serving its local taxing district and service area and offering vocational, technical, and academic courses for certification or associate degrees. Continuing education, remedial and compensatory education consistent with open-admission policies, and programs of counseling and guidance shall be provided. The college district shall insist on excellence in all academic area—instruction, research, and public service. Faculty research, using the facilities provided for and consistent with the primary function of the college district is encouraged. Funding for research should be from private sources, competitively acquired sources, local taxes, and other local revenue.

*Education Code 130.0011*

#### **B. Purpose**

The purpose of the college district shall be to provide:

1. Technical programs up to two years in length leading to associate degrees or certificates.
2. Vocational programs leading directly to employment in semi-skilled and skilled occupations.
3. Freshman and sophomore courses in arts and sciences.
4. Continuing adult education programs for occupational or cultural upgrading.
5. Compensatory education programs designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students.
6. A continuing program of counseling and guidance designed to assist students in achieving their individual educational goals.

7. Work force development programs designed to meet local and statewide needs.
8. Adult literacy and other basic skills programs for adults.
9. Other purposes as may be prescribed by the Coordinating Board, or the college district's Board.

*Education Code 130.003(e)*

The college district must develop a statement regarding the purpose, role, and mission of the college district reflecting the three missions of higher education: teaching, research, and public service.

The college district shall include in its role and mission statement the purpose of the college district as prescribed under Texas Education Code 130.003(e), that it shall primarily serve its local taxing district and service area, offering career technical/workforce, and academic courses for certificates or associate degrees. Continuing education, remedial and compensatory education consistent with open admission policies, and a program of counseling and guidance shall also be provided.

The college district must publish its purpose, role, and mission statement in its official publication for students, generally the college district catalog.

*19 TAC 9.53, 9.54*

**C. Institutional Responsibility**

In addition to specific responsibilities imposed by the Education Code or other law, the college district has the general responsibility to serve the public and, within the college district's role and mission, to:

1. Transmit culture through general education.
2. Extend knowledge.
3. Teach and train students for professions.
4. Provide for scientific, engineering, medical, and other academic research.
5. Protect intellectual exploration and academic freedom.

6. Strive for intellectual excellence.
7. Provide educational opportunity for all who can benefit from postsecondary education and training.
8. Provide continuing education opportunities.

*Education Code 51.354*

## II. LOCAL POLICY

### A. Mission

Victoria College is a public, open-admission college. Our mission is to provide educational opportunities and services for our students and the communities we serve. Victoria College provides:

**Associate Degrees and Certificates** – Programs leading to the Associate of Arts, Associate of Science, Associate of Applied Science, and Certificates that meet the needs of the students and communities within our service area.

**University Transfer** – Academic courses that apply to baccalaureate degrees and meet the educational needs of students planning to transfer to a university.

**Career & Technical Education** – Credit courses and programs designed to satisfy local and regional employer demands and meet individuals' workforce training needs.

**Academic Foundations** – Compensatory education courses consistent with open-admission policies designed to prepare students effectively for success in college-level studies.

**Continuing Education** – Non-credit courses and programs that meet the immediate technical and occupational skills needs of employers and the individual, and fulfill the personal enrichment and cultural needs of the individual and the community.

**Adult Education** – Adult education, basic skills, and English as a second language instructional programs that meet the specific educational needs of our adult constituency.

**Student Support** – Services and activities that support student success, including academic guidance and counseling services.

**Cultural and Intellectual Outreach** – Educational activities and events that enhance our community's quality of life.

## B. Statement of Values

Victoria College's commitment to its Mission is guided by the following values:

**We value integrity.** Victoria College will foster an environment of respect, honesty, openness, and fairness, and will promote responsible stewardship of resources and public trust.

**We value respect for the unique characteristics and abilities of individuals.** Victoria College will welcome and promote diversity among students, faculty, staff, and our community, while cultivating a respectful, collegial, and accessible working and learning environment.

**We value student achievement and student success.** Victoria College will create learning opportunities that challenge our students and help them meet their educational goals.

**We value excellence.** Victoria College will strive to achieve the highest standards of performance in teaching and in the services we offer students, colleagues, and our community.

## C. Goals

To foster Student Success, VC will:

- empower students to take ownership of their learning
- provide supports that lead to academic success (and successful completion within term)
- improve student retention at the course and program level, term to term
- align courses and programs with external standards and professional requirements
- provide learning paths and career paths that foster continuous learning

To meet Community Needs, VC will

- identify and respond quickly to the existing and changing needs of our regional economy
- partner with businesses, public and higher education institutions, community groups and other agencies to leverage resources and address community needs

- recruit students from throughout our service area
- improve public awareness and understanding of the college
- offer programs and events that enhance our community's quality of life

To ensure Institutional Excellence, VC will

- strive for high performance levels that ensure efficient, accurate and supportive services to internal and external customers
- provide professional development to improve performance of employees and work groups
- develop and use internal policies and practices that are consistent, well communicated and in keeping with our values
- maintain our physical, equipment and technology infrastructure to meet the needs of students, employees and community

#### **D. Educational Role**

Victoria College is an open-door admissions institution with constituents from diverse educational and cultural backgrounds. Victoria College believes it should offer opportunities for intellectual growth, vocational training, and cultural enrichment to all its constituents who choose to avail themselves of these opportunities regardless of age, gender, race, religion, or disabling conditions. Victoria College believes it should continue to assess the needs of the community and create or upgrade programs to meet these needs.

#### **E. Accreditation**

Victoria College is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award certificates and associate degrees. Contact the Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097 or call (404) 679-4500 for questions about the accreditation of Victoria College.

Documentation of Victoria College's accreditation is located in the office of the Vice President of Instruction and may be reviewed by all interested parties.

Interested constituents may contact the Commission on Colleges to learn about the accreditation status of the institution for alleged noncompliance with a standard or requirement. The Commission is to be contacted only if there is evidence that



appears to support an institution's significant noncompliance with a requirement or standard. Normal inquiries about the institution, such as admission requirements, financial aid, educational programs, etc., should be addressed directly to Victoria College and not to the Commission's office.

**F. Statement of Non-Discrimination**

Victoria College does not discriminate on the basis of race, color, religion, national origin, gender, pregnancy, age, disability, genetic information, marital status, amnesty, veteran's status or limited English proficiency. It is our policy to comply, fully, with the nondiscrimination provision of all state and federal rules and regulations.

The Director of Human Resources is the equal employment opportunity coordinator and coordinator for compliance with the Civil Rights Act of 1964, as amended, including the Pregnancy Discrimination Act of 1978, the Age Discrimination in Employment Act of 1967 as amended, the Rehabilitation Act of 1973 (Sections 503, 504), Title IX of the Education Amendment of 1972, Americans with Disabilities Act of 1990 as amended in 2011, Immigration Reform and Control Act (1986), Texas Commission on Human Rights Act (1983), the Vietnam Era Veterans' Readjustment Assistance Act of 1974, Texas Statutes 6252-14-V.A.T.S. and 6252-16-V.A.T.S., Executive Order 11246 and 11758, the Family and Medical Leave Act, and the Genetic Information Nondiscrimination Act (GINA) of 2008.

## **Legal Status: Powers, Duties & Responsibilities and Authority**

### **I. LEGAL REFERENCE**

*TASB Policy Manual, AA, BA, BAA, BBE, BF, BFA, CAI*

#### **A. College District Legal Status**

The College District derives its legal status from the Constitution of the State of Texas and from the Texas Education Code that authorizes a public junior college and/or district of any one of the following classifications:

1. Independent school district junior college.
2. City junior college.
3. Union junior college.
4. County junior college.
5. Joint-county junior college.
6. Public junior college as a part or division of a regional college district.

*Texas Constitution, Art. VII; Education Code 130.004(a)*

A public junior college shall be defined as an institution of higher education.

*Education Code 61.003(8)*

#### **B. Board Legal Status**

The Board shall constitute a body corporate and shall have the exclusive power to manage and govern the College District.

*Education Code 1.001(a), 130.082(d), 130.084; Texas Ass'n of Steel Importers, Inc. v. Tex. Highway Comm'n, 372 S.W.2d 525 (Tex. 1963)*

All authority not vested by the laws of the state in the Coordinating Board or in the Central Education Agency shall be reserved and retained locally in the College District or in the Board as provided in the laws applicable.

*Education Code 130.002*

### **C. Responsibilities**

The Board, being composed of lay members, shall exercise the traditional and time-honored role as it has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, the Board:

1. Is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees.
2. Shall enhance the public image of the College District under its governance.
3. Shall interpret the community to the campus and interpret the campus to the community.
4. Shall nurture the College District under its governance to the end that it achieves its full potential within its role and mission.
5. Shall insist on clarity of focus and mission of the College District under its governance.

*Education Code 51.352(a)*

### **D. Extent of State and Local Control**

All authority not vested by the laws of the state in the Coordinating Board or in the Central Education Agency shall be reserved and retained locally in the College District or in the Board as provided in the laws applicable.

### **E. Powers and Duties**

The Board shall have specific powers and duties imposed by statutes of the state. The Board has the legal power and duty to:

1. Be governed in the establishment, management, and control of the College District by the general laws governing the establishment, management, and control of independent school districts insofar as the general law is applicable. *Education Code 130.084*
2. Set and collect any amount of tuition, rentals, rates, charges, or fees the Board considers necessary for the efficient operation of the College District, except that a tuition rate set under this subsection must satisfy

the requirements of the Texas Education Code, Section 54.051(n). The Board may set a different tuition rate for each program, course, or course level offered by the College District, including a program, course, or course level to which a provision of Section 54.051 applies, as the Board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. *Education Code 130.084*

3. Provide policy direction for the College and adopt such rules, regulations, and bylaws as the Board deems advisable. *Education Code 51.352(b), 130.082(d)*
4. Establish goals consistent with the College District's role and mission. *Education Code 51.352(d)*
5. Adopt a tax rate each fiscal year as required by Tax Code 26.05. *Education code 130.121*
6. Levy and collect taxes and issue bonds. *Education Code 130.121(a), 130.122(a)*
7. The Board shall approve an itemized current operating budget on or before September 1 of each year. *19 TAC 13.42*
8. Have the accounts audited in accordance with the approved financial reporting system. *Education Code 61.065*
9. Submit the required annual reports to the governor and comptroller. *Gov't Code 403.013*
10. Receive bequests and donations or other monies or funds coming legally into their hands. *Education Code 11.151(a)*
11. Establish an endowment fund outside the state treasury in a depository selected by the Board. *Education Code 130.007*
12. Select a depository for College District funds. *Education Code 51.003*
13. Order elections as required by law. *Education Code 130.082(f), 130.122(b)*
14. Exercise the right of eminent domain to acquire property. *Education Code 11.155, 130.084; Atty. Gen. Op. M-700 (1970)*

15. Appoint the College President, evaluate the President and assist the President in the achievement of performance goals. Education Code 51.352(d)
16. Appoint or employ agents, employees and officials as deemed necessary or advisable to carry out any power, duty or function of the Board; employ a dean or other administrative officer; upon the College President's recommendation, employ faculty and other employees of the College District. Education Code 130.082(d)
17. Proceed by and through resolutions or orders adopted or passed by the Board. The affirmative vote of a majority of all Board members shall be required to adopt or pass a resolution or order. Education Code 130.082(d)
18. Be authorized to fix and collect rentals, rates, charges or fees from students and others for the occupancy, use or availability of all or any of its property, buildings, structures, activities, operations or facilities, in such amounts and in such manner as may be determined by the Board. Education Code 130.123(c)
19. Execute, perform and make payments under a contract for the use or purchase or other acquisition of real property or an improvement to real property. *Local Gov't Code 271.004*
20. Execute, perform, and make payments under contracts, which may include leases, lease with option(s) to purchase, or installment purchase, with any person for the use, acquisition, or purchase of any personal property, or the financing thereof. The contracts shall be on terms and conditions that are deemed appropriate by the Board in accordance with state law. *Local Gov't Code 271.005*
21. Sue and be sued. *Education Code 11.151(a), 130.084*
22. Ensure that its formal position on matters of importance to the College is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board. *Education Code 51.352(d)*
23. Set campus admission standards consistent with the role and mission of the College District and considering admission standards nationwide

having a similar role and mission as determined by the Coordinating Board. *Education Code 51.352(d)*

24. Act as a fiduciary in the management of funds under the control of the institution subject to the Board's control and management. *Education Code 51.352(e)*
25. Enter into tax abatement agreements only if it has established guidelines and criteria for those agreements and has passed a resolution stating that it elects to be eligible to participate. The college district shall not enter into a tax abatement agreement unless it finds that agreement meets its guidelines and criteria.

The board's adoption of guidelines and criteria shall not:

- Limit its discretion to decide whether to enter into a specific tax abatement agreement.
- Limit its discretion to delegate to its employees the authority to determine whether or not the board should consider a particular request or application for tax abatement.
- Create any property, contract, or other legal right in any person to have the board consider or grant a specific application or request for tax abatement.

*Tax Code 312.002*

## F. Board Members Authority

### 1. Board Actions

Because the board is a body corporate, members can perform no valid act except as a body at meetings properly convened and conducted.

*Toyah ISD v. Pecos-Barstow Indep. Sch. Dist.*, 466 S.W.2d 377 (Tex. App.—San Antonio, 1971, no writ); *Buchele v. Woods*, 528 S.W.2d 95 (Tex. App.—Tyler, 1975, no writ)

## 2. Access to Information

An individual board member has an inherent right of access to records maintained by the college district when the board member requests the records in his or her official capacity.

*Atty. Gen. Op. No. JM-119 (1983)*

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the college district may not absolutely prohibit an individual board member from viewing records involving college district business that are otherwise properly available to the board as a governmental body.

*Atty. Gen. Op. No. GA-138 (2004)*

Personally identifiable information in education records may be released, without the written consent of the student, only to a school official who has a legitimate educational interest in the education records.

*34 CFR 99.31*

A person, including a board member, commits a criminal offense if the person:

- a. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a college district record in contravention of Local Government Code Chapter 202.

*Local Gov't Code 202.008; Penal Code 37.10*

- b. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552 (Public Information Act).

*Gov't Code 552.351*

Distributes information considered confidential under the Public Information Act. *Gov't Code 552.352*

### **3. Fiduciary Duty**

Each board member shall have the legal responsibility of a fiduciary in the management of funds under the control of colleges subject to the board's control and management.

*Education Code 51.352(e)*

### **4. Protections for Acting on a Legislative Measure**

A board member may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

- a. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
- b. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
- c. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
- d. A breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

*Gov't Code 572.059*

## **G. Employment of Personnel**

### **1. College President**

The name of an applicant and other information that would tend to identify the applicant, for college president is excepted from disclosure under Chapter 552, Government Code.



The board must give public notice of the name or names of the finalists being considered for college president at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

*Gov't Code 552.123*

The board shall announce the name, background, and qualifications of any individual it selects and employs by use of an executive search committee. An "executive search committee" is a committee formed by an act of the board with the primary purpose of evaluating and assessing candidates and nominees for the position of chief executive officer of the college district.

*Education Code 51.913*

The college president shall recommend to the board the faculty and other personnel to be employed.

*Education Code 130.082(d)*

## II. LOCAL POLICY

### A. Corporate Name

The Corporate name of the junior college district is The Victoria County Junior College District. The College is also referred to as "Victoria College". It is a county junior college district created by majority vote of the qualified voters of Victoria County in a special election held for that purpose on December 2, 1947, under authority of Article 2815, Revised Civil Statutes of Texas (now Chapter 130 "Junior College Districts," Texas Education Code). Prior to that vote, the College had functioned as a part of the Victoria Independent School District from 1925 until 1947.

### B. Governing Board Title

The official title of the governing board of the district shall be the Board of Trustees of The Victoria County Junior College District, herein referred to as "the Board".

1. In legally referenced policies, Board members are referred to as Trustees or Board members, and the presiding officer is called the President of the Board or President.
2. In local policy, Board members may be referred to as Trustees or Board members, and the presiding officer is called the Chair of the Board or the Chair.
3. These terms in legally referenced policies and local policies are synonymous. Local terminology shall be used throughout this manual for locally generated material.

### C. Responsibilities of the Board

The Board, being composed of lay members, shall exercise the traditional and time-honored role as it has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, the Board

1. Shall preserve institutional independence and defend its right to manage its own affairs through its chosen administrators and employees;

2. Shall enhance the public image of the College under its governance;
3. Shall interpret the community to the campus and interpret the campus to the community;
4. Shall nurture the College under its governance to the end that it achieves its full potential within its role and mission, and
5. Shall insist on clarity of focus and mission of the College under its governance.

**D. Extent of State and Local Control**

All authority not vested by the laws of the state in the Coordinating Board or in the Central Education Agency shall be reserved and retained locally in the College District or in the Board as provided in the laws applicable.

### **E. Powers and Duties**

All authority not vested by the laws of the state in the Coordinating Board or in the Central Education Agency shall be reserved and retained locally in the College District or in the Board as provided in the laws applicable.

The Board shall have specific powers and duties imposed by statutes of the state. Acting under authority granted by the laws of the state, the Board has the legal power and duty to:

1. Be governed in the establishment, management, and control of the College District by the general laws governing the establishment, management, and control of independent school districts insofar as the general law is applicable.
2. Set and collect any amount of tuition, rentals, rates, charges, or fees the Board considers necessary for the efficient operation of the College District, except that a tuition rate set under this subsection must satisfy the requirements of the Texas Education Code, Section 54.051(n). The Board may set a different tuition rate for each program, course, or course level offered by the College District, including a program, course, or course level to which a provision of Section 54.051 applies, as the Board considers appropriate to reflect course costs or to promote efficiency or another rational purpose.
3. Provide policy direction for the College and adopt such rules, regulations, and bylaws as the Board deems advisable.
4. Establish goals consistent with the College's role and mission.
5. Adopt a tax rate each fiscal year as required by Tax Code 26.05.
6. Levy and collect taxes and issue bonds.
7. Approve an itemized current operating budget on or before September 1 of each year and file a copy of the annual operating budget and subsequent amendments.
8. Have the accounts audited in accordance with the approved financial reporting system.

9. Submit the required annual reports to the Governor, Comptroller, State Treasurer, State Auditor, and Legislative Budget Board.
10. Receive bequests and donations or other monies or funds coming legally into their hands.
11. Establish an endowment fund outside the state treasury in a depository selected by the Board.
12. Select a depository for College District funds.
13. Order elections as required by law.
14. Exercise the right of eminent domain to acquire property.
15. Appoint the College President, evaluate the President and assist the President in the achievement of performance goals.
16. Appoint or employ agents, employees and officials as deemed necessary or advisable to carry out any power, duty or function of the Board; employ a dean or other administrative officer; upon the College President's recommendation, employ faculty and other employees of the College.
17. Proceed by and through resolutions or orders adopted or passed by the Board. The affirmative vote of a majority of all Board members shall be required to adopt or pass a resolution or order.
18. Be authorized to fix and collect rentals, rates, charges or fees from students and others for the occupancy, use or availability of all or any of its property, buildings, structures, activities, operations or facilities, in such amounts and in such manner as may be determined by the Board.
19. Execute, perform and make payments under a contract for the use or purchase or other acquisition of real property or an improvement to real property.
20. Hold all rights and titles to the property of the College, whether real or personal.
21. Execute, perform, and make payments under contracts, which may include leases, lease with option(s) to purchase, or installment purchase,

with any person for the use, acquisition, or purchase of any personal property, or the financing thereof. The contracts shall be on terms and conditions that are deemed appropriate by the Board in accordance with state law.

22. Employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property.
23. Sue and be sued.
24. Ensure that its formal position on matters of importance to the College is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board.
25. Set campus admission standards consistent with the role and mission of the College District and considering admission standards nationwide having a similar role and mission as determined by the Coordinating Board.
26. Act as a fiduciary in the management of funds under the control of the institution subject to the Board's control and management.
27. Grant degrees and certificates to those students recommended by the faculty and the administration.
28. Serve as the final court of appeal of students, alumni, faculty and all staff members who feel that the administration has not adequately cared for their interests.
29. Enter into tax abatement agreements only if it has established guidelines and criteria for those agreements and has passed a resolution stating that it elects to be eligible to participate. The college district shall not enter into a tax abatement agreement unless it finds that agreement meets its guidelines and criteria. (*See Appendix B for the VC Policy on Tax Abatement Guidelines and Criteria*)

## **F. Employment of Personnel**

### **1. President of the College**

The Board shall announce the name, background, and qualifications of any individual it selects and employs by use of an executive search committee. An "executive search committee" is a committee formed by an act of the Board with the primary purpose of evaluating and assessing candidates and nominees for the position of chief executive officer of the College District.

The Board must give public notice of the name or names of the finalists being considered for College President at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

The performance of the President of the College will be reviewed in August of each year.

### **2. Instructional Personnel**

The College President shall recommend to the Board the faculty and other personnel to be employed.

The contracts and recommendations for tenure of the instructional personnel of the College will be considered in March of every year.

Administrative and instructional personnel will be employed, contracts extended and tenure granted by the Board of Trustees upon the recommendation of the President of the College.

**Board Members: Eligibility/Qualifications, Elections,  
Removal from Office and Training**

**I. LEGAL REFERENCE**

*TASB Policy Manual BBA, BBB, BBC, BBD*

**A. Board Members: Eligibility/Qualifications**

**1. Eligibility**

To be eligible to be a candidate for, or elected or appointed to, the office of college district board member, a person must:

- a. Be a United States citizen.
- b. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
- c. Have not been determined by a final judgment of a court exercising probate jurisdiction to be:
  1. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
  2. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction.
- d. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.
- e. Be a resident of Texas.

*Election Code 1.020, 141.001(a)*



**2. Qualified Voter**

A person may not be elected Trustee unless the person is a qualified voter.

*Education code 130.082(d)*

“Qualified voter” means a person who:

- a. Is 18 years of age or older;
- b. Is a United States citizen;
- c. Has not been determined mentally incapacitated by a final judgment of a court exercising probate jurisdiction to be:
  1. Totally mentally incapacitated and the person’s mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
  2. Partially mentally incapacitated without the right to vote and the person’s guardianship has not been modified to include the right to vote or the person’s mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction;
- d. Has not been finally convicted of a felony or, if so convicted:
  1. Has fully discharged his or her sentence, including any term of incarceration, parole, or supervision;
  2. Has completed a period of probation ordered by any court; or
  3. Has been pardoned or otherwise released from the resulting disability to vote.
  4. For purposes of determining a qualified voter, a person is not considered to have been finally convicted of a felony if criminal proceedings are deferred without an adjudication of guilt.

- e. Is a resident of this state; and
- f. Is a registered voter.

*Election Code 1.020, 11.002*

**3. Single-Member Districts**

A candidate for board member representing a single-member district must be a resident of the board member district he or she seeks to represent. Board members shall, during their term of office, reside within the board member district from which they were elected.

*Education Code 130.0821(b)*

**4. Official Oaths**

A member of the board must take the proper oath of office before taking up the duties of office.

*Education Code 130.082(d)*

**5. Candidate's Residency Term**

**a. Pre-Filed Candidacy**

If an individual seeks election to the office of Trustee by having his/her name place on the ballot he/she must also:

1. Have been a resident of the state for twelve months prior to the last date on which the candidate could file to be listed on the ballot; and
2. Have been a resident of the District for six months prior to the last date on which the candidate could file to be listed on the ballot.

*Election Code 141.001(a)(5)*

**b. Write-In Candidacy**

If an individual seeks election to the office of Trustee by write-in vote, he/she must also

1. Have been a resident of the state for twelve months prior to the day of the election; and
2. Have been a resident of the District for six months prior to the day of the election.

*Election Code 141.001(a)(5)*

**c. Appointment to Office**

If an individual is appointed to the office of Trustee, he/she must also

1. Have been a resident of the state for twelve months prior to the day on which the appointment is made, and
2. Have been a resident of the district for six months prior to the day on which appointment is made.

*Election Code 141.001(a)(5); Education Code 130.082(d)*

**6. “Residence Defined”**

“Residence” shall mean domicile, one’s home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one’s residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code.

*Election Code 1.015*

**B. Board Members: Elections – Elections Generally**

**1. General Election Dates**

Election of board members of the college district shall be on one of the following dates:

- a. The second Saturday in May.
- b. The first Tuesday after the first Monday in November.

*Election Code 41.001*

**2. Change in General Election Dates**

A college district board that holds its general election for officers in May is authorized to change its general election for officers to the November uniform election date. The board must take such action not later than December 31, 2012. A college district that changes its election date under this provision shall adjust the terms of office to conform to the new election date.

*Election Code 41.0052(a)-(b)*

**3. Joint Elections Administrator**

The college district may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F.

*Election Code 31.152*

**4. Membership**

The number of members of the college district board shall be either seven or nine, in accordance with the laws applicable to the college district on the effective date of the Education Code or on the date of the creation of a new college district or a new board.

*Education Code 130.082(d)*

**5. Increase in Membership**

Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Education Code 130.082(e).

*Education Code 130.082(d)*

**6. Terms**

The basic term of office of a member of the board shall be six years.

*Education Code 130.082(e)*

**7. Methods of Election**

Election of board members shall be by at-large positions, except as otherwise provided.

*Education Code 130.082(f), (h)*

- a. One-third of the members of the board shall be elected at large in the college district at regular elections in accordance with Education Code 130.082(e)-(g), provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. Education Code 130.082(e)-(g)
- b. The board may order that all or a majority of the board members of the college district be elected from single-member trustee districts. The order must be entered not later than the 120th day before the day of the first election of board members from single-member trustee districts.

If the board orders that board members shall be elected from single-member trustee districts, the board shall divide the college district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member districts, and shall number each trustee district.

The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population according to the last preceding federal census. Trustee districts must be drawn not later than the 90th day before the day of the first election of board members from single-member districts.

The board may provide for board members holding office on the date of the initial election of board members from single-member districts to serve the remainder of their terms and to represent a trustee district for that term without having residency in that trustee district.

Unless the board has made provision for board members to complete their term, as described above, residents of each trustee district are entitled to elect one board member to the board. A candidate for board member must be a resident of the trustee district the candidate seeks to represent.

Not later than the 90th day before the day of the first regular board member election at which board members may officially recognize and act on the last preceding federal census, the board shall re-divide the college district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Re-division of the college district shall be in the manner provided for the initial division of the college district.

After each redistricting, all positions on the board shall be filled unless the board determines that board members shall be elected from the new trustee districts as provided by Education Code 130.0826. The board members then elected shall draw lots for staggered terms as provided by Education Code 130.082.

The board of any college district that elects some or all of its members from single-member districts and in which the board members serve staggered terms may provide for the board members in office at the first election after the college district is redistricted to serve for the remainder of their terms in accordance with Education Code 130.0826.

If the board provides for the board members in office to serve for the remainder of their terms in accordance with Education Code 130.0826, the

trustee districts established by the redistricting plan shall be filled as the staggered terms of board members in office expire. When the board adopts a redistricting plan, the board shall determine from which new trustee district the position of each board member in office will be filled as it becomes vacant.

Education Code 130.0826 does not authorize a board member of the college district to continue in office after a redistricting plan takes effect if the member no longer resides in the district from which the board member was elected.

This method of election does not apply to a college district to which Education Code 130.081, 130.083, 130.0821, or 130.088 applies, or to a college district required by other law to elect board members from single-member districts. This method of election does not apply to the election of board members in any college district in which the election of board members is governed by a court order so long as that order remains in effect. This method of election does apply to a college district governed by a separate board.

*Education Code 130.0822, .0826*

The members of the governing board of a countywide college district that contains a city with a population of more than 384,500 residents shall be elected from single-member trustee districts in accordance with Education Code 130.0821.

*Education Code 130.0821(a)*

## **8. Election by Position**

A college district that elects a governing board of seven members, with four members elected from respective commissioner precincts and three members elected at large, may order that the board members elected at large be elected instead by position. The order must be entered not later than the 120th day before the first election of a board member by position. The board may provide for board members holding office on the date of the initial election of board members by position to serve the remainder of their terms and to represent a position for that term.

*Education Code 130.0823*

The board of a college district with a population of greater than one million may require that a candidate's application be accompanied by a filing fee not to exceed \$200 or a petition signed by a number of registered voters of the college district not to exceed 200 as determined by the board.

*Education Code 130.044(g)*

## **9. Boundary Change Notice**

A college district that changes its boundaries or the boundaries of college districts used to elect members to the board shall not later than the 30th day after the date the change is adopted:

- a. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and
- b. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

*Election Code 42.0615*

## **10. Preclearance**

The board, being subject to the provisions of the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the Justice Department interposes an objection within 60 days after the date of submission.

*42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F. Supp. 1211 (W.D. Tex. 1980)*

## **11. Notice of Voting Rights Hotline**

A notice of voters' rights, in the form prescribed by the secretary of state and including information required by the secretary of state, shall be publicized as provided by the secretary of state. The notice shall, in part, inform voters of the telephone number and purpose of the secretary of



state's toll-free hotline for reporting existing or potential abuse of voting rights.

*Election Code 31.0055, 62.0115*

## **C. Board Members: Elections – Conducting an Election**

### **1. Election Services**

If requested to do so by a college district, a county elections administrator shall enter into a contract to furnish election services, as set forth at Election Code Chapter 31, Subchapter D. A county elections administrator is not required to enter into a contract to furnish election services for an election held on the second Saturday in May in an even-numbered year.

*Election Code 31.093(a), 41.001(d)*

### **2. Election Order**

The board shall call the election not later than the 71st day before election day, except that for an election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the election shall be called not later than the 78th day before the election day. A board shall order an election.

*Election Code 3.004-.005*

Each election order must state the date of the election, the offices or measures to be voted on, the location of the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. A board shall retain the election order for at least 22 months after election day.

*Election Code 3.006, .008, 66.058(a), 83.010, 85.004, .007*

### **3. Failure to Order Election**

Failure to order a general election does not affect the validity of the election.

*Election Code 3.007*

#### 4. Election Notice

The notice of the election shall state:

- a. The nature and date of the election;
- b. The location of each polling place;
- c. The hours the polls will be open;
- d. For early voting:
  1. The location of the main early voting polling place, as determined under Election Code 85.002;
  2. The dates and hours for early voting, including the dates and hours of any Saturday and Sunday early voting; and
  3. The early voting clerk's official mailing address.

*Election Code 4.004(a), 83.010, 85.004, .007*

The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on.

*Election Code 4.004(b)*

#### 5. Publication

Notice of the election shall be posted in at least three public places in the college district and shall also be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within the college district's boundaries or in a newspaper of general circulation in the college district if none is published within the college district's boundaries. A board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. The board shall preserve that copy for at least six months after election day.

*Election Code 4.003(a)(1), (c), .005(a), 66.058(a)(2); Education Code 130.082(f)*

## 6. Posting

In addition to the notice described above, the college district shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of the board. The notice must remain posted continuously through election day. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the board after the last posting is made.

*Election Code 4.003(b), .005(b)*

## 7. Notice to County Clerk and Voter Registrar

The board shall also deliver notice of the election to the county clerk and voter registrar of each county in which the college district is located not later than the 60th day before election day.

*Election Code 4.008(a)*

### a. Notice to Election Judge

1. Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the board shall deliver to the presiding judge of each election precinct in which the election is to be held in the college district a written notice of:
  - a. The nature and date of the election;
  - b. The location of the polling place for the precinct served by the judge;
  - c. The hours that the polls will be open;
  - d. The judge's duty to hold the election in the precinct specified by the notice; and
  - e. The maximum number of clerks that the judge may appoint for the election.

*Election Code 4.007*

b. Failure to Give Notice of Election

Failure to give notice of a general election does not affect the validity of the election.

*Election Code 4.006*

**8. Filing Information**

a. Notice to Candidates

A college district shall post notice of the dates of the filing period in a public place in a building where applications are filed not later than the 30th day before the last day on which a candidate may file an application for a place on the ballot. This requirement does not apply to an office to be filled at the general election for state and county officers (the November uniform election date of even-numbered years).

*Election Code 141.040*

b. General Election

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline. Any resident, qualified elector of the college district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing a written application, signed by the candidate, with the Secretary of the Board not later than 5:00 p.m. of:

1. The 78th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or
2. The 71st day before election day, if the election is to be held on any other uniform election date.

*Education Code 130.082(g); Election Code 144.005*

## c. Special Election

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered;
2. 5:00 p.m. of the 31st day before election day if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or
3. 5:00 p.m. of a day fixed by the college district, which day must not be earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day if election day is before the 36th day after the date the election is ordered.

## d. Exception

For a special election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the day of the filing deadline is the 75th day before election day.

*Election Code 201.054(a), (d), (f)*

**9. Write-In Candidacy**

A declaration of write-in candidacy must be filed not later than 5:00 p.m. of:

- a. The 74th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or
- b. The 71st day before election day, if the election is to be held on any other uniform election date.

*Education Code 130.0825(b); Election Code 146.054*

## **10. Application**

The application must state the number of the position for which the candidate is filing or the name of the incumbent member of the board holding the position sought. The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law. [See BBBB] The candidate shall be eligible to run for only one position in each election.

*Education Code 130.082(g); Election Code 31.0021, 141.031, .039*

## **11. Election of Unopposed Candidate**

The board may declare each unopposed candidate elected if each candidate for an office that is to appear on the ballot is unopposed.

For purposes of determining whether all offices on a ballot are un-opposed, a special election of the college district is considered to be a separate election with a separate ballot from:

- a. A general election for officers of the college district held at the same time as the special election; or
- b. Another special election of the college district held at the same time as the special election.

### **1. Single-Member Districts**

If any members of the board are elected from single-member districts, the unopposed candidate procedures apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that single-member college district is unopposed and no opposed at-large race is to appear on the ballot.

*Election Code 2.051*

### **2. Procedure for Cancelling Election**

The board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that if the election were held, only the votes cast for that candidate in the election for that office may be counted. If the board makes such a declaration, the election is not held.

*Election Code 2.052, .053(a)–(b)*

If no election is to be held by the college district on election day, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

If a board member election has been canceled but a separate election is to be held by the college district on election day, the ballots used at the separate election shall include the offices and names of the candidates declared elected. The offices and names of unopposed candidates shall be listed separately, after the measures or contested races in the separate election, under the heading “Unopposed Candidates Declared Elected.” The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

*Election Code 2.053(a), (c)*

## 12. Ballot

The ballot shall be printed in the form required by law.

*Election Code 52.061–.064, .069, .093–.094*

### a. Ballot Position

The location on the ballot of the names of the candidates for each position shall be chosen by lot by the board. The candidate shall be eligible to run for only one position in each election.

*Education Code 130.082(g)*

## 13. Election Judges and Clerks

The board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32.

*Election Code Chapter 32*

The nepotism prohibitions [see DBE] do not apply to appointment of an election clerk under Election Code 32.031 if the clerk is not related in the first degree by consanguinity or affinity to an elected official of the college district.

*Gov't Code 573.061(8)*

## 14. Polling Places

A board shall designate polling places. Each polling place shall be accessible to and usable by the elderly and physically disabled.

*Election Code 43.004, .034*

If a college district holds an election on the November uniform election date, the college district shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the college district.

*Election Code 42.002(a)(5), .0621, 43.004(b)*



**15. Posting Signs Prohibited**

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located.

*Election Code 62.013(b)*

**16. Use of Certain Devices Prohibited**

A person may not use a wireless communication device or any mechanical or electronic means of recording images or sound with-in 100 feet of a voting station.

a. Exception

The prohibition does not apply to:

1. An election officer in conducting the officer's official duties;
2. The use of election equipment necessary for the conduct of the election; or
3. A person who is employed at the location in which a polling place is located, while the person is acting in the course of the person's employment.

*Election Code 61.013*

**17. Bilingual Materials**

a. Spanish

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

*Election Code 272.002*

An election precinct may apply for an exemption from the requirement to provide election materials in Spanish if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.

*Election Code 272.003*

**b. Other Languages**

If the director of the census determines that a college district must provide election materials in a language other than English or Spanish, the college district shall provide election materials in that language in the same manner in which the college district would be required to provide materials in Spanish, to the extent practicable.

*Election Code 272.011; 42 U.S.C. 1973aa-1a*

**18. Voting Systems**

A voting system shall be selected and utilized in accordance with Election Code Title 8.

*Election Code Title 8*

**a. Voting Machines and Punch-Card Ballots**

A voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card.

*Election Code 122.001(d)*

**b. Voters with Disabilities**

**1. Accessible Voting Stations**

Each polling place must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and

its subsequent amendments, and the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments, and Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

*Election Code 61.012(a)*

## **2. Electronic Voting System Exceptions**

Upon providing the notice detailed in Election Code 61.013(d), the college district is not required to meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments if the college district's election is not held jointly with another election in which a federal office appears on the ballot and if the college district is located in a county:

- a. With a population of less than 2,000;
- b. With a population of 2,000 or more but less than 5,000, and the college district provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;
- c. With a population of 5,000 or more but less than 10,000, and the college district provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;
- d. With a population of 10,000 or more but less than 20,000, and the college district:

1. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;
2. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance; and
3. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

For purposes of the above requirement, a college district located in more than one county may choose:

- a. To be considered located in the county that contains the greatest number of registered voters of the college district; or
- b. For each portion of the college district located in a different county, to be considered a separate political subdivision.

*Election Code 61.013*

### **3. Multiple Voting Systems Permitted**

A college district may use more than one type of voting system in a single polling place in order to provide a

person with physical disabilities with a method of casting a secret ballot.

*1 TAC 81.55*

### **19. Voting System Malfunction**

If no private vendor supports the college district's voting system, the college district must give notice to the secretary of state within 24 hours of a malfunction of the college district's voting system software or equipment in an election. The notice may be verbal or in writing.

*1 TAC 81.64*

### **20. Early Voting**

A board shall provide for early voting in board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7.

*Election Code 81.001*

### **21. Conducting Elections**

Elections shall be conducted in accordance with Election Code Title 6.

*Election Code Title 6*

## **D. Board Members: Elections – Post-Election Procedures**

### **1. Determination of Results**

#### **a. Majority**

A candidate receiving a majority of the votes cast for all candidates for a board member position shall be declared elected. If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position.

*Education Code 130.082(g); Atty. Gen. Op. M-1101 (1972)*

**b. Runoff Elections**

If no candidate receives a majority of the votes cast for all candidates for a position, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held not earlier than the 20th day or later than the 45th day after the date the final canvass of the main election is completed.

*Education Code 130.082(g); Election Code Chapter 2, Subchapter B*

**c. Write-In Voting**

Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section. In a general or special election for members of the governing body of the college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the Secretary of the Board in the manner provided for write-in candidates in the general election for state and county officers.

*Education Code 130.0825(a), (c)*

**2. Tie Votes**

In accordance with Election Code 2.002, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie.

*Election Code 2.002*

**3. Canvass Returns**

Except as provided below, the board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.

For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:

- a. The third day after election day;
- b. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
- c. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person out-side of the United States.
- d. Two members of the board constitute a quorum for purposes of canvassing an election.

*Election Code 67.003, .004(a)*

#### **4. Certificate of Election**

After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

- a. The candidate's name;
- b. The office to which the candidate is elected;
- c. A statement of election to an unexpired term, if applicable;
- d. The date of the election;
- e. The signature of the officer preparing the certificate; and
- f. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly de-liver it to the person for whom it is prepared, subject to the submission of a recount petition.

A recount petition shall delay the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

The presiding officer of the canvass shall also prepare a report of the precinct results as contained in the election register and shall deliver the report to the secretary of state as required by law.

*Election Code 67.016-.017, 212.0331*

#### **5. Certificate of Election for Unopposed Candidate**

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

*Election Code 2.053(c)*

#### **6. Officer's Statement**

Newly elected and appointed board members, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office.

*Tex. Const. Art. XVI, Sec. 1(b)*

#### **7. Oath of Office**

After the statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the board



member shall take the oath or affirmation of office and shall file it with the president of the board.

*Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061*

The oath may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

- a. A judge, retired judge, or clerk of a municipal court.
- b. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
- c. A notary public.
- d. A justice of the peace or clerk of a justice court.
- e. An associate judge, magistrate, master, referee, or criminal law hearing officer.
- f. The secretary of state or a former secretary of state.
- g. The speaker of the house of representatives or a former speaker of the house of representatives.
- h. The lieutenant governor or a former lieutenant governor.
- i. The governor or a former governor.
- j. A legislator or retired legislator.
- k. The attorney general or a former attorney general.

Gov't Code 602.002

#### **E. Board Members: Elections – Reporting Campaign Funds**

Candidates for the Board shall file the designation of a campaign treasurer and all required financial statements with the Secretary of the Board in accordance with applicable law and directives from the Texas Ethics Commission.

*Election Code 251.001–254.001 et seq.*

**1. Termination of Campaign Treasurer Appointment**

In accordance with statute, the Board by ordinance or order may adopt a process by which the Secretary may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the Secretary.

*Election Code 252.0131*

**F. Board Members: Elections - Ethics****1. Political Advertising**

No officer or employee of a college district shall knowingly expend or authorize the expenditure of college district funds for the purpose of political advertising. Funds may be expended, however, for advertising that describes the factual reasons for a measure and does not advocate the passage or defeat of such measure.

No officer or employee of a college district shall spend or authorize the expenditure of college district funds for a communication describing a measure if the communication contains information that:

- a. The officer or employee knows is false; and
- b. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense that the officer or employee reasonably relied on a court order, or an interpretation in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of a college district that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure complies with this section.

*Election Code 255.003*

## 2. Newsletters

A newsletter of a public officer of the college district is not political advertising if:

- a. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
- b. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction of the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
- c. When viewed as a whole and in the proper context:
  1. Is informational rather than self-promotional;
  2. Does not advocate passage or defeat of a measure; and
  3. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

*1 TAC 26.2*

## 3. Nepotism

A candidate shall not take any affirmative action to influence a college district employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. However, this prohibition does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees.

*Gov't Code 573.042*

OFFICER'S STATEMENT

I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Tex. Const. Art. XVI, Sec. 1(b)

OATH OF OFFICE

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Board Trustee for the \_\_\_\_\_ Junior/Community College District of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God."

Tex. Const. Art. XVI, Sec. 1(a)

OTHER ELECTION INFORMATION: For election forms, calendars, and other election resources, see the Secretary of State Elections Division Web site at <http://www.sos.state.tx.us/elections/laws/other.shtml>.

## II. LOCAL POLICY

### A. Board Organization – Board Membership and Method of Selection

The official name of the governing board of The Victoria County Junior College District is Victoria College Board of Trustees. The Board shall consist of seven (7) members elected by qualified voters of Victoria County. Only those voters residing within their respective district will be allowed to vote for their respective trustees. All qualified voters may vote for the at-large trustees.

The district will be divided into four single-member districts, two super districts and one at-large. The boundaries of the four, single-member districts (districts 1-4) will be identical to the current boundaries of the county commissioner precincts for Victoria County. Each of the two super districts will consist of the territory defined by the combination of two single-member districts 1 and 3 (district 5), and 2 and 4 (district 6). District 7 is elected at-large. The College District is not precluded from altering such boundaries in the future to reflect population changes and for other reasons.

Any such changes must be consistent with the requirements of law, including the requirements of the United States Constitution and the Voting Rights Act.

Members of the Board of Trustees shall serve six (6) year staggered terms. The election for trustees shall be held on the second Saturday in May of even numbered years. Election shall be by majority vote. If no candidate for a position receives a majority, then the two (2) candidates for that position receiving the highest number of votes shall run against each other in an election held not earlier than the 20th day or later than the 45th day after the date of the final canvass of the main election is completed. It shall be conducted in accordance with the Texas Education Code and the Texas Election Code.

## **B. Board Eligibility and Qualifications**

### **1. General Qualifications**

To hold the office of Trustee, one must:

- a. Be a qualified voter, (Education Code 130.082(d));
- b. Be a resident of the trustee district he or she seeks to represent;
- c. Take the proper oath of office;
- d. Serve without compensation; and

### **2. Pre-Filed Candidacy**

If an individual seeks election to the office of Trustee by having his/her name place on the ballot he/she must also:

- a. Have been a resident of the state for twelve months prior to the last date on which the candidate could file to be listed on the ballot; and
- b. Have been a resident of the District for six months prior to the last date on which the candidate could file to be listed on the ballot.

### **3. Write-In Candidacy**

If an individual seeks election to the office of Trustee by write-in vote, he/she must also

- a. Have been a resident of the state for twelve months prior to the day of the election; and
- b. Have been a resident of the District for six months prior to the day of the election.

#### **4. Appointment to Office**

If an individual is appointed to the office of Trustee, he/she must also

- a. Have been a resident of the state for twelve months prior to the day on which the appointment is made, and
- b. Have been a resident of the district for six months prior to the day on which appointment is made.

#### **C. Official Canvass and Organizational Meeting**

The Board of Trustees shall be declared elected after an official canvass of the election returns held not earlier than the eighth (8th) day or later than the eleventh (11th) day after election day. Two members of the Board constitute a quorum for purposes of canvassing an election. Following the official canvass, the newly elected members shall qualify for positions by executing the necessary oath of office and being sworn in by a Notary Public.

At this same meeting the Board shall organize by electing a Chair, Vice Chair, and Secretary.

#### **D. Oath of Office**

Newly-elected and appointed Trustees, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office.

After the statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the Trustee shall take the oath or affirmation of office and shall file it with the Chairman of the Board.

The oath may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002 including a Notary Public.

## E. Vacancies and Removal From Office

### 1. Vacancy

Any vacancy occurring on the Board through death, resignation, or otherwise, shall be filled by a special election ordered by the Board or by appointment by resolution or order of the Board.

#### a. At-Large Districts

In at-large districts, any vacancy on the Board shall be filled by appointment made by the remaining members of the Board. The person appointed to fill the unexpired term shall serve until the next regular election of members to the Board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position.

#### b. Super Districts

In super-districts, any vacancy on the Board shall be filled by appointment made by the remaining members of the Board. The appointed person shall serve for the un-expired term.

#### c. Single-Member Districts

In single-member districts, any vacancy on the Board shall be filled by appointment made by the remaining members of the Board. The appointed person shall serve for the un-expired term.

### 2. Resignation

To be effective, a Board member's resignation must be in writing and signed by the officer and must be delivered to the Board for acting on the resignation. The Board may not refuse to accept a resignation. If a Trustee submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the Board



or on the eighth day after the date of its receipt by the Board, whichever is earlier.

### 3. Non-Residence

A person elected to serve as a Board member must remain a resident of the District throughout the term of office. A Board member who ceases to reside in the District vacates his or her office.

Except for a Trustee allowed to complete the remainder of his term after the initial election from single-member districts, a Trustee vacates the office if he ceases to reside in the trustee district he represents.

### 4. Removal From Office

Board members may be removed from Board membership for

- a. Incompetence (Gross ignorance of official duties; gross carelessness in the discharge of those duties; or unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of election.);
- b. Official misconduct (which means intentional, unlawful behavior relating to official duties by a Trustee entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a Trustee to perform a duty imposed on the Trustee by law and conviction of an offense relating to violation of purchase procedures);
- c. Intoxication on or off duty caused by drinking an alcoholic beverage (but not if it was caused by drinking such beverage on the direction and prescription of a licensed physician);
- d. Conviction by a jury for any felony or for misdemeanor official misconduct, or
- e. Nonattendance of Board meetings if the member is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year, not counting an

absence for which the member is excused by a majority vote of the Board.

Actions for removal of Board members must be brought before the judge of the district court holding jurisdiction, except that any court convicting a Trustee of a felony or official misconduct shall order immediate removal.

#### **F. Orientation Training**

Effective September 1, 2011, new members of the Board of Trustees of a Community College must complete a training program provided by the Texas Higher Education Coordinating Board.

The training program must include a seminar held annually in Austin to be conducted by the staff of the Coordinating Board. The staff of the Coordinating Board may obtain assistance from representatives of the office of the attorney general, the office of the comptroller of public accounts, the office of the state auditor, and the Texas Ethics Commission, and from other training personnel the Coordinating Board deems necessary. The Coordinating Board by rule may prescribe an alternative training program for members of governing boards for whom attendance at a seminar held in Austin would be a hardship. The alternative training program need not be in the form of a seminar but must include substantially the same information included in the seminar held in Austin. The content of the instruction at the training program shall focus on the official role and duties of the Trustees and shall provide training in the areas of budgeting, policy development, and governance.

Within 90 days of taking the oath of office, each Board member shall complete a course of training regarding the responsibilities of the Board and its members under Chapter 551 and 552 of the Texas Government Code (relating to Open Meetings and Open Records). The office of the attorney general may provide the training and may also approve other acceptable sources of training. Board members sworn in before January 1, 2006, must complete the training required by Government Code 551.005 before January 1, 2007.

A Trustee shall pay from private funds the required fee and the Trustee's costs of travel, including transportation, lodging, and meals. Neither the required fee nor a Trustee's travel costs shall be reimbursed from appropriated funds, other than grants and donations of private funds available for that purpose.

## **Board Internal Organization: Officers, Officials, Committees**

### **I. LEGAL REFERENCE**

*TASB Policy Manual, BCA, BCAB, BCAD, BCB*

#### **A. Officers and Officials**

Officers of the Board shall be elected at the first regular meeting of the Board following the regular election of Board members in even-numbered years, or at any time thereafter in order to fill a vacancy. The Board shall be authorized to elect:

1. A President, who shall be a member of the Board.
2. A Secretary, who may or may not be a member of the Board.
3. Any other officers, as deemed necessary or advisable.

In addition to the required post-election organization, the Board may also organize at other times.

*Atty. Gen. Op. MW-531 (1982)*

#### **B. Officer Duties and Requirements**

1. The Board President shall:
  - a. Preside at meetings of the Board.
  - b. Have a vote the same as the other members.
  - c. Perform such other duties and functions as are prescribed by the Board
2. The Secretary of the Board shall:
  - a. Be the official custodian of the minutes, books, records and seal of the Board.
  - b. Perform other duties and functions as prescribed by the Board.

*Education Code 130.082(d)*

### **Board Committees**

The Board may from time to time as it deems necessary create committees to facilitate the efficient operation of the Board.

A committee that includes one or more Board members and has supervision or control over public business or public policy is subject to the Open Meetings Act when it meets to discuss that public business or policy.

A committee that includes less than a quorum of Board members is not subject to the Open Meetings Act if it serves a purely advisory function, with no power to supervise or control public business. However, should the committee actually function as something more than a merely advisory body with the result that it in fact supervises or controls public business or policy, it must comply with the Open Meetings Act to avoid depriving the public of access to the Board's actual decision-making process.

*Education Code 11.061(c)(3); Atty. Gen. Op. Nos. DM-284 (1994), JM-1072 (1989), JM-331 (1985), H-3 (1973); see also Atty. Gen. Op. LO-97-058 (1997). [See BD(LLEGAL)]*

## II. LOCAL POLICY

### A. Duties of Officers

#### 1. Board Chair

The Board Chair shall preside at all meetings, have a vote the same as the other members, and performs such other duties and functions as are prescribed by the Board.

#### 2. Board Vice Chair

The Board Vice Chair shall perform the duties of the Board Chair in case of absence and automatically shall become the Chair of the Board if a vacancy occurs in that office.

#### 3. Board Secretary

The Board Secretary is the official custodian of minutes, books, records and seal of the Board and performs other duties and functions as prescribed by the Board

### B. Board Committees

#### 1. Standing Committees

There are four standing committees of the Board: Finance and Resource Development, Personnel and Policy, Facilities, and Student Success and Programs. The duties of these committees are outlined below.

##### a. Finance and Resource Development

Counsel with the President of the College and advise the Board of Trustees on matters related to college finance, business management, and resource development--including budgets, audits, investments, endowments, and debt management.

##### b. Personnel and Policy

Counsel with the President of the College and advise the Board of Trustees on matters related to general college policy issues and college staff and student personnel policies and procedures--including employment, discipline, termination, compensation,

evaluation, litigation, and issues. Serve as Board Nominating Committee as may be required.

**c. Facilities**

Counsel with the President of the College and advise the Board of Trustees on matters related to college facilities and equipment -- including facilities construction, maintenance and usage and equipment acquisitions.

**d. Student Success and Programs**

Counsel with the President of the College and advise the Board of Trustees on matters related to student participation, completion and success and instructional program development

**2. Special Committees**

Special committees may also be appointed by the Chair of the Board to serve for a specified length of time and for the performance of a definite assignment. When such designated function has been performed, the special committee shall be disbanded by declaration of the Board Chair, or in the absence of such declaration, shall automatically cease to exist. Committees may also be disbanded by a majority vote of the Board.

**3. Ex-officio Members**

The President of the College shall be an ex-officio member of all Board committees.

## **Ethics, Conflict of Interest and Nepotism**

### **I. LEGAL REFERENCE**

*TASB Policy Manual BBFA, BBFB, BBG, DBE*

#### **A. Ethics: Conflict of Interest Disclosures**

##### **1. Substantial Interest Affidavit and Abstention**

If a local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official before a vote or decision on any matter involving the business entity or the real property, shall file an affidavit with the official Board record keeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

- a. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
- b. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

*Local Gov't Code 171.004*

##### **2. Contracts Permitted**

A Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above.

*Atty. Gen. Op. JM-424 (1986)*

##### **a. Definition of Substantial Interest**

A person has a "substantial interest" in a business entity if any of the following is the case:

1. The person owns at least:
  - a. Ten percent of the voting stock or shares of the business entity, or
  - b. Either ten percent or \$15,000 of the fair market value of the business entity.

2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

The local public official is considered to have a substantial interest if a person related in the first degree by either affinity or consanguinity to the local public official, as determined under Texas Government Code, Chapter 573, Subchapter B [see DBE], has a substantial interest as defined above.

*Texas Local Gov't Code 171.002*

**b. Definition of Local Public Official**

"Local public official" shall mean a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any College District (including a College District), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

*Local Gov't Code 171.001(1)*

**c. Definition of Business Entity**

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

*Local Gov't Code 71.001(2)*

**d. Majority Conflict**

If a Trustee is required to file and does file an affidavit, that Trustee shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the Trustees are likewise required to file and do file affidavits of similar interests on the same official action.

*Local Gov't Code 171.004*



**e. Separate Vote on Budget**

A Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Trustee has a substantial interest. The affected Trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved.

*Local Gov't Code 171.005*

**f. Violations**

Except as provided above, the local public official shall not knowingly:

1. Participate in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter will have a special economic effect on the business entity or value of the property that is distinguishable from the effect on the public. Board Policy 005 3
2. Act as surety for a business entity that has a contract, work, or business with a College District.
3. Act as surety on any official bond required of an officer of a College District.

*Local Gov't Code 171.003*

**3. Voidable Actions**

The finding by a court of a violation of Texas Local Government Code Chapter 171 does not render an action of a Board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter.

*Local Gov't Code 171.006*

**4. Conflicts Disclosure Statement**

A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor enters into a contract with the College

District or the College District is considering entering into a contract with the vendor, and the vendor:

- Has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that a contract has been executed or the College District is considering entering into a contract with the person; or
- Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that such a contract has been executed; or the College District is considering entering into a contract with the vendor.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

- Given by a family member of the person accepting the gift;
- A political contribution as defined by Title 15, Election Code; or
- Food, lodging, transportation, or entertainment accepted as a guest.

A local government officer shall file the conflicts disclosure statement with the records administrator of the College District not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

**a. Violations**

A local government officer commits a Class C misdemeanor if the officer knowingly violates this law. It is a defense to prosecution that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice of the violation.

*Local Gov't Code 176.003-.004*

**b. Definition of Local Government Officer**

“Local government officer” means a member of the governing body of a local governmental entity; or a director, superintendent,

administrator, president, or other person designated as the executive officer of the local governmental entity.

*Local Gov't Code 176.001(4)*

**c. Definition of Family Member**

“Family member” shall mean a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

*Local Gov't Code 176.001(2)*

**d. Definition of Records Administrator**

“Records administrator” means the director, superintendent or other person responsible for maintaining the records of the College District.

*Local Gov't Code 176.001(5)*

**5. Internal Posting Requirement**

A College District shall provide access on the College District’s Internet Web site to the required conflicts disclosure statements and questionnaires filed with the records administrator.

*Local Gov't Code 176.009*

**6. Affidavit Disclosing Interest in Property**

If a public servant has a legal or equitable interest in any property that is to be acquired with public funds, and has actual notice of the acquisition or intended acquisition of the property, the public servant shall file an affidavit as follows:

**a. Filing of the Affidavit**

The affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.

**b. Elements of the Affidavit**

The affidavit must:

1. State the name of the public servant and the public office title or job designation held or sought.
2. Fully describe the property.

3. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest and the date the interest was acquired.
4. Include a verification of the truth of the information in the affidavit.
5. Include an acknowledgment of the same type required for recording a deed in the deed records of a county.

*Gov't Code 553.002, 553.003*

#### **7. Violations: Failure to File the Affidavit**

A public servant who fails to file the affidavit when required is presumed to have the intent to commit an offense. An offense under this section is a Class A misdemeanor.

*Gov't Code 553.003*

#### **8. Definition of Public Servant – Government Code**

“Public servant” shall mean a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

- a. A candidate for nomination or election to public office, or
- b. An officer of government.

*Gov't Code 553.001*

### **B. Ethics: Prohibited Practices**

#### **1. Restrictions on Public Servants**

“Public servant” shall mean a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

- An officer, employee, or agent of government; or
- A candidate for nomination or election to public office.

*Texas Penal Code 1.07(a)(41)(A), (E)*

Prohibited activities are covered by, but are not limited to, the following:

##### **a. Bribery**

A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:

1. As consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.

2. As consideration for a violation of a duty imposed on the public servant by law.
3. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit. "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

*Texas Penal Code 36.01(3), 36.02*

**b. Illegal Gifts**

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of a College District, unless a statutory exception applies.

*Penal Code 1.07(41)(A),(E), 36.08(d), 36.10*

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

*Penal Code 36.08(i)*

Exceptions –

"Illegal gifts to public servants" does not apply to:

1. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;

2. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
3. A benefit to a public servant required to file a statement under Government Code Chapter 572 or a report under Election Code Title 15 that is derived from a function in honor or appreciation of the recipient if:
  1. The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  2. The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision;
4. A political contribution as defined by Election Code Title 15;
5. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
6. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
7. Transportation and lodging expenses or meals in connection with a conference or similar event at which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory; or
8. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

*Penal Code 36.10(a)-(b)*

**c. Honoraria and Expenses**

A public servant commits a class A misdemeanor offense if he or she solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been Board Policy 005 6 requested to provide but for his or her

official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which he or she renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory.

*Penal Code 36.07*

**d. Abuse of Office**

A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the office or misuse College District property, services, personnel, or any other thing of value, belonging to a College District, that has come into his or her custody by virtue of his or her office or employment.

*Penal Code 39.02(a)*

“Law relating to the office” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant.

*Penal Code 39.01(1)*

“Misuse” means to deal with property contrary to:

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

*Penal Code 39.01(2)*

**2. Nepotism**

Except as provided by law, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree [see below]; or
- b. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the Board by blood or marriage within a prohibited degree.

*Gov't Code 573.002, 573.041; Atty. Gen. Op. JC-184 (2000)*  
"Public official" shall mean:

- c. An officer of this state or of a College District, county, municipality, precinct, College District, or other political subdivision of this state; or
- d. An officer or member of a Board of this state or of a district, county, municipality, College District, or other political subdivision of this state.

*Gov't Code 573.001(3)*

The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or an independent contractor.

*Atty. Gen. Op. DM-76 (1992)*

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

*Gov't Code 573.083*

A Trustee of a Board that has delegated to a college president final authority for personnel selection remains subject to the nepotism provisions.

*Atty. Gen. Op. GA-415 (2006)*

### **3. Former Board Member Employment**

A Trustee of a College District may not accept employment with the College District until the first anniversary of the date the Trustee's membership on the Board ends.

*Texas Education Code 130.089*

### **4. Incompatibility of Office**

One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while



exercising any powers properly attached to either of the other branches of government.

*Texas Constitution, Art. II, Sec. 1; State v. Martin, 51 S.W.2d 815 (Tex. Civ. App. 1932); Thomas v. Abernathy County Line ISD, 290 S.W. 15 (Tex. Comm. App. 1927); Turner v. Trinity ISD, 700 S.W.2d 1 (Tex. Ct. App. 1983); Atty. Gen. Op. JM-634(1987)*

#### **5. Depository Conflict**

A Trustee who is a stockholder, officer, director, or employee of a bank that has bid to become a depository for a College District shall not vote on the awarding of a depository contract to said bank.

*Education Code 45.204*

#### **C. Compensation and Expenses**

Board members shall not receive any remuneration or emolument of office.

Board members shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the Board.

*Education Code 130.082(d)*

#### **D. Nepotism**

In this policy, the term “appoint” includes appointing, confirming the appointment of, and voting to appoint or confirm the appointment of a person.

##### **1. Nepotism Prohibited**

Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- a. The person is related to the public official by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree [see below]; or
- b. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

*Gov't Code 573.002, .041; Atty. Gen. Op. JC-184 (2000)*

**2. Independent Contractor**

The nepotism law governs the hiring of an individual, whether the employee is hired as an individual or an independent contractor. *Atty. Gen. Op. DM-76 (1992)*

**3. Compensation of Prohibited Employee**

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the official knows the person is ineligible. *Gov't Code 573.083*

**4. Consanguinity**

Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. For this purpose, an adopted child is treated as a natural child of the adoptive parents. *Gov't Code 573.022*

An individual's relatives within the third degree by consanguinity are the individual's:

- a. Parent or child (first degree);
- b. Brother, sister, grandparent, or grandchild (second degree); and
- c. Great-grandparent, great-grandchild, aunt or uncle (who is a sibling of a parent of the person), nephew or niece (who is a child of a brother or sister of the person) (third degree).

*Gov't Code 573.023(c)*

There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall within the same degree as those of the full blood.

*Atty. Gen. Op. LO-90-30 (1990)*

**5. Affinity**

Two persons are related to each other by affinity if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by a marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

*Gov't Code 573.024.*

A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity.

A person's relatives within the second degree by affinity are:

- a. The person's spouse;
- b. Anyone related by consanguinity to the person's spouse within the first or second degree; and
- c. The spouse of anyone related to the person by consanguinity within the first or second degree.

*Gov't Code 573.025*

## **6. Effect of Board Member Resignation**

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a board member's resignation is filled by a successor, the board member continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment.

*Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Op. JM-636 (1987)*

## **7. Continuous Employment Exception**

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

- a. Thirty days, if the public official is appointed; or
- b. Six months, if the public official is elected.

*Gov't Code 573.062(a)*

## **8. Abstention**

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees. *Gov't Code 573.062(b)*

A “change in status” includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment.

*Atty. Gen. Op. JC-193 (2000)*

For an action to be “taken with respect to a bona fide category of employees,” the officeholder’s action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder.

*Atty. Gen. Op. DM-46 (1991)*

### **1. Trading**

A public official may not appoint a person to a position in which the person's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

- a. The person is related to another public official within the prohibited degree, and
- b. The appointment would be carried out in whole or in partial consideration for the other public official's appointing a person who is related to the first public official within a prohibited degree.

*Gov't Code 573.044.*

### **2. Federal Funds**

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant.

*Atty. Gen. L.A. No. 80 (1974).*

### **3. Penalties**

An individual who violates the nepotism prohibitions shall be removed from his or her position. *Tex. Gov't Code 573.081,.082*

## II. LOCAL POLICY

### A. Ethics

It is the policy of Victoria College to apply the highest ethical standards to all members of the College community including the Board of Trustees, administration, staff, and faculty in achieving its mission and in managing its resources efficiently and effectively to reach its goal and objectives.

College policies and practices that protect the rights and development of each individual in the College community shall be enforced. Protection from unlawful discrimination, including conduct that constitutes sexual harassment, and freedom to develop as a student and/or College employee shall be promoted.

Victoria College accepts its responsibilities to its students, to its employees, and to the members of the community; the College is committed to meet these responsibilities with balance, fairness, accountability, and ethical integrity.

### Statement of Ethics

Upon acceptance of the office, the Board member agrees to adhere to the following ethical standards:

1. Attend all regularly scheduled Board meetings, insofar as possible, and become informed concerning issues to be considered at those meetings;
2. Work with other Board members to establish effective Board policies and to delegate authority for the administration of the College to the President of the College;
3. Make policy decisions only after full discussion at publicly held Board meetings;
4. Render all decisions based on the available facts and independent judgment and refuse to surrender that judgment to individuals or special interest groups;
5. Encourage the free expression of opinion by all Board members and seek communication between the Board and students, staff, and all elements of the community;
6. Communicate to other Board members and the President of the College expressions of public reaction to Board policies and College programs;
7. Become informed about current educational issues by individual study and through participation in programs providing such information;
8. Support the employment of those persons best qualified to serve as college staff and insist on a regular and impartial evaluation of all staff;

9. Take no private action that will compromise the Board or administration and respect the confidentiality of information that is privileged under applicable law;
10. Remember always that the first and greatest concern must be the educational welfare of the students attending the College;
11. Engage in no activity that could create a conflict of interest;
12. Refrain from using the Board position for personal or partisan gain;
13. Bring about desired changes through legal and ethical procedures, upholding and enforcing all applicable statutes, regulations, and court decisions pertaining to community college, and
14. Work with other Board members to establish effective policies and practices, prohibiting unlawful discrimination, including conduct that constitutes sexual harassment.

#### **B. Substantial Interest Affidavit and Abstention**

If a local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official before a vote or decision on any matter involving the business entity or the real property, shall file an affidavit with the official Board record keeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

#### **C. Conflict of Interest Disclosure Statement**

A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor has contracted with the College District or the College District is considering doing business with the vendor; and the vendor has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income; or has given to the local government officer or a family member of the officer one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an

aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that such a contract has been executed; or the local governmental entity is considering doing business with the vendor.

A local government officer shall file the conflicts disclosure statement with the records administrator of the College District not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

#### **D. Relation to Trustee – Nepotism**

Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

1. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree (see definitions below),  
or
2. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

*Gov't Code 73.002, 573.047*

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

1. Thirty days, if the public official is appointed; or
2. Six months, if the public official is elected.

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees.

**E. Trading**

A public official may not appoint a person to a position in which the person's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

1. The person is related to another public official within the prohibited degree, and
2. The appointment would be carried out in whole or in partial consideration for the other public official's appointing a person who is related to the first public official within a prohibited degree.

**F. Federal Funds**

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant.

*Atty. Gen. L.A. No. 80 (1974).*

**G. Employment of Family Members of Faculty/Staff**

Two or more members of the same family may be employed by the College with the approval of the President, provided one is not in a supervisory position over the other.

See the following pages for forms that may be used for compliance with disclosure requirements.

Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or Real Property, as defined in Local Gov't Code Sec. 171.002 — 2 pages

Exhibit B: Affidavit Disclosing Interest in Property under Gov't Code, Ch. 553, Subch. A — 2 pages

**ADDITIONAL DISCLOSURE:** The conflicts disclosure statement required of members of the Board and the College President by Local Government Code 176.003–.004 is available on the Texas Ethics Commission Web site at <http://www.ethics.state.tx.us/forms/CIS.pdf>.



## for the VICTORIA COLLEGE BOARD of TRUSTEES

## EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST  
IN A BUSINESS ENTITY OR REAL PROPERTY

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (*name*), as a local public official of the \_\_\_\_\_ College District, make this affidavit and hereby on oath state the following: I, or a person(s) related to me in the first degree, have a substantial interest in:

a business entity, as those terms are defined in Local Government Code Sections 171.001–171.002, that would experience a special economic effect distinguishable from its effect on the public by a vote or decision of the Board.

or

real property for which it is reasonably foreseeable that the Board's action or my action will have a special economic effect on the value of the property distinguishable from its effect on the public.

The business entity or real property is (name/address of business or description of property):

\_\_\_\_\_.

("I" or name of relative and relationship) \_\_\_\_\_ (have)(has) a substantial interest in this business entity or real property as follows: (check all that apply)

- Ownership of ten percent or more of the voting stock or shares of the business entity.
- Ownership of ten percent or more of the fair market value of the business entity.
- Ownership of \$15,000 or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent of (*my, her, his*) gross income for the previous year.
- Real property is involved and (*I, she, he*) (have)(has) an equitable or legal ownership with a fair market value of at least \$2,500.

The statements contained herein are based on my personal knowledge and are true and correct.

Upon the filing of this affidavit with the Board's secretary, I affirm that I shall abstain from participation in any decision involving this business entity or real property, unless permitted according to Loc. Gov't Code Sec. 171.004(c).

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

\_\_\_\_\_  
Signature of Official

\_\_\_\_\_  
Title

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

\_\_\_\_\_  
Notary Public in and for the state of Texas

**EXHIBIT B**

**AFFIDAVIT DISCLOSING OF INTEREST IN PROPERTY**

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (*name of affiant*),

(*Check one of the following:*)

\_\_\_\_\_ as an officer of, or

\_\_\_\_\_ as a Board candidate for,

the \_\_\_\_\_ College District make this affidavit and hereby on oath state the following:

I have a legal or equitable interest in property to be acquired with public funds, either by purchase or condemnation.

The property is fully described as follows:

\_\_\_\_\_

The nature, type, and amount of interest, including percentage of ownership, I have in the property is:

\_\_\_\_\_

(including, but not limited to, the percent of ownership)

I acquired my interest in the property on \_\_\_\_\_ (*date*).

I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (*month*), \_\_\_\_\_ (*year*).

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_ (*office or public title*)

ACKNOWLEDGEMENT

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

BEFORE ME, \_\_\_\_\_ (*here insert the name and character of the officer administering the oath*) on this day personally appeared \_\_\_\_\_ (*affiant*) known to me (or proved to me on the oath of \_\_\_\_\_) or through \_\_\_\_\_ (*description of identity card or other document*) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_ (*month*), \_\_\_\_\_ (*year*).

\_\_\_\_\_  
Notary Public in and for the state of Texas

Instructions:

This affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.

## **Policy and Bylaw Development**

### **I. LEGAL REFERENCE**

*TASB Policy Manual, BE*

The Board shall adopt such rules, regulations and bylaws as it deems advisable and consistent with law.

*Education Code 130.082 (d)*

## II. LOCAL POLICY

### A. Policy Development

The Board of Trustees shall adopt such rules, regulations and bylaws as it deems advisable.

The College shall be governed in accordance with written policies adopted by a majority of the Board. Policies and policy amendments may be initiated by the College President, Board members, faculty, employees or community citizens, but generally shall be recommended for the Board's consideration by the College President.

### B. Adoption

The Board shall have the sole right to adopt policies. The College President may issue regulations purely of a procedural nature to carry out Board policies. However, no ancillary documents shall be binding on the District without the prior authorization of and approval by the Board.

### C. Administration in Policy Absence

When action is urgently required in an area not covered by Board policy, the College President shall have the power to act. The College President shall inform the Board promptly of such action, which shall be subject to review by the Board at its discretion.

### D. Official Policy Manual

The Board shall designate one copy of the policy manual as the official policy manual of the District. The official copy shall be kept in the College President's Office, and the President or designee shall be responsible for its accuracy and currency. If discrepancies occur between different copies of the manual distributed throughout the District, including those on the College's website, the version contained in the official policy manual shall be regarded as authoritative.

**E. Harmony with Law**

No policy or regulation, nor any portion thereof, shall be operative if it is found to be in conflict with applicable law.

## **Board Meetings**

### **I. LEGAL REFERENCE**

*TASB Policy Manual, BD, BDA*

#### **A. Board Meetings**

##### **1. Meeting**

"Meeting" means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. "Meeting" also means a gathering:

- a. That is conducted by the Board or for which the Board is responsible;
- b. At which a quorum of members of the Board is present;
- c. That has been called by the Board; and
- d. At which the Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the College District, about the public business or public policy over which the Board has supervision or control.

*Texas Gov't Code 551.001(4)*

"Deliberation" means a verbal exchange during a meeting among a quorum of the Board, or between a quorum of the Board and another person, concerning any issue within the jurisdiction of the Board or any public business.

*Gov't Code 551.001(2)*

##### **2. Social Function or Convention**

The term "meeting" does not include the gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board, or the attendance by a quorum of the Board at a regional, state, or national convention or workshop, ceremonial event, or press conference, if



formal action is not taken and any discussion of public business is incidental to the social function, convention, or workshop, ceremonial event, or press conference.

*Gov't Code 551.001(4)*

### **3. Legislative Committee or Agency Meeting.**

The attendance by a quorum of the Board at a meeting of a committee or agency of the legislature is not considered to be a meeting of the Board if the deliberations at the meeting by the Board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency.

*Gov't Code 551.0035*

### **4. Open to Public.**

Every meeting of the Board shall be open to the public subject to possible entry into executive session. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law.

*Gov't Code 551.002, 551.084, Ch. 551, Subch. D, Subch. E*

### **5. Recording.**

All or any part of an open meeting may be recorded by any person in attendance by means of a tape recorder, video camera, or any other means of oral or visual reproduction. The Board may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. These rules Board Policy 007 2 shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public.

*Gov't Code 551.023*

### **6. Minutes/Tape Recorder.**

The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. The minutes and tapes of open meetings are public records and shall be

available for public inspection and copying on request to the College President or designee.

*Gov't Code 551.021, 551.022*

**7. Notice Required.**

The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds.

*Gov't Code 551.041*

**8. Continued Meeting.**

If the Board recesses an open meeting to the following regular business day, the Board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the Board continues the meeting to another day, the Board body must give the required written notice of the meeting continued to that other day.

*Gov't Code 551.0411(a)*

**9. Inquiry during Meeting.**

If a member of the public or of the Board inquires at a meeting about a subject for which notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting.

*Gov't Code 551.042*

**10. Time of Notice and Accessibility.**

Notice of a Board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting.

*Gov't Code 551.043(a), 551.051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

If the College District is required to post notice of a meeting on the Internet, the College District satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

The College District must still comply with the duty to physically post the notice in the central administration office and if the College District makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

*Gov't Code 551.043(b)*

#### **11. Internet Posting.**

If the College District maintains an Internet Web site, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet Web site.

A College District that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more must also, concurrently with the notice, post on the College District's Internet Web site the agenda for a Board meeting, if the agenda differs from the posted notice.

The validity of a posting of a College District that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the College District.

*Gov't Code 551.056*

#### **12. Specificity of Agenda Notice.**

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to top administrators are of particular public interest, and notice of those subjects must be

worded with such clarity that the public will understand what the Board proposes to discuss or accomplish.

*Cox Enterprises, Inc. v. Austin ISD, 706 S.W.2d 956 (Tex. 1986); Point Isabel ISD v. Hinojosa, 797 S.W.2d 176 (Tex. App.-Corpus Christi, 1990, writ denied); Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)*

The terms "employee briefing" or "staff briefing" do not give adequate notice of the subject matter to be presented to the Board by employees or staff members.

*Atty. Gen. Op. JC-0169 (2000)*

The subject of a report or update by college district staff or a member of the board must be set out in the notice in a manner than informs a reader about the subjects to be addressed.

*Atty. Gen. Op. GA-668 (2008)*

### **13. Emergency Meeting or Emergency Addition to Agenda.**

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity or unforeseeable situation for each item in the notice of an emergency meeting and each item added in a supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to the college district's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.

*Gov't Code 551.045*

#### 14. Catastrophe.

A Board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the Board gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of the Board to conduct a meeting, including:

- a. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
- b. Power failure, transportation failure, or interruption of communication facilities;
- c. Epidemic; or
- d. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

*Gov't Code 5541.0411(b), (c)*

#### 15. Special Notice to News Media.

The College District shall provide special notice of each meeting by telephone or telegraph to any news media that has requested it and agreed to reimburse the College District for the cost of providing the special notice. When an emergency meeting is called Board Policy 007 4 or an emergency item added to an agenda, the Board Chairman shall notify by telephone or telegraph any news media who have previously requested special notice of all meetings.

*Gov't Code 551.047, 551.052*

#### 16. Quorum.

A majority of the Board (e.g., four members of a seven-member Board or five members of a nine-member Board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board.

*Gov't Code 551.001(6), 311.013(b)*

Notwithstanding any other law, a quorum is not required for the board to act if:

- a. The college district's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
- b. A majority of the members of the board are unable to be present at a board meeting as a result of the disaster.

*Gov't Code 418.1102*

#### **17. Secret Ballot.**

No vote shall be taken by secret ballot.

*Atty. Gen. Op. H-1163 (1978)*

#### **18. Meeting by Conference Call.**

The Board may hold a meeting by telephone conference call if the meeting is a specially called meeting and immediate action is required, and the convening at one location of a quorum of the Board is difficult or impossible.

A meeting held by telephone conference call may be held if a quorum of the board is physically present at the location where meetings of the board are usually held. A board member who participates in the board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Education Code 130.0845.

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

- a. Notice. The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting, the location where meetings of the governmental body are usually held.

- b. Recording. The conference call meeting shall be tape-recorded and made available to the public.

*Gov't Code 551.121*

### **19. Meeting by Videoconference Call.**

If a College District does not extend into three or more counties, a meeting may be held by videoconference call only if a quorum of the Board is physically present at one location of the meeting. If the College District extends into three or more counties, a meeting may be held by videoconference call if a majority of the quorum is physically present at one location of the meeting. A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

*Gov't Code 551.127*

- a. Notice of Locations. The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call by the Board in a College District that extends into three or more counties must specify as a location of the meeting each location where a majority of the quorum of the Board will be physically present and specify the intent to have a majority of the quorum of the Board present at that location. The notice of the meeting must also specify where each participating member of the governmental body will be during the meeting.
  - 1. Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified in the notice.
  - 2. Each location specified in the notice shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be Board Policy 007 5 clearly visible and audible to each other participant and, during the open portion of the meeting,

to the members of the public in attendance at a location of the meeting.

- b. Recording. The Board shall make at least an audio recording of the meeting. The recording shall be made available to the public.
- c. Quality of Audio and Video Signals. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:
  - 1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and
  - 2. Be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.
  - 3. Remote Participation. The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in the meeting from a remote location.

*Gov't Code 551.127; 1 TAC 209.30-.33*



## **20. Internet Broadcast.**

The Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act.

*Gov't Code 551.128*

## **21. Attorney Consultation**

The Board may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the Board or a private consultation with its attorney in a closed meeting of the Board.

Each part of a public consultation by the Board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

*Gov't Code 551.129*

## **22. Passing Resolutions or Orders.**

The Board shall proceed by and through resolutions or orders adopted or passed by the Board. The affirmative vote of a majority of all Board members shall be required to adopt or pass a resolution or order. The Board shall adopt such rules, regulations, and bylaws as it deems advisable.

*Education Code 130.082(d)*

## **23. Accommodations for Hearing-impaired Persons.**

In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an adjudicative hearing, the Board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

*Gov't Code 558.001, 558.003*

## **B. Board Meetings: Closed Meetings**

### **1. Exceptions for Closed Meetings**

The Board may conduct a closed meeting for the purposes allowed by law or described in the following provisions.

- a. **Attorney Consultation.** The Board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings.

*Texas Gov't Code 551.071*

- b. **Real Property.** The Board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person.

*Gov't Code 551.072*

- c. **Prospective Gift.** The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the College District if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person.

*Gov't Code 551.073*

- d. **Personnel Matters.** The Board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

*Gov't Code 551.074*

1. The closed meeting exception for personnel matters does not apply when the Board discusses an independent contractor who is not a College District employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee or employees.

*Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

- e. Employee-Employee Complaints. The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a College District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing.

*Gov't Code 551.082*

- f. Student Discipline. The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing.

*Gov't Code 551.082*

- g. Personally Identifiable Student Information. The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.
  1. Directory information about a College District student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the College District that the directory information should not be released without prior consent.

2. This exception does not apply if an open

meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

*Gov't Code 551.0821*

- h. Medical or Psychiatric Records. A Board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:
  - 1. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or
  - 2. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

*Gov't Code 551.0785*

- i. Security Devices. The Board is not required to conduct an open meeting to deliberate the deployment, or specific occasions for implementation, of security personnel or devices or a security audit.

*Gov't Code 551.076*

- j. Assessment Instruments. The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items.

*Education Code 39.030(a)*

- k. Emergency Management. The Board is not required to conduct an open meeting to deliberate information confidential under Government Code Sections 418.175-418.182, relating to Homeland Security. However, the Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information.

*Gov't Code 418.183(f)*

- l. Economic Development Negotiations. The Board is not required to conduct an open meeting:
  - 1. To discuss or deliberate regarding commercial or

financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the College District and with which the Board is conducting economic development negotiations; or

2. To deliberate the offer of a financial or other incentive to such a business prospect.

*Gov't Code 551.087 Board Policy 007 8*

## **2. Procedures for a Closed Meeting**

- a. If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held.

*Gov't Code 551.101*

- b. Vote or Final Action. A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. No votes can be taken in closed session.

*Gov't Code 551.102*

- c. Certified Agenda or Tape Recording. The Board shall either keep a certified agenda and/or make a tape recording of the proceedings of each closed meeting, except for private consultation with the College District's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time.

*Gov't Code 551.103*

Closed meetings may not be recorded by an individual Trustee against the wishes of a majority of the Board.

*Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex. App.-San Antonio, 1979)*

1. Preservation. The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending.

a) Gov't Code 551.104(a)

2. Public Access. A certified agenda or tape recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act.

*Gov't Code 551.104 (b)(c)*

d. Prohibitions. No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a tape recording of the closed meeting is being made.

*Gov't Code 551.145*

No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public.

*Gov't Code 551.146*

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act.

*Gov't Code 551.144(a)*

- e. Affirmative Defense. It is an affirmative defense to prosecution under Subsection 551.144(a) that the Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board's attorney.

*Gov't Code 551.144(c)*

## II. LOCAL POLICY

The Board of Trustees can transact business that is legally binding on the College District only when it is in official session, has a quorum present and minutes are kept. Board committees may transact business binding on the College District only within the bounds of authority specifically granted to them, and to be continually binding, all such business thus transacted must be reported at the next meeting of the Board for approval and entry into the minutes of the Board as a public record.

Members of the Board shall have authority only when acting as a Board legally in session. The Board shall not be bound in any way by any statement or action on the part of any individual Board member, except when such statement or action is in pursuance of specific instructions of the Board.

### A. Board Meetings

“Meeting” means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. “Meeting” also means a gathering:

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

### B. Regular Meetings

The regular meetings of the Board of Trustees of the Victoria College shall be held at 4 p.m. on the third Monday of every other calendar month, unless otherwise provided by the Board, in the Corporate Meeting Room, Academic Building Room 101 on the Victoria College campus. Written notice of the date, hour, place and subject of each meeting of the Board shall be given as prescribed by law.

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest.



Deliberations or actions pertaining to top administrators are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the Board proposes to discuss or accomplish

### **C. Special or Called Meetings**

The Chair of the Board may call special meetings when, in his/her opinion, such meetings may be necessary. All members must be notified of such special or called meetings in writing, by telephone or by personal communication. Public notice of special or called meetings shall be given in a manner identical to that specified for regular meetings.

### **D. Emergency Meetings**

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

### **E. Public Meetings**

Every meeting of the Board shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law.

Individuals or groups desiring to place an item of business on the agenda for Board consideration must address a request in writing to the President of the College at least seven (7) days in advance of the meeting of the Board. Individuals appearing before the Board will be limited to statements not exceeding ten (10) minutes in length unless otherwise provided by the Board. Committees or organizations desiring to appear before the Board will choose one person to act as the spokesman who also shall be restricted to a presentation not to exceed ten (10) minutes.

By granting permission to an individual or group to be heard, the Board does not obligate itself in any way to act upon any proposal or request or to make any answer except to take the matter under advisement for consideration at a later date.

It is a criminal offense for a person with the intent to prevent or disrupt a lawful meeting to substantially obstruct or interfere with the meeting by physical action or verbal utterance.

**F. Closed Meetings**

If a closed meeting is allowed (see Matters Under Discussion), the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held.

**MATTERS UNDER DISCUSSION**

<b>EXCEPTIONS FOR CLOSED MEETINGS</b>	<b>The Board may conduct a closed meeting for the purposes described in the following provisions.</b>
ATTORNEY CONSULTATION	The Board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. <i>Gov't Code 551.071</i>
REAL PROPERTY	The Board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. <i>Gov't Code 551.072</i>
PROSPECTIVE GIFT	The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the College District if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. <i>Gov't Code 551.073</i>
PERSONNEL	The Board is not required to conduct an open meeting to

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MATTERS	<p>deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. <i>Gov't Code 551.074</i></p> <p>The closed meeting exception for personnel matters does not apply when the Board discusses an independent contractor who is not a College District employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. <i>Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)</i></p>
EMPLOYEE-EMPLOYEE COMPLAINTS	<p>The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a College District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. <i>Gov't Code 551.082</i></p>
STUDENT DISCIPLINE	<p>The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing. <i>Gov't Code 551.082</i></p>
PERSONALLY IDENTIFIABLE STUDENT INFORMATION	<p>The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.</p> <p>Directory information about a College District student is</p>

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	<p>considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the College District that the directory information should not be released without prior consent.</p> <p>This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age. <i>Gov't Code 551.0821</i></p>
<p>MEDICAL OR PSYCHIATRIC RECORDS</p>	<p>A Board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:</p> <p>The medical records or psychiatric records of an individual applicant for a benefit from the plan; or</p> <p>A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan. <i>Gov't Code 551.0785</i></p>
<p>SECURITY DEVICES</p>	<p>The Board is not required to conduct an open meeting to deliberate the deployment, or specific occasions for implementation, of security personnel or devices.</p> <p><i>Gov't Code 551.076</i></p>
<p>ASSESSMENT INSTRUMENTS</p>	<p>The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. <i>Education Code 39.030(a)</i></p>
<p>EMERGENCY MANAGEMENT</p>	<p>The Board is not required to conduct an open meeting to deliberate information confidential under Government Code Sections 418.175-418.182, relating to Homeland Security. However, the Board must make a tape recording of the</p>

	proceedings of a closed meeting held to deliberate the information. <i>Gov't Code 418.183(f)</i>
ECONOMIC DEVELOPMENT NEGOTIATIONS	<p>The Board is not required to conduct an open meeting:</p> <p>To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the College District and with which the Board is conducting economic development negotiations; or To deliberate the offer of a financial or other incentive to such a business prospect.</p> <p><i>Gov't Code 551.087</i></p>

**G. Certified Agenda or Tape Recorder**

The Board shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for private consultation with the College District's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. *Gov't Code 551.103*

Closed meetings may not be recorded by an individual Trustee against the wishes of a majority of the Board.

The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending.

A certified agenda or tape recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act.

## **H. Conference Call**

The Board may hold a meeting by telephone conference call ONLY if the meeting is a specially called meeting and immediate action is required, and the convening at one location of a quorum of the Board is difficult or impossible.

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting, the location where meetings of the governmental body are usually held.

The conference call meeting shall be tape-recorded and made available to the public.

## **I. Actions, Decisions or Votes**

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given.

## **J. Board Agenda**

An agenda of business to come before the board at its regular or called meetings shall be prepared by the President of the College in cooperation with the Chair of the Board and mailed or delivered to the members of the Board at least three (3) days (72 hours) prior to the day of the meeting.

At emergency meetings, the agenda may be given to each Board member when the session is called to order. A copy of the agenda shall be included with the official public notice of the meeting.

Individuals or groups desiring to place an item of business on the agenda for Board consideration must address a request in writing to the President of the College at least seven (7) days in advance of the meeting of the Board.

## **K. Minutes**

The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. The minutes and tapes

are public records and shall be available for public inspection and copying on request to the College President or designee.

**L. Quorum**

A majority of the Board (e.g., four members of a seven-member Board or five members of a nine-member Board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board.

**M. Order of Business**

All board meetings will be conducted according to accepted parliamentary procedures as given in Roberts' Rules of Order, but the Board shall seek to conduct its business in an informal atmosphere in which reasonable order and decorum are observed.

The rules, regulations and policies of the Board may be amended by a majority vote of the Board at any meeting.

No provision of these policies, rules and regulations shall be operative if found to be, after obtaining competent legal opinion, in conflict with the constitutions and laws of the United States or the State of Texas.

**N. Grievance Hearings**

The Board of Trustees may grant hearings to aggrieved students, citizens of the college district and college personnel only when the appropriate administrative procedures provided for adjudication of such grievances have been exhausted and have failed to produce a satisfactory resolution of the conflict. Such administrative procedures are contained in Victoria College Employee Handbook and Victoria College Student Handbook.

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## **College President**

### **I. LEGAL REFERENCE**

*TASB Policy Manual, BAA, BFA, BFB, BFCA*

The Board shall have specific powers and duties imposed by statutes of the state. The Board's legal powers include the power to:

- A. Appoint the College President, evaluate the President and assist the President in the achievement of performance goals.

*Education Code 51.352(d)*

- B. Receive bequests and donations or other monies or funds coming legally into their hands.

*Education Code 11.151(a)*



## II. LOCAL POLICY

### A. Employment

The Board shall announce the name, background, and qualifications of any individual it selects and employs by use of an executive search committee. An "executive search committee" is a committee formed by an act of the Board with the primary purpose of evaluating and assessing candidates and nominees for the position of chief executive officer of the College District.

The Board must give public notice of the name or names of the finalists being considered for College President at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

The President of Victoria College (VC) is employed by the Board of Trustees as the chief executive officer. The President's primary responsibility is to the institution. He must assume and perform all duties and exercise all the powers conferred upon presidents of Texas community colleges and rules and policies adopted by the State of Texas and the United States Government and their administrative agencies. Further, the President must implement all internal rules, policies and procedures adopted by the Victoria College Board of Trustees, act as the Chief Administrator of the College and perform other duties as chief executive officer as set forth in the employment agreement.

The College President is not the presiding officer of the board.

### B. Duties and Responsibilities

The College President is the chief administrator of the College and reports directly to the Board of Trustees. The President assumes all of the duties and exercises all the powers conferred upon presidents of community colleges in the State of Texas by law and by administrative rules and policies adopted by the State of Texas and its administrative agencies, the United States Government and its administrative agencies, and the Board. The President also implements all internal rules, policies and procedures adopted by the Board of Trustees and performs such other duties and responsibilities as may be assigned from time to time by the Board.

As chief executive officer of the College, the President shall:

- a. Provide leadership for academic excellence;
- b. Administer the instruction, student services and business affairs of the College;
- c. Periodically direct the review of Board policies;
- d. Promote and endeavor to maintain positive college image in the community;
- e. Establish and maintain sound working relationships with other governmental agencies;
- f. Endeavor to maintain and improve professional competence;
- g. Serve as the Board's designated representative with respect to all matters concerning employer-employee matters;
- h. Annually evaluate administrative employees reporting directly to the President and participate in the evaluation of the remaining employees in accordance with College procedures;
- i. Manage and control College property and enter into contracts on behalf of the College as authorized by the Board.

### **C. Annual Evaluation**

The performance of the President of the College will be reviewed in August of each year.

### **D. Fundraising Activities**

All fund raising activities conducted by any group associated with Victoria College must be consistent with the purposes of the College and shall be conducted solely to support those purposes. All fundraising activities conducted by non-student groups including faculty, staff, Victoria College Foundation, and constituent groups for purposes directly associated with the College must be approved by the College President or the Board of Trustees

upon submission by the College President. The College President shall develop such procedures as may be necessary to accomplish this policy and shall assure that these procedures are appropriately published and disseminated. The College President shall assure that such fund raising efforts are included in the annual institutional plan and are evaluated annually.

***Additional information is included in the President's Employment Contract.***

# VICTORIA COUNTY JUNIOR COLLEGE DISTRICT INVESTMENT POLICY

## I. POLICY

It is the policy of the Victoria County Junior College District (District) that after allowing for the anticipated cash flow requirements of the District and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to optimize interest earnings to the maximum extent possible.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to District funds. The District's investment portfolio shall be designed and managed in a manner designed to maximize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- **Safety** and preservation of principal
- Maintenance of sufficient **liquidity** to meet operating needs
- **Public trust** from prudent investment activities
- Optimization of **interest earnings** on the portfolio

## II. PURPOSE

The purpose of this investment policy is to comply with Chapter 2256 of the Government Code ("Public Funds Investment Act"), which requires the district to adopt a written investment policy regarding the investment of its funds and funds under its control. The investment policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the District's funds.

## III. SCOPE

This investment policy shall govern the investment of all financial assets of the District. These funds are accounted for in the District's Annual Financial Report and include:

- General Fund
- Capital Projects Funds
- Auxiliary Funds
- Trust and Agency Funds, to the extent not required by law or existing contract to be kept segregated and managed separately.
- Endowed funds within the Trust fund are not subject to the Public Funds Investment Act, and therefore the District does not subject them to the requirements of this policy, see appendix A
- Debt Service Funds, including reserves and sinking funds, to the extent not required by law or existing contract to be kept segregated and managed separately.

The District may consolidate cash balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

This investment policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds. However, this policy does not apply to the assets administered for the benefit of the District by outside agencies under deferred compensation programs.

#### **IV. INVESTMENT OBJECTIVES**

The District shall manage and invest its cash with four primary objectives, listed in order of priority: **safety, liquidity, public trust, and yield, expressed as optimization of interest earnings.** The safety of the principal invested always remains the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

The District shall maintain a comprehensive cash management program, which includes collection of account receivables, vendor payments in accordance with invoice terms and prudent investment of available cash. Cash management is defined as the process of managing monies in order to insure maximum cash availability and maximum earnings on short-term investment of idle cash.

##### **Safety [PFIA 2256.005(b) (2)]**

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit and interest rate risk.

- Credit risk and concentration of credit risk – The District will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, and concentration of credit risk, the risk of loss attributed to the magnitude of investment in a single issuer, by:
  - Limiting investments to the safest types of investments
  - Pre-qualifying the financial institutions and broker/dealers with which the District will do business
  - Diversifying the investment portfolio so that potential losses on individual issuers will be minimized.

- Interest rate risk – the District will manage the risk that the interest earnings and the market value of investments in the portfolio will fall due to changes in the general interest rates by limiting the maximum weighted average maturity of the investment portfolio to five years. The District will, in addition:
  - Structure the investment portfolio so that investments mature to meet cash requirements for ongoing operations, thereby avoiding the need to liquidate investments prior to maturity.
  - Invest operating funds primarily in certificates of deposits, shorter-term securities or local government investment pools that offer same-day liquidity.
  - Diversify maturities and stagger purchase dates to minimize the impact of market movements over time.

### **Liquidity [PFIA 2256.005 (b) (2)]**

The investment policy shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that investments mature concurrent with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in local government investment pools or high yield bank accounts that offer same-day liquidity. In addition, a portion of the portfolio will consist of securities with active secondary or resale markets.

### **Public Trust**

All participants in the District’s investment process shall seek to act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction that might impair public confidence in the District’s ability to govern effectively.

### **Yield (Optimization of Interest Earnings)**

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

## **V. RESPONSIBILITY AND CONTROL**

### **Delegation of Authority [PFIA 2256.005(f)]**

In accordance with the Public Funds Investment Act, the Board designates the Vice President of Business and Administrative Services and the Comptroller as the District’s Investment Officers. An Investment Officer is authorized to execute investment transactions on behalf of the District. No person may engage in an investment transaction or the management of District funds except as provided under the terms of this investment policy as approved by the Board. The investment authority granted to the investing officers is effective until rescinded by the Board.

## **Quality and Capability of Investment Management [PFIA 2256.005(b) (3)]**

The District shall provide periodic training in investments for the designated investment officers and other investment personnel through courses and seminars offered by professional organizations, associations, and other independent sources in order to insure the quality and capability of investment management in compliance with the Public Funds Investment Act.

### **Training Requirement (State Agencies)**

In accordance with the Public Funds Investment Act, a newly appointed investment officer and each Board member must attend a training session relating to the person's responsibilities under the Act within six months of the date the officer or board member took office or assumed duties. In addition, investment officers shall attend an investment training session no less often than once every two years commencing September 1, 1997. The investment training session shall be provided by an independent source approved by the Board. For purposes of this policy, an "independent source" from which investment training shall be obtained shall include a professional organization, an institution of higher education or any other sponsor other than a business organization with whom the District may engage in an investment transaction. The Investment Officers shall deliver a report on the subchapter to the Board not later than the 180<sup>th</sup> day after the last of each regular session of the legislature.

### **Internal Controls**

The Vice President of Business and Administrative Services is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the District are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

- Accordingly, the Vice President of Business and Administrative Services shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures.

### **Prudence (PFIA 2256.006)**

The standard of prudence to be applied by the investment officer shall be the "prudent investor" rule. This rule states that "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the District’s control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved investment policy of the District.

### **Indemnification**

The Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific investment’s credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments.

### **Ethics and Conflicts of Interest [PFIA 2256.005(i)]**

Officers and employees involved in the investment process shall refrain from personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions.

Employees and investment officers shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the District.

An investment officer of the District who has a personal business relationship with an organization seeking to sell an investment to the District shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the District shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the Board.

## **VI. SUITABLE AND AUTHORIZED INVESTMENTS**

### **Portfolio Management**

The District currently has a “buy and hold” portfolio strategy. Maturity dates are matched with cash flow requirements and investments are purchased with the intent to be held until maturity. However, investments may be liquidated prior to maturity for the following reasons:

- An investment with declining credit may be liquidated early to minimize loss of principal.
- Cash flow needs of the District require that the investment be liquidated.



## **Investments [PFIA 2256.005(b) (4) (A)]**

District funds governed by this policy may be invested in the instruments described below, all of which are authorized by Chapter 2256 of the Government Code (Public Funds Investment Act). Investments of District funds in any instrument or security not authorized for investment under the Act is prohibited. The District will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase.

### **I. Authorized**

1. Obligations of the United States of America, its agencies and instrumentalities.
2. Direct obligations of this state or its agencies and instrumentalities
3. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities.
4. Certificates of Deposit issued by a depository institution that has its main office or a branch office in Texas. The certificate of deposit must be guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor and secured by obligations in a manner and amount as provided by law. In addition, certificates of deposit obtained through a depository institution that has its main office or a branch office in Texas and that contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Public Funds Investment Act are authorized investments.
5. Fully collateralized direct repurchase agreements with a defined termination date secured by obligations of the United States or its agencies and instrumentalities. These shall be pledged to the District, held in the District's name, and deposited at the time the investment is made with the District or with a third party selected and approved by the District. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas. A Master Repurchase Agreement must be signed by the bank/dealer prior to investment in a repurchase agreement. All repurchase agreement transactions will be on a delivery versus payment basis. Securities received for repurchase agreements must have a market value greater than or equal to 102 percent at the time funds are disbursed.
6. Money Market Mutual funds that: 1) are registered and regulated by the Securities and Exchange Commission, 2) have a dollar weighted average stated maturity of 90 days or less, 3) seek to maintain a net asset value of \$1.00 per share, and 4) are rated AAA by a least one nationally recognized rating service.

7. Local government investment pools, which 1) meet the requirements of Chapter 2256.016 of the Public Funds Investment Act, 2) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service, and 3) are authorized by resolution or ordinance by the Board. In addition, a local government investment pool created to function as a money market mutual fund must mark its portfolio to the market daily and, to the extent reasonably possible, stabilize at \$1.00 net asset value.

All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating. (PFIA 2256.021)

## **II. Not Authorized [PFIA 2256.005(b) (1-4)]**

Investments including interest-only or principal-only strips of obligations with underlying mortgage-backed security collateral, collateralized mortgage obligations with an inverse floating interest rate or a maturity date of over 10 years are strictly prohibited.

## **VII. INVESTMENT PARAMETERS**

### **Maximum Maturities [PFIA 2256.005(b) (4) (B)]**

The District attempts to match its investments with anticipated cash flow requirements. The District will not directly invest in securities maturing more than ten years from the date of purchase.

### **Diversification [PFIA 2256.005(b) (3)]**

The District recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is managed through portfolio diversification that shall be achieved by the following general guidelines:

- Limiting investments to avoid over concentration in investments from a specific issuer or business sector (excluding U.S. Treasury securities and certificates of deposit that are fully insured and collateralized in accordance with state and federal law),
- Investing in securities with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as local government invest pools, money market funds or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

## **VIII. SELECTION OF BANKS AND DEALERS**

### **Depository (Chapter 51.003 Texas Education Code)**

At least every four years a depository shall be selected through the District's banking services procurement process. The selection of a depository will be determined by competitive bid and evaluation of bids will be based on the follow selection criteria:

- The ability to qualify as a depository for public funds in accordance with state law.
- The ability to provide requested information of financial statements for the periods specified.
- The ability to meet all requirements in the banking bid.
- Complete response to all required items on the bid form.
- Lowest net banking service cost, consistent with the ability to provide an appropriate level of service.
- The credit worthiness and financial stability of the bank.

### **Authorized Brokers/Dealers (PFIA 2256.025)**

The District shall, at least annually, review, revise, and adopt a list of qualified broker/dealers and financial institutions authorized to engage in securities transactions with the District. Those firms that request to become qualified bidders for securities transactions will be required to provide a completed broker/dealer questionnaire that provides information regarding creditworthiness, experience, and reputation, and a certification stating the firm has received, read and understood the District's investment policy and agree to comply with the policy. Authorized firms may include primary dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule), and qualified depositories. All investment providers, including financial institutions, banks, money market mutual funds, and local government investment pool, must sign a certification acknowledging that the organization has received and reviewed the District's investment policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the District's policy. [PFIA 2256.005(k-1)]

### **Competitive Bids**

It is the policy of the District to require competitive bidding for all individual security purchases and sales except for: a) transactions with money market mutual funds and local government investment pool and b) treasury and agency securities purchased at issue through an approved broker/dealer or financial institution. The Vice President of Business and Administrative Services shall develop and maintain procedures for ensuring competition in the investment of the District's funds.

### **Delivery versus Payment [PFIA 2256.005(b) (4) (E)]**

Securities shall be purchased using the delivery versus payment method with the exception of investment pools and mutual funds. Funds will be released after notification that the purchased security has been received.

## **IX. CUSTODIAL CREDIT RISK MANAGEMENT**

### **Safekeeping and Custodial Agreements**

The District shall contract with a bank or banks for the safekeeping of securities either owned by the District as part of its investment portfolio or held as collateral to secure demand or time deposits. Securities owned by the District shall be held in the District's name as evidenced by safekeeping receipts of the institution holding the securities.

Collateral for deposits will be held by a third party custodian designated by the District and pledged to the District as evidenced by safekeeping receipts of the institution with which the collateral is deposited. Original safekeeping receipts shall be obtained. Collateral may be held by the depository bank's trust department, a Federal Reserve Bank or branch of a Federal Reserve Bank, a Federal Home Loan Bank, or a third party bank approved by the District.

### **Collateral Policy (PFIA 2257.023)**

Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the District to require full collateralization of all District funds on deposit with a depository bank, other than investments. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest on the deposits or investments less an amount insured by the FDIC. At its discretion, the District may require a higher level of collateralization for certain investment securities. Securities pledged as collateral shall be held by an independent third party with whom the District has a current custodial agreement. The Vice President of Business and Administrative Services is responsible for entering into collateralization agreements with third party custodians in compliance with this policy. The agreements are to specify the acceptable investment securities for collateral, including provisions relating to possession of the collateral, the substitution or release of investment securities, ownership of securities, and the method of valuation of securities. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the District and retained. Collateral shall be reviewed at least monthly to assure that the market value of the pledged securities is adequate.

## **Collateral Defined**

The District shall accept only the following types of collateral:

- Obligations of the United States or its agencies and instrumentalities
- Direct obligations of the state of Texas or its agencies and instrumentalities
- Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States

## **Subject to Audit**

All collateral shall be subject to inspection and audit by the Investment Officers or the District's independent auditors.

## **X. PERFORMANCE**

### **Performance Standards**

The District's investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio shall be designed with the objective of obtaining a rate of return through budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow requirements of the District.

### **Performance Benchmark**

It is the policy of the District to purchase investments with maturity dates coinciding with cash flow needs. Through this strategy, the District shall seek to optimize interest earnings utilizing allowable investments available on the market at that time. Market value will be calculated on a quarterly basis on all securities owned and compared to current book value. The District's portfolio shall be designed with the objective of regularly meeting or exceeding the average rate of return on 90 day U.S. Treasury Bills, six month U.S. Treasury Bills, the Fed Fund rate and 10 year U.S. Treasury Notes.

## **XI. REPORTING (PFIA 2256.023)**

### **Methods**

The Investment Officers shall prepare an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter and describes the portfolio in terms of investment securities, maturities, and shall explain the total investment return for the quarter.

The quarterly investment report shall include a summary statement of investment activity prepared in compliance with generally accepted accounting principles.

This summary will be prepared in a manner that will allow the District to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will be provided to the Board. The report will include the following:

- A listing of individual securities held at the end of the reporting period.
- Unrealized gains or losses resulting from appreciation or depreciation by listing the beginning and ending book and market value of securities for the period.
- Additions and changes to the market value during the period.
- Listing of investments by maturity date.
- The percentage of the total portfolio that each type of investment represents.
- Statement of compliance of the District's investment portfolio with state law and the investment strategy and policy approved by the Board.

An independent auditor will perform a formal annual review of the quarterly reports with the results reported to the governing body [PFIA 2256.023(d)].

### **Monitoring Market Value [PFIA 2256.005(b) (4) (D)]**

Market value of all securities in the portfolio will be determined on a quarterly basis. These values will be obtained from a reputable and independent source and disclosed to the governing body quarterly in a written report.

## **XII. INVESTMENT POLICY ADOPTION [PFIA 2256.005(e)]**

The District's investment policy shall be adopted by resolution of the Board. It is the District's intent to comply with state laws and regulations. The District's investment policy shall be subject to revisions consistent with changing laws, regulations, and needs of the District. The Board shall adopt a resolution stating that it has reviewed the policy and investment strategies annually, approving any changes or modifications.

## **Appendix A**

### **Victoria County Junior College District Endowed Funds Statement of Philosophy**

#### **Premises of Investment Philosophy**

1. The Victoria County Junior College District's (District) portfolio shall be managed with the intention of achieving competitively high rates of return to secure sufficient income and growth over time to meet the requirements of the District, while adhering to a prudent level of risk.
2. The District's portfolio is held in perpetuity; therefore the investment policy should be geared to long-term growth.
3. Historically, equities have produced the highest total return over longer periods of time, and consequently have been the best inflation hedge. Assuming continued long-term GDP growth in the USA and world economies, this premise should continue to be true.
4. Fixed income securities provide higher income in the short term, reduce portfolio volatility, and may provide incremental additions to capital.

This philosophy will require constant discipline and tolerance of interim market fluctuations.

#### **Investment Philosophy**

1. Invest in strong or growing companies or in companies where their intrinsic present or future value is deemed to be substantially greater than reflected in their current market value.
2. Select professional financial manager(s) with top records over a long period of time. Measure their performance against investment policy, other managers in their peer group, and the standard benchmarks, over at least a full market cycle, generally three to five years.

#### **Administrative Philosophy**

District funds should be uniformly managed for investment effectiveness and at a reasonable, competitive cost.

The primary responsibility of the Finance Committee, as delegated by the District Board of Trustees, is to oversee the investment of the endowment portfolios. General responsibilities of the Committee should continue to be:

1. To establish, monitor and refine investment guidelines that do not conflict with the guidelines for management, investment and expenditure of endowed funds as stated in the Uniform Management of Institutional Funds Act (UMIFA).
2. To allocate assets among cash, fixed income and equities in order to achieve the long-term investment goals and objectives of the Foundation.
3. To employ professional investment firms to allocate funds among financial managers, and to monitor their performance, making changes when necessary.

## **Victoria County Junior College District Endowed Funds Investment Policy Guidelines**

The purpose of this document is to provide a basis for the District to properly discharge its responsibilities with respect to the maintenance and enhancement of its endowed funds.

The Board of Trustees of the Victoria County Junior College District, while delegating responsibility for investment performance to the Finance Committee, believe this responsibility is best exercised by managing the Investment Management function rather than being the Investment Manager. The Finance Committee believes it can best exercise its responsibility by:

1. Establishing the investment philosophy and setting guidelines which will be reviewed by the District Board of Trustees at least annually and will be updated and modified as required to recognize current market and economic conditions as well as the current income needs of the District.
2. Selecting qualified independent investment manager(s).
3. Communicating closely with those managers.
4. Monitoring investment results to assure that objectives are being met.

**Philosophy** (See attached Statement of Philosophy)

### **Investment Objectives and Guidelines**

The objective of these investment management guidelines is to ensure the future growth of the endowments sufficient to offset normal inflation plus reasonable spending, thereby preserving the constant dollar value and purchasing power of the endowments for future generations and to preserve the principal of operating cash and reserves while producing market-level income.

It is intended that investment of endowed funds will:

- provide current income to the District to support the current goals and objectives of the District.
- preserve and maintain the principal value of assets as measured in real, inflation-adjusted terms.
- optimize, over the long run, the total rate of return on investible assets, minimizing the level of risk assumed by the District.
- Comply with the guidelines for the management, investment and expenditure of endowed funds as stated in the Uniform Investment of Institutional Funds Act (UMIFA), a copy of which is attached and incorporated herein by reference.



## **Administrative Guidelines**

The Finance Committee shall be responsible for overseeing the investment and reinvestment of the District's endowed funds portfolio. Action taken by the Finance Committee shall follow the Endowed Funds Investment Policy Guidelines and be reviewed and approved by the Board of Trustees. The Finance Committee shall have the following authority and responsibilities to act on behalf of the Board of Trustees in connection with the investment of these funds.

- Establishment of investment policies and objectives.
- Determination of allocation of funds among equity, fixed income, and various other investment alternatives as deemed appropriate.
- Recommendation to the Board of Trustees regarding the hiring and termination of relationships with outside investment managers based on their performance.
- Periodic review of each investment manager with regard to performance results, investment activity, and adherence to policy.

## **Allocation Guidelines**

The District's endowed funds and the funds of the Victoria College Foundation will be looked at together for asset allocation purposes. In accordance with its statement of philosophy, the long-term asset allocation for the District Endowment shall be 50% equity and 50% fixed income (with a 10% variance).

## **Spending Guidelines**

It shall be the policy of the District to preserve and maintain the real purchasing power of the principal in the District's endowed investment portfolio. Accordingly,

- The number and dollar amount of scholarships to be funded from earnings will be proposed annually by the Scholarship committee and submitted to the Board of Trustees for their approval. .

## **Guidelines for Investment Managers**

The District may utilize the services of external investment managers to assist in the management of the portfolio.

1. The number of managers and the amount of funds under management shall be determined by the Board of Trustees upon recommendation of the Finance Committee. They will be selected from strongly established and financially sound organizations that have a proven and demonstrated record in managing funds consistent with the needs of the District.
2. Each manager, acting within established guidelines, will have full discretion regarding the management of the portfolio
3. The portfolio should be comprised of high-quality issues.

4. It is expected that professional management responsible for the investment of these funds shall report not less than semi-annually to the Finance Committee and the Board of Trustees on the performance of the portfolio.
5. The periodic reports to the District should include comparative gross returns for the funds and their respective benchmarks, as well as complete accounting of all transactions involving the District endowment during the quarter, together with a statement of beginning balance, fees, capital appreciation, income and ending balance for each account. . Additional meetings with the Finance Committee or the Board may be requested.

## **Guidelines for Endowed Assets**

### **Risk Tolerance and Investment Time Horizon**

The District's endowment assets will have a long-time life span that parallels the life of the institution. As such, these funds can assume a life that extends well beyond a normal market cycle. Therefore, an above average level of risk, as measured by the standard deviation of annual returns, may occur. However, by professional management and a sufficient portfolio diversification there will be lessened volatility in the investments that may help to assure a reasonable consistency of return.

### **Gains and Losses**

It is permissible for the District to realize gains and losses in the investment portfolio if such action would be consistent with the District's endowed fund investment goals. Gains and losses realized on the District portfolio will be charged or credited against current income.

### **Exceptions to Investment Guidelines**

Modifications and exceptions to these guidelines shall be authorized only by the Board of Trustees or as provided herein.

**RESOLUTION ELECTING TO PARTICIPATE IN TAX ABATEMENT  
AGREEMENTS AND ADOPTION OF POLICY ON GUIDELINES AND  
CRITERIA FOR GRANTING TAX ABATEMENTS**

WHEREAS, the stimulation of commercial activity within the Victoria County Junior College District (“District”) can benefit the District and help it further its purposes as a community college;

WHEREAS, the abatement of property taxes, when offered to retain or expand primary employment or to attract major investment, can be an effective method of economic development that benefits the District;

WHEREAS, the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code (the “Act”), authorizes the District as a taxing unit to abate taxes on property in a reinvestment zone designated by a municipality or county; and

WHEREAS, the Act requires the taxing unit to establish guidelines and criteria for the granting of tax abatement agreements by the District, and to adopt a resolution electing to participate in tax abatement agreements before entering into any tax abatement agreement.

NOW THEREFORE, BE IT RESOLVED:

**Section 1:** The facts and recitals herein are true and correct.

**Section 2:** In furtherance of the District’s purposes as a junior college, the District elects to participate in tax abatement agreements pursuant to the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code.

**Section 3:** Any and all guidelines and criteria for granting tax abatements previously adopted, if any, are hereby repealed.

**Section 4:** The Board adopts the Policy on Tax Abatement Guidelines and Criteria attached hereto as Exhibit A.

PASSED and APPROVED this the 16 day of December, 2013.

\_\_\_\_\_  
RONALD B. WALKER, Board Chair

ATTEST:

\_\_\_\_\_  
DR. JOSIE RIVERA, Board Secretary

# Victoria County Junior College District Policy on Tax Abatement Guidelines and Criteria

(Adopted: December 16, 2013)

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## 1. Introduction<sup>1</sup>

**1.01 Authority.** Victoria County Junior College District (the “College”) has elected to become eligible to participate in Tax Abatement Agreements through the adoption of a resolution as required by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code (the “Act”). Under the Act, the College Board of Trustees (the “Board”) may enter into a Tax Abatement Agreement with a property Owner in an area designated as a Reinvestment Zone or Enterprise Zone to exempt from ad valorem taxes all or part of the increased assessed value of the property on the condition that the Owner makes specified improvements or meets other conditions in the Tax Abatement Agreement. The Board must, and does hereby, adopt Guidelines and Criteria in accordance with the Act for granting Abatements.

**1.02 Discretion.** The College reserves the right and authority to determine independently the suitability of projects for Abatement and whether the College elects to participate in any Tax Abatement Agreement. The Board further reserves the right and authority to specifically delegate to authorized employees the authority to determine whether or not the Board should consider a particular application for Abatement. The adoption of these Guidelines and Criteria does not create any property, contract, or other legal rights in any person to have the Board consider or grant any specific application for Abatement in whole or in part.

**1.03 Purpose.** In considering applications for Abatement, the Board will strive to ensure that any Abatement granted will assist the College, directly or indirectly, in meeting its general purpose as set forth in Texas Education Code Section 130.003(e), which states that the purpose of each public community college shall be to provide:

- (a) Technical programs up to two years in length leading to associate degrees or certificates;

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<sup>1</sup> Certain terms and phrases are capitalized throughout this policy to indicate a specific intended definition as stated in Section 2, Definitions.

# Victoria County Junior College District Policy on Tax Abatement Guidelines and Criteria

(Adopted: December 16, 2013)

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- (b) Vocational programs leading directly to employment in semi-skilled and skilled occupations;
- (c) Freshman and sophomore courses in arts and sciences;
- (d) Continuing adult education programs for occupational or cultural upgrading;
- (e) Compensatory education programs designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students;
- (f) A continuing program of counseling and guidance designed to assist students in achieving their individual educational goals;
- (g) Work force development programs designed to meet local and statewide needs;
- (h) Adult literacy and other basic skills programs for adults; and
- (i) Such other purposes as may be prescribed by the Texas Higher Education Coordinating Board or local governing boards in the best interest of post-secondary education in Texas.

**1.04 Sunset.** In accordance with the Act, these Guidelines and Criteria are effective upon adoption and shall remain in force for two (2) years from the date of adoption, after which these Guidelines and Criteria are automatically void. These Guidelines and Criteria may be amended or repealed during the two-year period only by at least a three-fourths ( $\frac{3}{4}$ ) vote of the membership of the full Board. Upon expiration of the two-year period, the Board may adopt new guidelines and criteria by a majority vote.

## 2. Definitions

- (a) “*Abatement*” means the full or partial exemption from ad valorem taxes of the increased assessed value of eligible real property and/or tangible personal property that are part of a Planned Improvement within a Reinvestment Zone or Enterprise Zone designated as such

**Victoria County Junior College District  
Policy on Tax Abatement Guidelines and Criteria**

**(Adopted: December 16, 2013)**

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by a municipality, Victoria County, or the Texas Enterprise Zone Board for economic development purposes, the terms and conditions of which are specifically stated in a Tax Abatement Agreement between the property Owner and the College.

- (b) “*Abatement Period*” means the period during which a portion of the increase in assessed value of real property or tangible personal property is exempt from taxation in accordance with a Tax Abatement Agreement.
- (c) “*Guidelines and Criteria*” means this policy.
- (d) “*Enterprise Zone*” means an area declared by the Texas Enterprise Zone Board to be eligible for the benefits of the Texas Enterprise Zone Act.
- (e) “*New Value*” means the additional assessed value of eligible property through Planned Improvements made subsequent to and as specified in a Tax Abatement Agreement between the College and the property Owner.
- (f) “*Owner*” means the owner or prospective owner of property taxable by the College, including the owner of a leasehold interest in such property that is located in a Reinvestment Zone or Enterprise Zone.
- (g) “*Planned Improvement*” means the addition of new buildings, structures, facilities, machinery or equipment for the purpose of increasing production capacity and/or the modernization or expansion of an existing facility made subsequent to the approval of, and as specifically described in, a Tax Abatement Agreement.
- (h) “*Reinvestment Zone*” is an area officially designated as such by a municipality and/or Victoria County to influence development patterns and attract major investments that will contribute to the development of the municipality and/or Victoria County through the use of tax abatement for specified Planned Improvements.

# Victoria County Junior College District Policy on Tax Abatement Guidelines and Criteria

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- (i) “*Tangible Personal Property*” means tangible personal property classified as such under state law, but excludes inventory and/or supplies, and excludes any tangible personal property that was located in a Reinvestment Zone or Enterprise Zone at any time before the Abatement Period.
- (j) “*Tax Abatement Agreement*” means a written contractual agreement between the College and a property Owner made pursuant to Chapter 312 of the Texas Tax Code for the purpose of exempting from taxation by the College an agreed upon percentage of the increase in assessed value of eligible property during the Abatement Period. In accordance with Tax Code Section 312.207, a Tax Abatement Agreement must be approved by the Board at a regularly scheduled board meeting and may not be approved unless the Board finds that the terms of the agreement and the property subject to the agreement meet the applicable Guidelines and Criteria adopted by Board.

## **3. Procedures**

**3.01 Application.** The College will accept an application for consideration of Abatement from a property Owner that meets the application requirements of the relevant municipality or Victoria County, provided the College may, at its discretion and at any time during the process, require additional information from the applicant. The application will be reviewed by the College President, or designee(s) for completeness and accuracy, and compiled for distribution to the Board members.

**3.02 Confidentiality of Proprietary Information.** In accordance with Tax Code Section 312.003, the College will maintain the confidentiality of information that is provided in connection with an application and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which Abatement is sought. Such information is confidential under Tax Code Section 312.003 until the Tax Abatement Agreement is executed with the College. Nothing herein waives the confidentiality of information maintained by the College that is otherwise confidential by law.

## **4. Tax Abatement Agreements**

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**4.01 General Eligibility.** In order for an application to be considered, the Owner of property within a Reinvestment Zone or Enterprise Zone must show that its proposed Planned Improvement will:

- (a) Be a major investment in the zone that will substantially increase the appraised value of property within the zone; and
- (b) Directly or indirectly serve a College purpose as stated in Section 1.03 herein.

**4.02 Eligibility Threshold.** For consideration for Abatement by the College, an Owner must demonstrate that the Planned Improvement is reasonably expected to increase the assessed value of the property by at least \$100 million.

**4.03 Duration and Value of Abatement.** The maximum duration of any Abatement with the College is five (5) years. The Abatement Period begins on January 1 of the year following the year in which substantial completion of the Planned Improvement is reached as evidenced by a certificate of substantial completion. The maximum amount of assessed value to be exempt in any given year is fifty percent (50%) of the New Value.

**4.05 Required Terms.** In accordance with the Act, a Tax Abatement Agreement must:

- (a) List the kind, number, and location of all proposed improvements of the property;
- (b) Provide access to and authorize inspection of the property by College employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Tax Abatement Agreement;
- (c) Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that Abatement is in effect;



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Policy on Tax Abatement Guidelines and Criteria**

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- (d) Provide for recapturing property tax revenue lost as a result of the Tax Abatement Agreement if the Owner of the property fails to make the improvements or repairs as provided by the Tax Abatement Agreement;
- (e) Contain each term agreed to by the Owner of the property;
- (f) Require the Owner of the property to certify annually to the Board that the Owner is in compliance with each applicable term of the Tax Abatement Agreement; and
- (g) Provide that the Board may cancel or modify the Tax Abatement Agreement if the property Owner fails to comply with the Tax Abatement Agreement.

**4.06 Discretionary Terms.** In accordance with the Act, a Tax Abatement Agreement may include, at the option of the Board, provisions for:

- (a) An economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;
- (b) A map showing existing uses and conditions of real property in the Reinvestment Zone;
- (c) A map showing proposed improvements and uses in the Reinvestment Zone;
- (d) Proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances;
- (e) The recapture of all or a portion of property tax revenue lost as a result of the Tax Abatement Agreement if the appraised value of the property subject to the Tax Abatement Agreement does not attain a value specified in the Tax Abatement Agreement, or if the Owner fails to meet any other performance criteria provided by the Tax Abatement Agreement, and payment of a penalty or interest, or both,

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**Victoria County Junior College District  
Policy on Tax Abatement Guidelines and Criteria**

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on that recaptured property tax revenue, as calculated pursuant to the terms of the Tax Abatement Agreement; and

- (f) Any other provisions permitted by law.

**4.07 “Buy Local” Efforts.** As part of a Tax Abatement Agreement, an Owner will use its best efforts to use “local” entities or individuals such as manufacturers, suppliers, contractors and labor related to materials and labor needed for the construction and operation of the Planned Improvement. “Local” means such individuals or entities residing in or headquartered in Victoria County, a county contiguous to Victoria County, and/or the College’s service area.

**4.08 No Delinquent Taxes.** No Abatement will be granted if an applicant (or any affiliate or subsidiary) is delinquent in the payment of ad valorem taxes to any local taxing entity, including the College.

**4.09 Conflict of Interest.** Property within a Reinvestment Zone or Enterprise Zone that is owned or leased by a College Board member is excluded from consideration for Abatement.

[END]