Andrew T. Fish

From: Andrew T. Fish on behalf of Dr. Shirley A. Reed
Sent: Monday, January 30, 2017 3:37 PM
To: Dr. Alejo Salinas, Jr.; Mr. Gary Gurwitz; Mr. Jesse Villarreal; Mr. Paul R. Rodriguez; Mr. Roy de León; Mrs. Graciela Farias; Ms. Rose Benavidez
Subject: STC Faculty Senate Appeal of Policy 4901: Standards of Conduct
Attachments: Proposed Policy 4901 Standards of Conduct.pdf; Board of Trustees Appeal.docx; Comments to Letter to Board (Dr Reed) STC.pdf

Good afternoon Trustees,

During the January 17, 2017 Finance, Audit, and Human Resources Committee, the Committee reviewed proposed new Policy 4901: *Standards of Conduct*. This policy has been included on the agenda for this week's Board meeting, with minor revisions (shown in the packet in yellow highlights and red strike-through). The proposed version is attached for your review.

I provided a copy of the proposed Policy #4901: *Standards of Conduct* to the Faculty Senate President, and he has responded with the attached letter, voicing their concerns to the Board. While they have not specifically stated their intent to do so, members of the Faculty Senate might choose to attend the Board Meeting and make public comments.

I also shared this letter with Mr. Jose Guerrero, legal counsel for personnel issues, and he has provided his own written response in which he directly addresses the Faculty Senate's concerns. Legal counsel concludes these concerns do not raise constitutional or legal challenges to the proposed policy. His letter is provided for your review.

While the Faculty Senate expresses the concern that such policies are uncommon in higher education, I have found similar policies at several of our peer institutions, including:

- Alamo Colleges District
- Collin College
- Dallas County Community College District
- Houston Community College
- Western Texas College

I can provide those policies by email if you would like to see them, and will have copies for each of you at the meeting.

Regards,

Dr. Reed

Title	**Standards of Conduct**	**4901**
Legal Authority	**Texas Education Code and Other Statutory Provisions Regulating Higher Education**	**Page 1 of 3**
Date Approved by Board	**Board Minute Order dated December 13, 2016** ***As Amended by Board Minute Order dated January 31, 2017***	

Employees of South Texas College are expected to adhere to all federal, state, and municipal laws and ordinances. Employees shall also adhere to all College policies and procedures, as well as other guidelines and rules of all regulating agencies or entities having jurisdiction over college activities. Employees of South Texas College are expected to conduct themselves in a professional, courteous, respectful, and ethical manner in the performance of their duties and responsibilities, and in their interaction with colleagues, students, and the general public.

An employee who engages in conduct prohibited by this policy shall be subject to disciplinary action and/or other adverse personnel action, including termination. The decision to discipline an employee should be made in accordance with Policy #4911 Disciplinary Action Procedures.

The prohibited conduct described by this policy is intended as a general guide for employees to follow, it is not intended as an exhaustive description of all the types of conduct that is prohibited and subject to sanction.

South Texas College employees shall be prohibited from engaging in conduct, including, but not limited to:

1. Providing false or altering to falsify information on a time sheet, an employment application, a transcript, a resume, a travel voucher, a purchase order, a student grade record, any report, a payroll record or of any other official record of the College;

2. Violating workplace health or safety rules or accepted safety practices; and creating or contributing to unhealthy or unsanitary conditions in the workplace;

3. Soliciting or accepting any prohibited gift, favor, service, or benefit from any vendor to the College, or soliciting or accepting a bribe;

4. Conducting private business during working hours, regardless of whether it is for profit or not, and regardless of whether or not it interferes with assigned duties and responsibilities;

5. Using or misappropriating work time or College property or resources for personal gain or benefit;

6. Smoking anywhere except in a designated smoking area;

7. Gambling or participating in any games of chance on the College premises at any time;

8. Soliciting, collecting money or circulating petitions on the premises other than within the rules and regulations of the College;

9. Unlawful possession, selling, distributing, or offering and/or consuming alcoholic beverages, illicit drugs, illegal narcotics, hallucinogens, drug paraphernalia, or other illegal intoxicants, drugs, or controlled substances on College premises at anytime or while on duty at any location*;*

NEW POLICY

10. Unlawful possessing, selling, distributing, or offering illicit drugs, illegal narcotics, hallucinogens, drug paraphernalia, or other illegal intoxicants, drugs, or controlled substances at anytime.

11. Failure or refusal to follow work-related directives from supervisors; or to perform designated work that is part of an employee's job duties and responsibilities;

12. Sabotaging, impeding, impairing, and/or disrupting the function of the workplace;

13. Neglect of duty, cyberloafing, loitering or wasting time during working hours; or failure to meet a reasonable and objective measure of efficiency and productivity;

14. ~~Engaging in any conduct during the course and scope of employment with the College that gives rise to the employee being charged with a criminal offense~~;

15. Engaging in any conduct *within or* outside the course and scope of employment with the College which tends to impugn the employee's moral character or professional reputation, or if such conduct tends to tarnish or bring into disrepute the College's image in the community;

16. Intentional, reckless, or negligent conduct that results in personal injury to a student, College employee, or other person while on work duty with the College;

17. Actual or constructive possession on College premise of materials, photographs, video-recordings, drawings or other similar visual illustrations of a pornographic nature that are not a bona-fide part of an approved College course being taught by the employee;

18. Engaging in any conduct with any student, any employee of the College, or any other person if the conduct is offensive, inappropriate, indecent, insulting, physically threatening, and/or humiliating;

19. Making statements or remarks that are derogatory, demeaning, or denigrating of another person on the basis of race, color, national origin, religion, age, sex, sexual orientation, gender, gender identity, disability, or any other protected class;

20. Engaging in dishonest or unethical acts;

21. Inducing, encouraging, soliciting, or compelling any person to engage in any conduct that is criminal in nature, dishonest, insubordinate, offensive, vulgar, or which violates any board policy;

22. Fighting, instigating a fight, threatening or attempting bodily harm or injury to another;

23. *Negligent or intentional unauthorized* disclosure ~~ing to the~~ ~~public~~ *of* information maintained by the College if the information is exempt from disclosure under any law; *including, but not limited to,*

NEW POLICY

the Texas Public Information Act; Family Educational Rights and Privacy Act; or Freedom of Information Act;

24. Creating a condition or engaging in conduct that creates an unreasonable risk of injury to the individual, students, fellow employees, or members of public;

25. Participating in any purchase or acquisition of goods or services in which the employee has a conflict of interest;

26. Unauthorized or repeated tardiness or absence, or excessive use or abuse of sick or other leave privileges;

27. Unlawful possession or storage of a prohibited firearm or other prohibited weapon on College premises;

28. Failure to comply with the College's ~~gun-free zone policy~~ *policy on prohibition of weapons*;

29. Making misrepresentations or providing misleading work-related information to supervisors, co-workers, regulatory bodies, or funding agencies.

30. Engaging in conduct that is prohibited by other College policies;

31. Violating departmental *procedures*, rules or regulations, or College policies;

32. Failing to comply with purchasing or hiring policies, rules, or regulations of the College; ~~or~~

33. Bringing children on College premises during employee's working hours in lieu of childcare arrangements; or

34. Other acts of misconduct as determined by Administration to be prohibited.

The decision to discipline an employee should be made in accordance with Policy #4911: Disciplinary Action Procedures.

This policy is not intended to create any property interest in continued employment.

NEW POLICY

January 27, 2017

Board of Trustees
South Texas College
3201 W. Pecan Blvd.
McAllen, TX 78501

Dear Honorable Members of the Board of Trustees,

On behalf of the STC Faculty Senate, I wish to thank you for your willingness to hear our concerns with respect to two clauses in the proposed new Board Policy #4901, Standards of Conduct. The Senate understands the immense amount of work that goes into policy formation and revision. We also recognize that the vast majority of policy revisions over the past year and half have resulted in reducing redundancies, streamlining procedures, as well as making significant improvements to the language and organization of numerous policies, particularly those related to personnel issues. We applaud your efforts and appreciate the opportunity to participate in the dialogue that has shaped these changes for benefit of the college.

The two clauses in the proposed new Policy #4901 that faculty have serious concerns about are #14 and #15. Dr. Reed has informed me that she and Vice President Mary Elizondo presented to the Board Committee the concerns of the Faculty Senate, and that the Committee reached several conclusions. Dr. Reed outlined these as follows:

- The Committee recognized the concerns, and proposed removal of item #14 from the policy, which provided for disciplinary action on the basis of conduct leading to criminal charges.
- The Committee recommended revising #15 to apply to any conduct, whether within or outside the course and scope of employment with the college.
- The Committee noted that the proposed language is commonly used in law and public policy, expressing confidence that College policy and law provided adequate opportunities to appeal any resultant action.

I presented these conclusions to the Faculty Senate at its monthly meeting, Tuesday, January 24. There was a good deal of excitement and appreciation of the Administration and Board's deliberations. We were relieved to see #14 proposed for *removal* from 4901. Upon reflection, however, additional concerns arose over #15 remaining in the proposal. The concerns come from several directions.

A reminder of the proposed clause #15, within 4901:

15. Engaging in any conduct outside the course and scope of employment with the College which tends to impugn the employee's moral character or professional reputation, or if such conduct tends to tarnish or bring into disrepute the College's image in the community;
… "

- In K-12 settings, such morality clauses have clearer applicability in the socially sensitive context of minors, and teachers being significant adult influences on children. Morality clauses are not common among public colleges and universities.

- #15 is additionally faulty for reasons of vagueness and subsequent unprincipled and preferential application. The phrases "impugn moral character" and "tarnish…the college's

image" are entirely subjective judgments with no anchor within the law. So it cannot be actionable except when connected to legal infraction. One cannot, for instance, be dismissed for divorce, promoting a Satanic religion, or engaging in politically unpopular claims outside the classroom. Even in the most extreme cases, this sort of language ("tarnish") has not been resorted to by other higher education institutions. See, for example, the Florida Atlantic University James Tracy case; "tarnish" was the real issue, but failure to perform certain responses to Administration concerns within a narrow time-frame was the legal basis for dismissal. University counsel recognized that "tarnish" would be unacceptable to the court because its meaning is radically unclear.

- Moreover, #15 seems to be at odds with our own Policy #3030 Academic Freedom and Responsibility:

3. Faculty members are citizens and, therefore, possess the rights of citizens. These rights include, among others, the right as private citizens to speak freely outside the classroom on matters of public concern and to participate in lawful political activities.

4. Prior restraint or sanctions should not be imposed on faculty members in the exercise of their rights as citizens or duties as teachers. Nor should faculty members fear reprisals for exercising their civic rights and academic freedom.

5. Faculty members have a right to expect the Board of Trustees and administrators to uphold vigorously the principles of academic freedom *and to protect them from harassment, censorship, or interference from outside groups and individuals*.

- The policy would also make it clear to STC employees that the school's image is easily "tarnished" and of more importance than keeping good faith, showing mutual respect and trust, or worrying about the fate of their families and livelihood. For many, this clause comes across as offensive and unethical, driven to create what counsel has referred to as a "management tool," which can be used to more easily terminate employees.

The Faculty Senate thanks the Members of the Board of Trustees for allowing us this opportunity to voice our concerns in writing. We realize this has been a time-consuming process, and we appreciate the Board's patience and serious consideration in addressing faculty concerns.

Respectfully,

Dr. William B. Carter
Professor of History
Faculty Senate President
South Texas College

GUERRERO LAW FIRM

Texas Bar College

1001 S. 10th Street, Tiffany Plaza Executive Business Center 1, Suite 221, McAllen, Texas 78501

January 31, 2017

Dr. Shirley A. Reed
President
South Texas College
Office of the President
3201 W. Pecan Blvd.
McAllen, TX 78501

RE: Comments to Dr. Carter's letter to the Board

Dear Dr. Reed:

Per your request, I have the following comments to Dr. William B. Carter's letter to the Board regarding the faculty Senate's objections to proposed Policy 4901.

I see that the faculty Senate has given up the argument that this policy is unconstitutional, as was voiced at the first policy development meeting that I attended.

None of the objections to clause #15 of 4901 raised by Dr. Carter in his letter to the Board of Trustees point to any legal authority under which this clause would be unconstitutional or illegal on its face. And I have found none. The Florida Atlantic University (FAU) case which Dr. Carter refers to as legal authority has no bearing on this case. The issue in the FAU case did not involve a policy even remotely similar to the policy, at hand. The issue in the FAU case had nothing to do with "tarnish". The real issue was pre-textual firing.

In the FAU case, Tracy James, a conspiracy theorist and tenured professor, had a personal, off-campus blog in which he published controversial statements. In one statement he claimed that the Sandy Hook Elementary School massacre was a conspiracy between the U.S. government and the media to take the people's guns away. Some of the families of children murdered at Sandy Hook also complained that Tracy was harassing them. The University requested that Tracy remove all references to Florida Atlantic University from his personal blog. Tracy refused the request, and he was terminated for this reason. Tracy, then, sued the University, the Board of Trustees, and his employee's union. One of the claims he made against FAU was that the reason given for his firing was a pre-text. Tracy claimed that real reason he was fired was because of his controversial speech, which he claimed was protected speech under the First Amendment. The U.S. District Court dismissed all of Tracy's claims – most with prejudice and a few without

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prejudice. Tracy was given 10 days to replead and re-file the claims that were dismissed without prejudice. One of the claims dismissed without prejudice, was his First Amendment claim. This case is still pending. See Tracy James v. Florida Atlantic University, 9:26-cv-80655 (Dec. 15, 2016)(order granting dismissal, Doc #92).

I agree that clause #15 would probably not apply to terminate an employee due to a divorce, Satanic beliefs, or political statements made outside the workplace, or in many other instances. But, this does not mean that is has no application, at all. As an example, I proffer the hypothetical that I presented at the policy development meeting: *A faculty member who regularly invites students to smoke marijuana at his home.* Would this conduct violate this policy? It would be very likely that a reasonable, fair-minded person would think that it did. I am sure the Board can visualize many other scenarios where this policy would have legitimate applicability.

The fact that phrases such "impugn moral character" and "tarnish…the college's image" are entirely subjective judgments does not, *ipso fact,* make them illegal or unconstitutional. As I pointed out at the policy development meetings, enforcement of many other policies also involve subjective judgments. However, the fact that application of this policy allows the decision-maker some discretion in defining the terms based on a particular conduct, it does not mean that the policy grants the decision-maker a license to act arbitrarily. Subjective decision-making, in this context, is bounded by rationality, reasonableness, and fair-mindedness. Further, even assuming that these standards –"impugn moral character" and "tarnish…the college's image"- may be difficult to define does not mean that they are undefinable. Again, common sense, reasonableness, and fair-mindedness would guide the decision as to whether a particular conduct violated either of these standards.

Dr. Carter's real objection is not to the policy itself, but rather to the possibility that it may be arbitrarily applied. He phrases this objection as the *"unprincipled and preferential application"* of the policy. He offers no evidence in support of this speculative "unprincipled application" argument. For this "unprincipled application" argument to have merit, one would have to assume that all of the College's administrators, particularly, the College President (as the final decision-maker in employee terminations) have conspired to enforce this policy in an irrational, unreasonable, and unfair manner. This would be preposterous.

Dr. Carter contends that clause #15 "seems" to be at odds with Policy 4030 insuring academic freedom for faculty. However, he provides no support for this speculative statement. I see nothing in the plain language of the policy that would support this statement.

Dr. Carter misrepresents what I meant by the policy being a "management tool" by taking it out of context. As I recall, the context in which I made this reference was at one of the policy development meeting discussion where I commented that to fairly assess the new proposed

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policies (including Policy 4901) it should be done not only from an employee perspective but also from a management perspective. I pointed out that this was important because many faculty and others at the meeting had a dual role of being employees and supervisors with management responsibilities. Thus, the "management tools" reference.

CONCLUSION

The fact that Policy 4901 could be arbitrarily applied does not present a compelling reason for not adopting this policy. The plain language of the policy does not authorize such an application of its provisions.

Sincerely,

Jose R. Guerrero

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

D.4.9 (Policy) Conduct Constituting Moral Turpitude
Responsible Department: Human Resources, Legal
Board Adoption: 4-28-09
Last Board Action: 3-1-10

Moral Turpitude

College District employees shall not engage in conduct constituting moral turpitude. Moral turpitude is defined as conduct that is contrary to justice, honesty, or morality (*Black's Law Dictionary*, Abridged Seventh Edition). Moral turpitude includes but is not limited to:

1. Dishonesty; fraud; deceit; theft; misrepresentation;
2 Deliberate violence;
3. Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
4. Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Texas Health and Safety Code;
5. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period;
6. Acts constituting abuse under the Texas Family Code; or
7. Acts constituting an offense against public administration under Title 8, Chapters 36-39, Texas Penal Code.

Notification

An employee who is arrested for, charged with, or convicted (to include probated sentences and deferred adjudication) of an offense involving moral turpitude shall notify the immediate supervisor within three business days of being arrested, charged, or convicted (see D.4.11).

VIOLATIONS

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

RECORD RETENTION

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

SAFETY REQUIREMENTS

All employees shall adhere to College District safety procedures and guidelines and shall report unsafe conditions or practices to the appropriate supervisor.

ALCOHOL AND DRUGS

A copy of this policy, the purpose of which is to eliminate drug abuse from the workplace, shall be provided to all new employees and shall be available on the College District human resources' website.

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

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

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

EXCEPTIONS

An employee who uses a drug authorized by a licensed physician through a prescription specifically for that employee's use shall not be considered to have violated this policy.

The College President is authorized by the Board to permit the serving and consumption of alcohol at special fundraising functions for the College District, at specially designated events in College District facilities, and as a part of specifically defined and approved academic curricular programs/classes (e.g., culinary arts).

NOTICE

In addition to a copy of this policy, each employee shall be given a copy of the College District's statement regarding a drug-free workplace and drug-free schools and a description of the health risks associated with the use of illicit drugs and the abuse of alcohol.

REPORTING VIOLATIONS OF THE LAW

Each employee shall report violations of law to his or her supervisor, a human resources representative, the appropriate vice president or provost, or the College President as soon as he or she may become aware of the same. Failure to make such a report may compromise the integrity of the College District depending upon the severity of any concealment and may subject the employee to disciplinary action, including termination of employment with the College District.

In instances in which an employee asserts that he or she is being suspended, terminated, or discriminated against on account of the good faith reporting of a violation of law, the employee has all rights and protections afforded by law and in particular under V.T.C.A., Government Code 554.001, et seq., whereby such action is a form of unlawful retaliation. Employees claiming retaliation under this section shall exhaust all administrative remedies to correct an alleged injustice, including filing a resolution of employee concern form [see DGBA(LOCAL)] and following the appropriate procedures thereafter.

WEAPONS ON CAMPUS

Weapons, including concealed handguns of licensed owners, shall not be permitted on College District premises pursuant to and as defined by Texas Penal Code 46.03(i), 46.035(a), and 46.035(a)(b)(z), except by licensed peace officers under current commission by the Board.

ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

An employee (or designee, if the employee is incarcerated) shall notify his or her immediate supervisor through a written letter via certified (verifiable) e-mail or certified mail and sent/postmarked within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony or any offense involving moral turpitude.

MORAL TURPITUDE

Moral turpitude includes but is not limited to:

1. Dishonesty, fraud, deceit, theft, or misrepresentation;
2. Deliberate violence;
3. Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;

4. Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;

5. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period; or

6. Acts constituting abuse under the Texas Family Code.

SMOKE- AND TOBACCO-FREE WORKPLACE

The College District prohibits smoking and the use of tobacco products or other electronic smoking devices on all College District property. Violators of this policy may be subject to disciplinary action, including, but not limited to, termination of employment.

Employees seeking assistance or related educational materials should contact the human resources office.

USE OF COLLEGE DISTRICT EQUIPMENT AT AN OFF-CAMPUS LOCATION

College District employees may use College District equipment for College District-related purposes at off-campus locations, including a personal residence, by completing an equipment check-out form and by following the related procedures. Failure to comply with the published guidelines may result in disciplinary action. An employee shall not use College District facilities, secretarial assistance, office supplies and equipment, or other College District resources for personal gain or benefit; such use of College District resources for personal gain or benefit is a violation of College District policy and state law.

ETHICAL STANDARDS

All College District personnel engaged in counseling and guidance activities shall adhere to the high ethical and professional standards required by virtue of the relationship between the counselor and counselee. In this regard, the ethical standards adopted and published by the American Personnel and Guidance Association, as revised, shall be the standard of conduct for College District personnel engaged in such activities.

The Board expects all employees to discharge their duties free from the influence of controlled substances and thereby maintain a working environment free of the problems associated with the use and abuse of controlled substances.

All College District employees shall perform their duties in accordance with state and federal law, College District policy, and ethical standards.

All College District personnel shall recognize and respect the rights of students, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the College District.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

An employee shall not:

1. Solicit, accept, or agree to accept any benefit, gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties or that the employee knows or should know is being offered with the intent to influence official conduct;
2. Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the employee's official powers or performed official duties in favor of another;
3. Disclose confidential information, information that is excluded from public disclosure under the Texas Public Information Act, or information that has been ordered sealed by a court that was acquired by reason of the employee's official position, or accept other employment, including self-employment, or engage in a business, charity, nonprofit organization, or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information, information that is excluded from public disclosure under the Texas Public Information Act, or information that has been ordered sealed by a court that was acquired by reason of the employee's official position;

4. Accept employment, including self-employment, or compensation or engage in a business, charity, nonprofit organization, or professional activity that could reasonably be expected to impair the employee's independence of judgment in the performance of official duties;
5. Make personal investments, or have a personal or financial interest, that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest;
6. Utilize College District time, property, facilities, or equipment for any purpose other than official College District business, unless such use is reasonable and incidental and does not result in any direct cost to the College District, interfere with official duties, or interfere with College District functions;
7. Utilize the employee's official position, or College District-issued items, such as a badge, to obtain financial gain or privileges, or to avoid consequences of illegal acts;
8. Knowingly make misleading statements, either oral or written, or provide false information in the course of official College District business;
9. Engage in any political activity while on College District time or utilize College District resources for any political activity; or
10. Use the employee's own public office for private gain.

An employee shall:

1. Perform the employee's official duties in a lawful, professional, and ethical manner benefiting the College District;
2. Report any conduct or activity that the employee believes to be in violation of this ethics policy to College District human resources and/or College District legal counsel; and
3. Endeavor to avoid any actions that would create the appearance that the employee is violating the law or the ethical standards of the College District.

In addition, the College District holds all employees to the ethical standards expressed in the Texas Community College Teachers Association Code of Professional Ethics.

Note: The Texas Community College Teachers Association Code of Professional Ethics is available at http://www.tccta.org/links/ethics.pdf.

VIOLATIONS

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

ELECTRONIC MEDIA

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

RECORD RETENTION

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

PERSONAL USE

Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee's use of electronic media violates state or federal law or College District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY REQUIREMENTS

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

ALCOHOL AND DRUGS

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

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

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

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

EXCEPTIONS

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

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

NOTICE

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

BIENNIAL REVIEW

The Chancellor or designee shall conduct a biennial review of the program to determine its effectiveness and implement changes if necessary and to ensure sanctions are consistently enforced.

ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

An employee shall notify the employee's immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony or offense involving moral turpitude.

MORAL TURPITUDE

Moral turpitude includes but is not limited to:

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

UNAUTHORIZED RECORDING

No employee may record, by any means, a conversation of an employee or student unless all the following criteria are met:

1. A legitimate purpose for the recording;
2. A recording device in plain view; and

3. Written authorization from the supervisor of the employee who wishes to record the conversation.

Secret recordings are strictly prohibited unless authorized in writing by College District legal counsel.

A violation of this provision may result in disciplinary action, including termination.

The Board is committed to creating an inviting, safe and healthy place to work and learn where our day-to-day interactions are based upon respect. Employees of the College District are expected to uphold the highest ethical and professional standards for personal conduct and work performance, contributing to a positive, respectful working and learning environment free from harassment, threats, intimidation, violence or any other misconduct. The related procedures that follow support this policy further outline these expectations.

All College District employees shall perform their duties in accordance with state and federal law, College District policy, procedure, and ethical standards.

All College District personnel shall recognize and respect the rights of students, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the College District.

Any person (employee, student, vendor, visitor, community member, etc.) who intimidates, threatens, or exhibits violent or disruptive behavior while on campus or when acting on behalf of HCC away from campus will be immediately removed from the classroom/workplace.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

VIOLATIONS

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

ATTENDANCE AND PUNCTUALITY

The College District requires each employee to report to work as scheduled. Regular and punctual attendance is essential to the efficient and orderly operations of the College and to the students we serve.

PERSONAL APPEARANCE AND UNIFORMS

The Board expects employees, vendors and independent contractors to use good judgment at all times regarding their personal appearance. Flagrant violations of commonly accepted standards of cleanliness or dress may be cause for disciplinary action.

ELECTRONIC MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing websites,

editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and web-based applications.

RECORD RETENTION

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

PERSONAL USE

Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee's use of electronic media violates state or federal law or College District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY REQUIREMENTS

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

TOBACCO AND E-CIGARETTES

An employee shall not smoke or use tobacco products or e-cigarettes on College District property, in College District vehicles, or at College District-related activities. [See also GFA].

ALCOHOL AND DRUGS

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

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

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

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

EXCEPTIONS

An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities,

or who uses a drug authorized by a licensed physician prescribed for the employee's personal use shall not be considered to have violated this policy.

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

NOTICE

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

ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

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

MORAL TURPITUDE

Moral turpitude includes but is not limited to:

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

All College District employees shall perform their duties in accordance with state and federal law, College District policy, and ethical standards.

All College District personnel shall recognize and respect the rights of students, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the College District.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

ETHICAL STANDARDS

The College District holds all employees to the ethical standards expressed for faculty in the Texas Community College Teachers Association Code of Professional Ethics.

Note: The Texas Community College Teachers Association Code of Professional Ethics is available at http://www.tccta.org/links/ethics.pdf.

VIOLATIONS

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

ELECTRONIC MEDIA

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

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Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee's use of electronic media violates state or federal law or College District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY REQUIREMENTS

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

TOBACCO AND E-CIGARETTES

An employee shall not smoke or use tobacco products or e-cigarettes in College District buildings, in College District vehicles, or at College District-related activities.

Smoking and the use of tobacco products and e-cigarettes shall only be permitted at a distance of at least 25 feet from a College District building entrance.

[See also GFA]

ALCOHOL AND DRUGS

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

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

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

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

EXCEPTIONS

It shall not be considered a violation of this policy if the employee:

1. Manufactures, possesses, or dispenses a substance listed above as part of the employee’s job responsibilities;
2. Uses or possesses a controlled substance or drug authorized by a licensed physician prescribed for the employee’s personal use; or
3. Possesses a controlled substance or drug that a licensed physician has prescribed for the employee’s child or other individual for whom the employee is a legal guardian.

NOTICE

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

ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

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

MORAL TURPITUDE

Moral turpitude includes, but is not limited to:

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