College of Osteopathic Medicine
SAM HOUSTON STATE UNIVERSITY

Element 1.4: Governance & Program Policies

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College of Osteopathic Medicine
SAM HOUSTON STATE UNIVERSITY

Element 1.4: Governance and Program Policies

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THE TEXAS STATE UNIVERSITY SYSTEM

RULES AND REGULATIONS

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

Adopted September 1, 1980
Amended November 18, 2022

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

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

1.1 Anti-Fraud Statement. The Texas State University System does not tolerate any type of fraud, waste, or abuse. The System is committed to ensuring that our organization maintains the highest standards of ethical conduct and integrity throughout all aspects of its operations. As public servants, System and Component faculty and staff are guardians of the resources entrusted to them and have a responsibility to students, parents, alumni, donors, and the citizens of Texas to ensure that those resources are used efficiently and for their intended purposes. The System does not tolerate any form of retaliation against individuals providing information concerning suspected fraud, material waste, abuse, or other unethical behavior.

1.2 Chancellor and President Responsibilities. If the Chancellor has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the Chair of the Finance and Audit Committee and to the Chief Audit Executive. If a President has such reasonable cause, he or she shall report the same to the Chancellor and to the Chief Audit Executive.

1.3 Employee Responsibility. If an employee has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the Component Internal Audit Director; to the System Chief Audit Executive; to *EthicsPoint*, the System's internet-based fraud reporting hotline; or to the State Auditor's Office.

1.4 *EthicsPoint* Fraud Reporting Hotline. The System has established, through a private contractor, an internet-based reporting hotline, *EthicsPoint*, to provide individuals with a confidential avenue for reporting concerns about potential waste, fraud, and abuse of resources, the lack of compliance with laws and regulations, or violations of the System's *Code of Ethics*. Reports filed through *EthicsPoint* are forwarded to and investigated by individuals who are independent of System management. *EthicsPoint* can be accessed through the Components' and the System Office's webpages. Except in rare circumstances, reports received through *EthicsPoint* will not be investigated if established complaint processes at the campus-level have not been utilized. The *Texas Public*

Information Act shall govern rules on disclosure of documents and records.

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

2. BOARD EXPENSES AND ALLOWANCES.

2.1 Transportation, Meals, and Lodging.

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

(1) reimbursement of expenses for meals and lodging as provided by law; and

(2) reimbursement for transportation and incidental expenses at rates specified in the General Appropriations Act for State employees.

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

(1) Actual costs of lodging and meals for in-state travel, except that such reimbursements may not exceed the current maximum established by law;

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

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

2.3 Improper Travel Reimbursement. When a Regent or an employee engages in travel for which compensation is to be received from any source other than System funds, he or she shall not submit a claim under the provisions

of The Texas State University System travel regulations. A Regent or an employee who receives an overpayment for a travel expense shall reimburse The Texas State University System for the overpayment.

2.4 Travel Bonus (Frequent Flyer) Awards. Regents or employees who earn credit with airlines, hotels, car rental companies, etc. for official travel are not required to account for such credit or to use such for official travel only.

2.5 Official Travel by Spouses and Relatives of Regents or Employees. Spouses and other relatives of Regents or employees may qualify to have travel expenses paid by The Texas State University System if their presence at a function or on a trip is for an official purpose benefiting The Texas State University System and/or the State of Texas. In making a determination of whether the presence of a spouse or relative is for an official purpose, the factors to be considered are the nature and duties of the Regent's or employee's office, the traditional role, if any, of the spouse or relative, the purpose of the particular trip, and the spouse or relative's connection with that purpose.

2.6 Foreign Travel. A request by a Regent, System President, or System employee for travel outside of the United States, excluding Mexico or Canada, requires prior approval by the Chancellor.

2.7 Reimbursement of Expenses. Verified expense accounts shall be submitted to the Chancellor or appropriate Component official for processing and the same shall be subject to review and control of the Board.

3. CONFLICTS OF INTEREST.

3.1 Ethics Commission Financial Disclosure Statements. Each Regent, the Chancellor and the Presidents of the Components shall file a financial statement with the Texas Ethics Commission not later than April 30, each year in which such Regent, Chancellor or President has served in such capacity for any portion of the immediately preceding twelve (12) months on forms prescribed by the commission. Within thirty days of filing with the Texas Ethics Commission, each Regent and President shall notify the Vice Chancellor and General Counsel of their compliance with this provision.

3.2 Contracts Prohibited. Except as provided below, neither the System nor a Component thereof may enter into a contract in which a Regent or the Regent's spouse has a direct or indirect pecuniary interest.

3.3 Recusal Required for Certain Types of Contracts Involving Pecuniary Interests. If a Regent is a stockholder or director of a corporation seeking to enter into a contract with the System or a Component thereof, but owns or has a beneficial interest in no more than one percent of the corporation's outstanding capital stock, the contract may be executed so long as it is an affiliation agreement, license (including a license of intellectual property),

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

3.4 Regent Disclosure of Personal or Private Financial Interest. A Regent who has a personal or private financial interest in a measure, proposal, or decision pending before the Board (other than a contract covered by *Subparagraph 3.3* of this *Chapter*) shall disclose such interest in a public meeting of the Board, and such disclosure shall be entered in the minutes of the Board. The Board may consider such measure, proposal, or decision, but any Regent having such an interest shall not vote or otherwise participate in such deliberation or action of the Board. This procedure may not be utilized for contracts covered by *Subparagraph 3.3* of this *Chapter*.

3.5 Potential Conflict of Interest of Regent. As soon as possible after becoming aware of any potential conflict of interest, a Regent shall disclose such fact and any other relevant information to the Board and to the Vice Chancellor and General Counsel. In such an event, the Vice Chancellor and General Counsel shall review the potential conflict and issue an opinion.

3.6 Contracts with Nonprofit Corporations. The Board is not precluded from entering into contracts or other transactions with nonprofit corporations merely because a Regent also serves on the board of or is a member of the nonprofit corporation. Other factors and interests, such as pecuniary or personal interests, may require disclosure and recusal, as described above.

3.7 Disclosure of Interest in Property to be Acquired. Regents, the Chancellor and the President of the Component are required to disclose any legal or equitable interest in property that is to be acquired with public funds. Such disclosure must be made at least 10 days before the date the property is to be acquired by purchase or condemnation.

4. CODE OF ETHICS.

4.1 Prohibited Actions of Regents. A Member of the Board of Regents shall not:

(1) Accept or solicit any gift, favor, or service that might reasonably tend to influence the Regent in the discharge of official duties or that the Regent knows or should know is being offered with the intent to influence the Regent's official conduct;

(2) Accept employment or engage in a business or professional activity the Regent might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of his or her official position or otherwise withhold from the Board information in his or her possession that might

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

(3) Accept other appointments or any employment or compensation that could reasonably be expected to impair the Regent's independence of judgment in the performance of official duties;

(4) By his or her actions or through his or her silence, allow the Board to consider any matter in which he or she will benefit, financially or otherwise, whether directly or indirectly. Further, it is a violation of this *Rule* if the benefit inures to a third party or parties, in whose welfare the Regent is interested. The Regent shall refrain from commenting on the matter to the Board, its regents or employees; and leave the room while the Board deliberates and votes on the matter;

(5) Make personal investments that could reasonably be expected to create a substantial conflict between the Regent's private interest and the public interest;

(6) Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed official duties in favor of another; or,

(7) Commit acts of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; or, knowingly authorizing improper claims.

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

(1) Accept or solicit any gift, favor or service that might reasonably tend to influence the employee in the discharge of official duties;

(2) Use an official position to secure special privileges or exemptions for the employee or others, except as may be otherwise authorized by law;

(3) Accept employment or engage in any business or professional activity which might reasonably be expected to require or induce the employee to disclose confidential information acquired by reason of such employee's official position or impair the employee's independence of judgment in the performance of public duties;

(4) Disclose confidential information gained by reason of one's employment, or otherwise use such information for personal gain or benefit;

(5) Transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member or in which the employee owns a controlling interest unless the Board of Regents has reviewed the matter and determined no conflict of interest exists;

(6) Make personal investments in any enterprise which could reasonably be expected to create a substantial conflict between the private interests of the employee and the public interests of his or her employer;

(7) Receive any compensation for services as a state employee from any source other than the State of Texas, except as otherwise permitted by law;

(8) Commit any act of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; knowingly authorizing improper claims; or,

(9) Engage in any form of sexual harassment or racial harassment as defined in these Rules and Regulations.

5. BENEFITS, GIFTS AND HONORARIA.

5.1 Definitions. A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a Regent or an employee has a direct and substantial interest.

5.2 Bribery. A Regent or an employee shall not solicit, offer, or accept any benefit in exchange for his or her decision, opinion, recommendation, vote, or other exercise of official power or discretion.

5.3 Prohibited Benefits. A Regent or an employee shall not solicit, accept, or agree to accept any benefit from any person the Regent or employee knows is interested in or is likely to become interested in any contract, purchase, payment, claim, or transaction involving the Regent's or employee's discretion. This prohibition does not apply to (1) gifts or other benefits conferred on account of kinship or a personal, professional, or business relationship independent of a Regent's or employee's status, respectively, as a member of the Board or as an employee; (2) a fee prescribed by law to be received by a Regent or employee or any other benefit to which he or she is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a member of the Board or an employee of the System or a Component; (3) a gift, award, or memento that is received from a lobbyist who is required to make reports under Government Code, Chapter 305 and, (4) items having a value of less than

$50, not including cash or negotiable instruments. A Regent or an employee who receives an unsolicited benefit that he or she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

5.4 Food, Lodging, Transportation, and Entertainment Received as a Guest. A Regent or employee may accept food, lodging, transportation, or entertainment from persons or entities he or she knows or reasonably should know are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the Board's discretion only if the Regent or employee is a "guest" as defined by Texas law. A Regent or an employee is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the Regent or employee. Regents, the Chancellor and the Presidents of Components are required to report any such benefits valued at over $250 on their annual disclosure statements filed with the Texas Ethics Commission.

5.5 Gifts or Benefits from Friends, Relatives, and Associates. Regents and employees may accept gifts or benefits from personal friends, relatives, or business associates with whom they have a relationship independent of their official status, so long as the benefit is not offered in exchange for official action or decision.

5.6 Gifts or Benefits from Outside Donors. A gift or benefit from an outside donor designated to supplement the salary of a specific Component or System employee shall be subject to approval by the Component or System CEO, before being presented to the Board of Regents for approval, as required by *Chapter III, Paragraph 1.33*. Gifts for the Presidents shall be subject to the Chancellor's approval, and gifts to the Chancellor shall be subject to the Board Chair and Vice Chair's approval prior to presentation to the full Board. Such gifts shall be made to the Component or System directly and earmarked for distribution to the employee through the payroll process. Salary supplements shall be reported to the State Auditor's Office and the U.S. Internal Revenue Service as required by law. The employee receiving the salary supplementation shall comply with the conflict of interest provisions for employees outlined in *Subparagraph 4.2* of the System's *Code of Ethics,* found in *Paragraph 4* of this *Chapter*.

5.7 Awards. Regents and employees may accept plaques and similar recognition awards.

5.8 Honoraria. Regents and employees may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide but for their official position or duties. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking engagement at a conference or similar event, provided the Regent's or

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

6. POLITICAL ACTIVITIES.

6.1 Use of System Funds, Personnel or Property. No Regent shall expend or authorize the expenditure of any State appropriated funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure.

6.2 Political Contributions. Regents may make personal contributions to candidates for office and political organizations, with one exception. A Regent may not expend more than $100 for the cost of correspondence to aid or defeat the election of a Speaker candidate.

6.3 Entertainment. If a System or Component employee provides tickets to a public official to allow the official and/or his guests to attend an event, an officer or employee of the System or a Component will serve as host to the official, and must attend the event.

6.4 Perishable Food Items. System or Component employees may provide Public officials with small, infrequent gifts of perishable food items delivered to their offices. These are not considered to be "benefits" for purposes of the provisions of the Penal Code prohibiting such.

6.5 Expenses for Public Officials. System Components may pay expenses in order to furnish information to state officials relevant to their official position, including presentations about the programs and services of The Texas State University System and its Components.

6.6 Use of Official Authority Prohibited. No System or Component employee may use his or her official authority or influence, or permit the use of a program administered by the System to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. No System or Component employee may do any act or attempt to interfere with anyone who seeks to pay, lend, or contribute private funds or private property to a person or political organization for political purposes. Any System or Component employee who violates either of these provisions is subject to immediate termination of employment, in accordance with the Government Code.

6.7 Use of System Funds or Property. No System or Component employee shall expend or authorize the expenditure of any System or Component funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure. No System or Component funds may be expended for the payment of full or partial salary of any employee who is also the paid lobbyist of any individual, firm, association, or corporation. System and Component facilities may be used as polling places for local, state, and national elections.

6.8 Voting and Political Participation. As employees of the State of Texas, System and Component employees have the rights of freedom of association and political participation guaranteed by the state and federal constitutions, except as limited by valid state laws. System and Component employees shall be allowed sufficient time off to vote in public elections without a deduction from pay or from accrued leave time.

6.9 Political Campaign Events on System Property. The Chief Executive Officers of the Components of The Texas State University System shall be responsible for promulgating rules for the regulation of political campaign meetings or speeches and other activities relating to political campaigns on property under their control. Such regulations shall be implemented by the Chancellor after approval by the Board of Regents.

6.10 Employees as Candidates and Officeholders. System and Component employees may run for election and serve as members of the governing bodies of school districts, cities, towns, or other local governmental districts. No campaign activities may be conducted during official business hours unless the employee has requested and received permission to use leave time for such purpose. Any employee elected to such a position may not receive any salary for serving as a member of such governing bodies.

6.11 Political Contributions from Employees. System and Component employees may make personal contributions to candidates for office and political organizations, with the exception that no state employee may contribute personal services, money, or goods of value to a candidate campaigning for speaker of the Texas House of Representatives.

7. USE OF AUTHORITY.

7.1 Misapplication of Property. A Regent shall not intentionally or knowingly misapply anything of value belonging to the government that comes into the Regent's custody or possession by virtue of his or her office with the intent to obtain a benefit or to harm another.

7.2 Nepotism. Regents are prohibited from appointing, voting for, or confirming the appointment of any person related to such Regent within the third degree by consanguinity (blood) or within the second degree by affinity (marriage) when the salary or compensation for such person is to be paid from public funds. All employment decisions must be made in compliance with *Chapter V, Subparagraph 2.2* of the System's *Rules and Regulations*.

7.3 Misuse of Official Information. A Regent shall not, in reliance on information to which he or she has access in his or her official capacity and which has not been made public: (1) acquire or aid another in acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or, (2) speculate or aid another in speculating on the basis of such information.

8. DUAL OFFICE HOLDING.

8.1 Non-Elective State or Federal Office. System and Component employees may hold non-elective offices with boards, commissions, and other state and federal entities provided that the holding of such office, (1) is of benefit to the State of Texas, or is required by state or federal law, and (2) is not in conflict with the employee's position. Such appointments must be approved by the responsible CEO of the Component. Prior to the Chancellor's or a CEO's accepting an invitation to serve in an additional non-elective office, the Board of Regents must determine that the appointment meets the two requirements stated above. The Board must also make an official record of any compensation to be received by the Chancellor or CEO from such appointment, including salary, bonus, per diem or other types of compensation.

8.2 Positions of Employment with Government Agencies. System and Component employees may hold other positions of employment with agencies, boards, commissions, or other entities of government so long as the holding of such positions is consistent with the prohibitions against dual office holding in the Texas Constitution. Special rules for multiple employments with the State are provided in *Chapter 667* of the *Government Code*. The person seeking dual employment must be informed of the special rules before that person becomes employed by more than one agency or institution. Consulting arrangements with federal, state, or local governmental agencies of a detached and independent advisory nature are not considered to be appointments with such agencies.

9. TRAINING.

9.1 Training of Regents. Each Regent shall receive training regarding the duties and obligations of the office as required by statute.

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

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

10.1 Expansion of Code of Ethics. This *Paragraph 10* expands and supplements the Code of Ethics contained in *Paragraphs 1-9* of this *Chapter*, for Components' officials and employees, including those officials and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts.

10.2 Adherence to Policies Relating to Procurement. All officials and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts shall adhere to all System and Component policies, handbooks, guidelines and protocols designed to promote ethical and lawful behavior in the procurement process.

10.3 Disclosure of Conflicts of Interest. Employees and officials involved in procurement or contract management for a Component shall promptly disclose to the Component any potential conflict of interest specified by state law or System or Component policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor.

10.4 Prohibited Contracts. A Component may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following Component employees or officials have a financial interest:

(1) A member of the Board of Regents, unless, pursuant to *Education Code, Section 51.923(e)*, the member does not have a "substantial interest" in the business entity or vendor;

(2) The Chancellor, President, Vice Chancellor and General Counsel, Chief Procurement Officer, or Procurement Director of the Component; or,

(3) A family member related to an employee or official described by *Subparagraph (2)* within the second degree of affinity or consanguinity.

10.41 A Regent, employee or official has a prohibited financial interest in a procurement if the Regent, employee or official:

(1) Owns or controls, directly or indirectly, or otherwise has an ownership interest of at least one percent in the entity seeking the contract or procurement, including the right to share in profits, proceeds, or capital gains; or

(2) Could reasonably foresee that a contract with such an entity might result in a financial benefit to the employee or official or to a third party or parties in whose welfare the employee or officer is interested.

10.42 A financial interest prohibited by this *Subparagraph* does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

10.5 Notice to Employees and Officials of Expected Standards of Conduct. Employees and officials, including those engaged in procurement of goods and services, are hereby put on notice that their primary responsibility is to accomplish the duties and responsibilities assigned to the positions they hold. All employees and officials shall comply with the standards of conduct found in these System *Rules and Regulations.*

10.6 Compliance with Law Required. Each official or employee of a Component is expected to obey all federal, state, local laws, and these System *Rules and Regulations* regarding ethics and shall be subject to disciplinary action for violation of those laws, rules and regulations.

10.7 Conflict of Interest Prohibited. Each employee or official of a Component is prohibited from having a direct or indirect financial or other interest; engaging in a business transaction or professional activity; or incurring any obligation that conflicts with the proper discharge of the employee's or official's duties related to the public interest.

10.8 Conflict of Commitment Prohibited. Each employee or official of a Component is prohibited from participating in activities outside the Component which interfere with the employee’s or official’s duties and responsibilities to the Component.

10.9 Outside Employment or Activities. Engaging in outside employment or activities, including board service, is not a right or entitlement and may be permitted when, in the sole judgment of the President or his/her designee, the employment or activity does not:

(1) Interfere with the employee or official's ability to perform his/her public responsibilities and duties because of demands upon the individual's time;

(2) Impair the employee or official's independence of judgment in fulfilling his/her public responsibilities and duties;

(3) Reasonably expect or require the employee or official to disclose confidential information acquired in or because of his/her public responsibilities and duties; or

(4) Reasonably expect or require the employee or official to advance a position or course of action that conflicts with his/her public responsibilities and duties or the best interests of the Component as determined by the President.

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

10.10 Reporting of Conflicts of Interest. As soon as an employee or official discovers or learns that he/she may have a conflict of interest regarding a procurement or contract management, he/she shall:

(1) Promptly disclose the same to the President through his/her supervisors, providing the specifics of the conflict, including but not limited to, disclosure of the name(s) of the person(s) or entity(ies) involved; the exact nature of the relationship; and such other information or documents as the President may require;

(2) Discontinue work on the procurement or contract management in question and recuse him/herself from involvement in the same; and

(3) Expect that his/her supervisors will deny physical or electronic access to files and documents related to the procurement.

10.11 Acting as Agent Not Permitted. An official or employee of a Component may not act as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the Component.

10.12 Use of Component Resources. Component funds, personnel, facilities, property (real or personal) shall not be used for the personal use, benefit, or profit of any individual employee or official or for a third party in whose welfare the employee or official is interested. A more detailed policy governing use of Component resources shall be created.

10.13 Training Required. Training shall be mandated for officers and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods and information resources purchasing technologies.

10.14 Publication of Policies. The provisions of this *Chapter VIII, Paragraphs 4. 8, 9* and *10,* shall be included in the policies of all Components; published on their web pages; included in procurement contract manuals; and generally be made known to vendors seeking to provide goods and services.

10.15 Reporting to Board of Regents or Designee. A Component's contract management office or procurement director shall immediately report to the Chancellor, in his or her role as Secretary to the Board of Regents, any serious issue or risk that is identified with respect to a contract monitored under these *Rules and Regulations.*

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

11.1 Disclosure Required. In any public communication the content of which is based on the results of sponsored research, a faculty member or other employee or appointee of a Component who conducted or participated in

conducting the research, shall conspicuously disclose the identity of each sponsor of the research.

11.2 Definitions. In this Paragraph:

(1) “Component” refers to a System college, university, or institute that falls within the meaning of "institution of higher education" assigned by Section 61.003 of the Texas Education Code.

(2) "Public communication" means oral or written communication intended for public consumption or distribution, including:

(a) Testimony in a public administrative, legislative, regulatory, or judicial proceeding;

(b) Printed matter including a magazine, journal, newsletter, newspaper, pamphlet, or report; or

(c) Posting of information on a website or similar Internet host for information.

(3) "Sponsor" means an entity that contracts for or provides money or materials for research.

(4) "Sponsored research" means research:

(a) That is conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the Component conducting the research; and

(b) In which payments received or the value of materials received under that contract or grant, or under a combination of more than one such contract or grant, constitutes at least 50 percent of the cost of conducting the research.

12. DISCLOSURE OF INTERESTED PARTIES CONTRACTING WITH SYSTEM COMPONENTS.

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

12.1 Contracts Exempted. This *Paragraph 12* does not apply to a sponsored research contract, an interagency contract, or a contract related to health and human services if the value of the contract cannot be determined at

the time the contract is executed and any qualified vendor is eligible for the contract.

12.2 Disclosure Form. The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission and shall include:

(1) A list of each interested party for the contract of which the contracting business entity is aware; and

(2) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

12.3 Submission to Texas Ethics Commission. The Component shall submit a copy of the disclosure to the Texas Ethics Commission not later than the 30th day following the date the Component receives a disclosure of interested parties required under this *Paragraph 12*.

Sam Houston State University
A Member of The Texas State University System

Finance & Operations Human Resources Policy HR-01 Conflicts of Interest

SUBJECT: Employee Conflicts of Interest

PURPOSE: To provide guidelines for preventing conflicts of interest in the workplace.

POLICY: Sam Houston State University (University) depends upon the integrity and discretion of its staff with respect to actual or apparent conflicts of interest. All employees are subject to the prohibitions of state law and applicable federal guidelines. This policy establishes guidelines to avoid conflicts of interest in accordance with Tex. Gov. Code, § 572.051 and Texas State University System Rules and Regulations..

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1. General
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1. General

A conflict of interest occurs when an employee uses University employment to obtain unauthorized privileges, benefits, or things of value for oneself or others.

2. Employees shall avoid the following conflicts of interest:

a. No employee shall use their position to gain, solicit, accept, or agree to accept any privilege, benefit (financial or otherwise), exemption, or thing of value for the employee or others in exchange for the exercise of the employee's discretion, influence, or powers as an employee except as allowed by law.
b. No employee shall accept or solicit any privilege, benefit or thing of value that might influence the discharge of the employee's duties to the University.
c. No employee shall accept employment or engage in any personal, business, or professional activity which might foreseeably require or induce disclosure of confidential information acquired by reason of the employee's University position.
d. No employee shall disclose or use for personal gain confidential information gained by reason of the employee's University position.
e. No employee shall transact any business for the University with any entity of which the employee or a relative of the employee within the second degree of consanguinity, is an owner, officer, agent, employee, or member, or may financially benefit from the transacted business unless the Board of Regents has reviewed the matter and determined no conflict of interest exists. Prior to the transaction of any such business for the University, the requesting employee must disclose such relationship in writing to the employee's immediate supervisor and divisional vice president for approval and to allow the University to request Board of Regent review on the employee's behalf.
f. No employee shall make personal investments in any enterprise which foreseeably might create a substantial conflict between the employee's private interests and the University's interests.
g. No employee shall exercise official authority in a manner that might foreseeably create a substantial conflict between the employee's private interests and the University's interests.
h. No employee shall accept other employment or receive compensation for services from another source that might impair the employee's independence or judgment in the

performance of duties to the University, or receive compensation for services as a state employee from any source other than the State of Texas.

i. No employee who exercises discretion in connection with contracts, purchases, payments, claims or other pecuniary transactions shall solicit, accept or agree to accept any benefit (financial or otherwise), from a person or entity the employee knows, or should know, is or is likely to become financially interested in such transactions.

3. Consensual Relationships

A consensual relationship is a romantic, sexual, or other relationship that may create an actual conflict or the appearance of a conflict of interest yet is agreeable and welcomed by both parties. Such relationships (whether past or present) between supervisors and subordinates; instructors and students; and advisors and students reasonably may influence the discharge of the supervisor, instructor, or advisor's duties by:

a. Dividing the supervisor, instructor, or advisor's loyalties;
b. Providing the opportunity to use an employee's position to secure relational or sexual favors and advantages from subordinates or students; and/or,
c. Inducing an employee to disclose confidential information gained by reason of the employee's University position.

For these reasons, such relationships are strongly discouraged. Should such a relationship develop, the supervisor, instructor, or advisor shall disclose to the employee's immediate supervisor that a conflict of interest may exist between the parties and cooperate in making alternative arrangements for the supervision, evaluation, teaching, grading, or advising of the employee, student, and/or student employee. The supervisor, instructor, or advisor disclosing the conflict is not required to explain the nature of the conflict only that a conflict of interest exists which must be remedied. Examples include, but are not limited to:

- A supervisor dating an employee within the supervisor's scope of authority;
- A faculty member developing a close and intimate relationship with a student currently enrolled in a class taught or supervised by the faculty member;
- An advisor becoming sexually involved with the student being advised; or
- A faculty evaluator reviewing the dissertation of a student who is a relative or close family friend.

4. Nepotism

a. Nepotism is the practice of favoritism or the appearance of favoritism through the appointment or close supervision of an individual related by affinity or consanguinity through the third degree as defined below based on that person's kinship. Nepotism can create a conflict of interest.
b. <u>Relationships defined.</u>
   i. 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. Adoptive children are treated as natural children of the adoptive parents in this regard. Relationships within three degrees of consanguinity may create conflicts in the workplace. Examples of degrees of relationship are
      a) First Degree – a child, parent, or spouse
      b) Second Degree – a grandchild, sibling, or grandparent
      c) Third Degree – a niece or nephew, aunt or uncle, great-grandparent/greatgrandchild

ii. Affinity. Two persons married to each other or when a spouse of one of the married persons is related by consanguinity to the other person. Termination of a marriage by divorce or the death of a spouse terminates relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is treated as continuing to exist.

c. The University will not, absent prior presidential approval, employ, appoint, promote or transfer any person related by affinity or within three degrees of consanguinity of another employee when such employment causes one relative to have a direct supervisory relationship over the other relative.
d. This policy does not prohibit the re-appointment or continued employment of any person related to another within either of the prohibited degrees who shall have been employed at the University before the adoption of this policy. However, no University employee may approve, recommend, or otherwise act with regard to the appointment, reappointment, promotion, or salary, or financial transactions of any person related by affinity or within three degrees of consanguinity.
e. When a presidential exception to this policy permits an employee to be within the administrative supervision of a relative, all evaluations, reappointments, promotions, or salary decisions shall be the responsibility of the next highest administrative supervisor.

5. Outside Employment

a. An employee's outside employment can create a conflict of interest and may, in some instances, violate laws regarding dual state employment. Therefore, full-time employees must receive prior written approval via the Outside Employment Form executed by the employee's supervisory authorities through the Division Vice President before engaging in outside employment.
b. Approval of outside employment is for the fiscal/academic year in which requested and must be renewed for following years. It is the responsibility of all full-time employees to seek approval for any outside employment change occurring during the academic year.
c. Outside employment must comply with the guidelines set forth in the *Texas State University System Rules and Regulations* Chapter V, 4.83 for faculty and 5.4 for staff.
d. The Vice President of each division shall maintain records of outside employment on a fiscal year annual basis.

6. Compliance

Failure of an employee to comply with the foregoing policy shall constitute grounds for disciplinary action, up to and including termination of employment. Employees who are unsure whether an interest or relationship violates this policy should contact Human Resources for guidance.

Nothing in this policy shall alter the employment-at-will status of non-contractual University employees.

Cabinet Approval:
Reviewed by: Rhonda Beassie, AVP for Human Resources & Diversity
References: Tex. Gov. Code Title V, Subtitle B.
TSUS Rules & Regulations Ch. V. 2.2, 4.83, 5.4 and Ch. VIII

College of Osteopathic Medicine
SAM HOUSTON STATE UNIVERSITY

Element 1.4: Governance and Program Policies

- **1.4-2b Supporting Documentation**
  - Policies for Due Process for All Employees, Faculty, and Staff
    - TSUS Rules and Regulations Chapter V – link
  - Due Process Policy for Students
    - SHSU Academic Policy Statement 900823 – link

THE TEXAS STATE UNIVERSITY SYSTEM

RULES AND REGULATIONS

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

Adopted September 1, 1980
Amended November 18, 2022

CHAPTER V. COMPONENT EMPLOYEES

1. COMPONENT EMPLOYEES.

1.1 Definitions.

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

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

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

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

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

1.123 Administrative officers are Vice Presidents, Deans, and other administrative personnel with delegated executive authority as determined by the President.

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

1.131 Each contract must include a provision permitting its termination for cause (as defined in the contract) without penalty.

1.132 An employee under such a contract may be reassigned to other duties within the Components, retaining his or her base salary for a period not to exceed one (1) year, after which he or she shall be compensated until the contract expires at a rate not to exceed the salaries of other similarly situated employees. If the compensation for the contract is paid from non-appropriated funds, Components may include contract buyout terms in lieu of a reassignment provision.

1.133 If an employee is also provided a concurrent teaching appointment, the System's *Rules and Regulations* related to faculty will govern the teaching appointment.

2. GENERAL.

2.1 Employment.

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

2.12 Hiring and Promotions.

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

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

2.13 Terminations. The Components shall retain and submit to the System Administration specific reports on terminations of all full-time employees as requested by the System Administration.

2.131 The Board of Regents or the President of the Component may suspend without prior notice or hearing and immediately remove from the Component any employee whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the Component. The President shall as soon as possible notify the Vice Chancellor and General Counsel of such action. In such cases, the President will set a hearing before the appropriate administrator or committee on the employee's case as soon thereafter as is practicable unless otherwise waived by the employee.

2.132 Employees, including both faculty and staff, shall be subject to discipline and/or dismissal for violating Component policy relating to electronic network facilities such as local area networks and the Internet. Nothing herein shall be construed in derogation of the Board's employment-at-will policy.

2.133 Any employee of any Component of the System, including any member of the administration or faculty, who, acting either singly or in concert with others, obstructs or disrupts, by force or violence, any teaching, research, administrative, disciplinary, public service, or other activity authorized to be held or conducted on the campus of a Component of the System, shall be subject to dismissal as an employee. As used in this S*ubparagraph*, the words "force or violence" include but are not limited to such acts as "stand-ins," "sit-ins," and "lie-ins" when such acts are in fact obstructive or disruptive of any of the authorized activities listed above.

2.134 Every employee is expected to obey all Federal, State, and local laws, particularly *Texas Penal Code, Section 42.01* and *42.05* (Disorderly Conduct and Disrupting Meeting or Procession) and *Texas Education Code, Section 37.123* and *37.125* (Disruptive Activities and Exhibition of Firearms). Any employee who violates any provision of these four statutes is subject to dismissal as an employee notwithstanding any action by civil authorities on account of the violation.

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

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

2.14 Grievances. Each Component may establish a process consistent with this *Subparagraph* for grievances concerning an employee's wages, hours of work, or conditions of work. Such grievance process shall not involve formal hearings. If a Component does not have a grievance process as provided herein, the Component shall use this grievance process, except for grievances pursuant to *Subparagraphs 4.4* and *4.5* of this *Chapter*.

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

2.142 Grievances involving allegations of discrimination. At Components that have an office specifically charged with hearing claims of discrimination, the hearing officer shall refer such claims to that office. At Components that do not have an office specifically charged with hearing claims of discrimination, if the hearing officer finds that the grievant has established a *prima facie* case of discrimination, the hearing officer shall provide the administration an opportunity to respond to the claims and determine whether the administration has stated a nondiscriminatory reason for its decision. A *prima facie* case is one presenting facts or documents that, so far as can be judged from first disclosure, would create a presumption of validity in the absence of response, contradiction or rebuttal by the Component. Unsubstantiated allegations shall not be sufficient to establish a *prima facie* case. The President or his or her designee shall make the final decision regarding a grievance involving an allegation of discrimination.

2.143 For all matters involving sexual misconduct, the Texas State University System Sexual Misconduct Policy controls.

2.2 Appointment of Relatives (Nepotism Rule).

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

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

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

2.222 The prohibition of *Government Code, Chapter 573* applies to all programs administered under the Board of Regents and may not be waived.

2.223 When a person is allowed to continue employment because of the operation of the exception specified by *Subparagraph 2.221* of this *Chapter*, the Board member who is related to such person shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bonafide class or category of employee.

2.23 Even though the appointment of a person would not be prohibited by *Government Code, Chapter 573*, special arrangements for personnel actions must be made before a Component may employ any person related within the second degree of affinity or the third degree of consanguinity to another employee if:

(a) Such employment causes one relative to have a direct supervisory relationship over the other relative; or

(b) Such employment causes one relative to have authority over the salary or other terms of employment of the other.

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

2.231 If the appointment, reappointment or continued employment of a person places such person under an administrative supervisor related within the above specified degree, all subsequent actions with regard to reappointment, promotion, or salary shall be the responsibility of the next highest administrative supervisor. It shall also be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually and submit each review for approval or disapproval by the Component's appropriate Vice President in the case of classified employees or the President in the case of faculty or unclassified employees. When appropriate, the next highest administrator may delegate these responsibilities to another administrator who is neither related to the person subject to the personnel actions nor in that person's reporting line.

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

2.3 Retirement and Recognition of Service.

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

2.32 Requirements of the Optional Retirement Program.

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

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

2.323 Tax Considerations. Whether or not the employer's and/or employee's contributions to the Optional Retirement

Program are tax sheltered, the employee's contribution is made on all salary reduction as required by the ORP statute. All contributions shall comply with IRS laws and regulations for accounts authorized under *Section 403(b)* of the *Internal Revenue Code*."

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

2.325 Certification of State Comptroller. Each Component shall be required to certify to the State Comptroller each Fiscal Year an estimate of the amount of funds required for payments of State Matching Contributions for participants in the Optional Retirement Program.

2.326 Eligibility to Participate. An employee of a Component of The Texas State University System is eligible for participation in the Optional Retirement Program in accordance with rules adopted by the Texas Higher Education Coordinating Board. An employee who has met the ORP vesting requirement and subsequently transfers to a position which would not otherwise qualify for ORP participation shall remain in ORP except as authorized by TRS rules.

2.33 Salary Reduction Plan of the Optional Retirement Program. The Components are authorized to participate in the salary reduction agreement of the Optional Retirement Program as provided by statute. The Component President or a representative designated by the President is authorized to approve the forms required for this salary reduction agreement through those carriers approved by the Component in the implementation of the Optional Retirement Program.

2.34 Honorary Titles and Resolutions for Retirees. Faithful and distinguished service by a retiring faculty member or administrator may be recognized by an appropriate resolution of the Board.

2.341 Long and distinguished service by a faculty member holding the rank of Professor or Associate Professor may be recognized upon retirement by conferral of the title of Professor Emeritus, Associate Professor Emeritus, Distinguished Professor Emeritus or Distinguished Associate Professor Emeritus as provided by *Subparagraph 4.9* of this *Chapter*.

2.342 Faithful and distinguished service by the President of a Component may be recognized by the Board upon retirement, or upon returning to full-time teaching if a tenured member of the faculty, by conferral of the honorary

title President Emeritus of the Component, without remuneration or authority for this honorary title.

2.343 Faithful and distinguished service by an administrator, including a Vice President of a Component, Vice Chancellor of the System and Chancellor, may be recognized by the Board upon retirement by conferral of the honorary title, such as Vice President Emeritus, Vice Chancellor Emeritus or Chancellor Emeritus, without remuneration or authority for this honorary title.

2.4 Standards of Conduct. Except as exempted by *Subparagraphs 12.(16), 12.(17)* and *12.(18)* of *Chapter III* of these *Rules and Regulations*, all Component employees shall adhere to the standards of conduct articulated in *Chapter VIII:*

2.41 No employee shall engage in any form of sexual harassment as defined by *Subparagraph 4.4* of *Chapter VII* of these *Rules and Regulations*, or racial harassment as defined by *Subparagraph 4.3* of *Chapter VII* of these *Rules and Regulations*. As prescribed in *Paragraph 4.43* of *Chapter VII* of these *Rules and Regulations*, any employee who violates these rules prohibiting sexual and racial harassment shall be subject to discipline and/or dismissal from employment.

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

2.43 Consensual Relationships. Consensual relationships between Supervisors, as defined herein, and their Supervisees, as defined herein, are prohibited unless the Supervisor discloses the relationship to his or her immediate supervisor and a plan to manage the conflict inherent in the relationship has been approved and documented. Disclosure of a relationship by the Supervisee does not relieve the Supervisor of the duty to report the consensual relationship as soon as possible. Plans to manage a conflict may include, but are not limited to, reassignment of either party or other actions to change any conflict of interest or appearance of impropriety created because of the consensual relationship. Failure to disclose the relationship may result in disciplinary actions up to and including termination.

2.431 Consensual relationship means a mutually acceptable, romantic relationship or sexual interaction between a Supervisor and a Supervisee.

2.432 Supervisor means any employee who, has responsibility, as part of his/her job duties, to teach, instruct, supervise, manage, advise, counsel, oversee, coach, grade, train, or evaluate another employee in any way.

2.433 Supervisee means any employee or student who is taught, instructed, supervised, managed, advised, counseled, overseen, coached, graded, trained, or evaluated in any way by a Supervisor.

2.434 This policy applies to all Component faculty, staff, and students, including individuals serving as interns or volunteers.

2.5 Absences.

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

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

2.7 Payroll Deductions. The Components within The Texas State University System may make automatic payroll deductions from an employee's paycheck for any lawful purpose.

3. ADMINISTRATIVE OFFICERS.

3.1 Employment.

3.11 Hiring. The President of each Component is authorized to employ administrative officers. Such officers shall not have tenure by virtue of their office and shall serve without fixed term and at the pleasure of the President.

3.2 Terminations.

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

(1) The burden of proof is upon the affected administrative officer to establish at such hearing that the decision in question constitutes violation of a right guaranteed by the laws or Constitution of the State of Texas or of the United States.

(2) The President of the Component need not state the reasons for the questioned decision nor offer evidence in support thereof unless the affected administrative officer presents a prima facie case in support of such allegations. In such case, the hearing committee shall determine whether the President has no other reason for his decision.

(3) The hearing committee will make written findings on the material facts and a recommendation, which findings and recommendation shall be forwarded to the President and to the affected administrative officer. The administrative officer may appeal to the President and ultimately to the Board of Regents in accordance with the terms and procedures specified in *Subparagraphs 4.55* and *4.56* of this *Chapter*.

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

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

4. FACULTY.

4.1 Employment.

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

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

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

4.14 Reappointments. Written notice of a decision not to reappoint will be given to a tenure track faculty member not later than March 1st, of the first, or not later than December 15th of the second, academic year of probationary service. After two or more academic years, written notice shall be given not later than August 31st that the subsequent academic year will be the terminal year of appointment. The notice required by this *Subparagraph* is not applicable where termination of employment is for good cause under *Subparagraph 4.5* or for faculty members who are appointed on a term basis.

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

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

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

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

4.2 Tenure.

4.21 Defined. Tenure denotes an entitlement to continued employment as a member of the faculty at a Component in accordance with the provisions of these *Rules and Regulations*. Tenured faculty can expect those privileges customarily associated with tenure at their Component. Such privileges include a suitable office and workspace, serving as a principal investigator and conducting of research, teaching classes, and participating in faculty governance. However, tenure does not create a property interest in any attributes of the faculty position beyond the annual salary. By way of example only, tenure does not create a property interest in laboratory space, a particular office, the right to teach graduate students, or use of research materials or equipment. Only members of the faculty with the academic title of Professor, Associate Professor, or Assistant Professor may be granted tenure, unless the Component handbook recognizes the rank of Instructor as eligible for tenure. In exceptional cases, tenure may be granted at the time of appointment to any of such academic ranks by the Board of Regents or may be withheld pending satisfactory completion of a probationary period of faculty service. For tenure to be granted at

the time of appointment, the President shall submit a written justification and recommendation to the Chancellor for review. If the Chancellor supports the grant of tenure, he or she may authorize the President to offer the prospective faculty member tenure, subject to subsequent approval by the full Board.

4.22 Tenure Track Faculty. Only full-time service in the academic ranks of Professor, Associate Professor, Assistant Professor, and/or Instructor (at Components where such is an academic rank eligible for tenure) shall be counted toward fulfillment of a required probationary period. Periods during which a faculty member is on leave of absence shall not be counted toward fulfillment of a required probationary period. If the Component faculty handbook does not recognize the rank of Instructor as eligible for tenure, then no more than three (3) years service as Instructor shall be so counted.

4.23 Prior Service Credit. At the discretion of the Component, up to three (3) years prior service at the other academic Component may be counted toward fulfillment of the required probationary period.

4.24 Maximum Probationary Service. The maximum period of probationary faculty service in tenure track status in any academic rank or combination of academic ranks shall not exceed six years of full-time academic service, unless the tenure clock has been tolled as provided in this *subparagraph*. Not later than August 31st of the last academic year of the maximum probationary period in effect at any Component, a tenure track faculty member shall be given written notice that the subsequent academic year will be the terminal year of employment or that, beginning with the subsequent academic year, tenure will be granted. In the event that the employment of a tenure track faculty member is to be terminated prior to the end of the maximum probationary period, notice shall be given in accordance with *Subparagraph 4.5* below. Faculty members who have not been granted tenure by the Board of Regents shall not be entitled to tenure by virtue of being employed at the Component past the probationary period, i.e., such faculty members do not have *de facto* tenure.

4.241 Tolling of Tenure Clock. A Component may permit a tenure track faculty member to toll the tenure clock—that is, exclude not more than two academic years of countable service toward tenure—in order to accommodate one or more of the following exigencies or hardships: (a) Childbirth or adoption; (b) Dependent care (including children, parents, spouses, or other dependents); (c) The faculty member's own illness or other personal emergency; and/or, (d) The inability of the institution to provide agreed upon facilities for the faculty member's research.

4.242 Timing of Request. The request to toll shall, to the extent possible, occur prior to the occurrence of the event(s) stated in *Subparagraph 4.241* and, in any case, within one year of

the event(s). Requests made after the Component provides written notice of commencement of the promotion and/or tenure review process will not be honored.

4.243 Faculty Member's Obligations. Per *Subparagraph 4.242*, the faculty member shall notify his or her chair and dean and make a written request to the chief academic officer to toll up to two years of service on the tenure clock, clearly explaining the basis(es) for the request—namely, why the exigency or hardship prevents or significantly impedes the faculty member's ability to make progress toward achieving tenure; stating the estimated duration of both the exigency or hardship and the tolling period requested; and providing such supporting documentation as the Component may require.

4.244 Chief Academic Officer's Obligations. The chief academic officer shall notify the faculty member, the chair/director, and the dean, and submit his or her recommendation to the System Vice Chancellor for Academic and Health Affairs (VCAHA) for his or her decision. The recommendation shall include the faculty member's date of hire; process used to decide to request extension (such as executive committee approval or department chair recommendation); rationale to exclude the requested period of countable service; other facts or documentation relevant to the case; and the date by which the faculty member will be reviewed for tenure if the extension is approved.

4.245 Two Year Limitation. The total time excluded from countable service under this policy is two years (for example, a faculty member who tolls or excludes one year for childbirth or adoption and one year for dependent care has reached the maximum).

4.246 Components may, but are not required to, adopt a policy permitting tolling of the tenure clock for one additional year due to extraordinary circumstances such as a global pandemic as declared by the World Health Organization or other widespread state or federal natural disaster.

4.247 No Property Right Created. The tolling of the tenure clock under this policy lies within the sole discretion of the Component administration, subject to the VCAHA's approval, and creates no property right, contractual or other legal entitlement in a member of the faculty. The administration may deny a request when, in its judgment, the needs and best interests of the Component, its academic units, and/or its students so require; provided, that this policy shall not be applied in violation of Component or System non-discrimination policies.

4.248 Tenure and Promotion Criteria Unaltered. Chairs/ directors, deans, and chief academic officers shall ensure that all faculty members, tenure and promotion or other reviewing committees, and outside letter writers are informed that the criteria for tenure do not change when service has been excluded from a faculty member's probationary period.

4.25 Calculating Service. For purposes of calculating the period of probationary service, an "Academic year" shall be the approximate nine-month period from September through May as designated in the common calendar established by the Texas Higher Education Coordinating Board. One year of probationary service is accrued by at least nine months full-time academic service during any academic year, regardless of whether contracted on an annual basis or for a consecutive fall and spring semester. A faculty member shall be considered to be on full-time academic service if in full compliance with Board standards pertaining to minimum faculty workloads at general academic universities. If a faculty member is initially appointed during an academic year, the period of service from the date of appointment until the beginning of the following academic year shall not be counted as academic service toward fulfillment of the maximum probationary period.

4.26 Non-tenured Faculty. No non-tenured member of the faculty should expect continued employment beyond the period of current appointment as approved by the Board of Regents. Any commitment to employ a non-tenured member of the faculty beyond the period of current appointment shall have no force and effect until approved by the Board. Non-tenured members of the faculty serve at the pleasure of the Component President and the Board, subject to the provisions of proper notice as required by these *Rules and Regulations*.

4.27 Non-reappointment and Denial of Tenure. A non-tenured faculty member, who is notified of non-reappointment in accordance with *Subparagraphs 4.14* or who is notified in accordance with *Subparagraphs 4.24* that tenure has been denied and that the subsequent academic year will be the terminal year of appointment, shall not be entitled to a statement of the reasons upon which the decision for such action is based.

4.28 Performance Reviews. Components shall develop and publish campus-specific faculty performance review policies.

4.281 Annual Review Policies. Each Component shall develop campus-specific annual review policies for non-tenured faculty members.

4.282 Performance Review of Tenured and Other Faculty. Each Component shall develop campus-specific post tenure policies and procedures to determine whether a tenured faculty member is performing consistently at an

acceptable professional level as well as a mechanism whereby a faculty member is informed of any deficiencies and provided opportunity to improve his or her performance. Such policies and procedures shall be consistent with the tenure policies of this *Chapter* and *Education Code, Section 51.942* and shall accord faculty members fundamental due process, including the opportunity for referral of a termination based upon evaluation to non-binding alternative dispute resolution, and a right of appeal in accordance with existing Component and Board policy.

4.3 Promotion.

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

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

(1) Teaching in the classroom, laboratory, or seminar room;

(2) Studying, investigating, discovering, and creating;

(3) Performing curricular tasks auxiliary to teaching and research, e.g., serving on faculty committees, attending to administrative and disciplinary tasks, and promoting diligence and honest work in the student body;

(4) Advising and counseling of students, including the posting or publishing of office hours in such a manner as may be required by the President;

(5) Influencing beneficially students and citizens in various extracurricular ways; and,

(6) Patents or commercialization of research, where applicable.

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

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

4.41 Faculty Member Defined. For purposes of this *Paragraph*, "faculty member" means a person employed full-time by a System Component as a member of the faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. It does not include a person who holds faculty rank but spends the majority of his or her time engaged in managerial or supervisory activities, including a Chancellor, President, Provost, Vice President, Associate or Assistant Vice President, Dean, Associate or Assistant Dean.

4.42 Grievable Issues Pursuant to this *Paragraph*. A faculty member may present a grievance to a System Component's President on an issue related to non-renewal or termination of the faculty member's employment at the end of his or her contract period.

4.43 Termination Prior to End of Contract Period. A faculty member, whose employment is terminated prior to the end of his or her contract period, shall be entitled to invoke the full due process procedures provided to tenured faculty under *Paragraph 4.5* of this *Chapter*.

4.44 Grievance Process. The President shall designate a member of his or her administration as a hearing officer to consider grievances under this *Chapter*.

4.441 No later than thirty (30) business days after the grievant learns (or in the exercise of reasonable care should have learned) of the action or condition giving rise to the grievance, he or she shall file the grievance on a form prescribed by the Component, providing supporting documentation, if any.

4.442 The hearing officer will meet with the grievant at a mutually convenient time to review any documentation or other evidence that the grievant may present in support of his or her position.

4.443 The hearing officer may not recommend changing the administration's action regarding non-renewal or termination of employment unless the grieving faculty member establishes a *prima facie* case that he or she has been denied a right guaranteed by the constitutions or laws of the United States or of the State of Texas. A *prima facie* case is one presenting facts or documents that, so far as can

be judged from first disclosure, would create a presumption of validity in the absence of response, contradiction or rebuttal by the Component. Unsubstantiated allegations shall not be sufficient to establish a *prima facie* case.

4.444 If the hearing officer finds that the grievant has established a *prima facie* case, the hearing officer shall provide the administration an opportunity to respond to the claims; determine whether the administration has stated a non-discriminatory reason for its decision; and advise the President of his or her findings.

4.445 The President shall make the final decision regarding the grievance.

4.45 Not a Due Process Proceeding. A grievance under this *Paragraph* is not a due process hearing, requiring the formalities specified in *Paragraph 4.5* of this *Chapter*.

4.46 Component Procedures. A Component may not establish procedures that expand or contract the rights granted or materially alter processes described in this *Paragraph*. To the extent Component procedures conflict with the procedures in this *Paragraph*, the latter shall prevail. Existing Component policies on this subject matter are hereby revoked.

4.5 Termination and Due Process Procedures.

4.51 Grounds. Termination by a Component of the employment of a tenured faculty member and of all other faculty members before the expiration of the stated period of their appointment, except by resignation or retirement, will be only for good cause shown.

Good cause includes but is not limited to the following:

(1) Failure to work efficiently or effectively;

(2) Insubordination;

(3) Serious professional or personal misconduct, examples of which include:

(a) Commission of a misdemeanor involving moral turpitude, or a felony;

(b) Failure to secure and maintain Federal, State, or local permits required in the discharge of teaching, research, or other professional duties, including failure to maintain appropriate documentation;

(c) Willful destruction of Component property or violent disruption of the orderly operation of the campus;

(d) Violation of the System's ethics policy (*Chapter VIII* of these *Rules and Regulations)*, including acceptance or solicitation of gifts that might tend to influence the discharge of one's professional responsibilities;

(e) Stealing and publishing as one's own the intellectual property of another;

(f) Misuse or misappropriation of state property, resources, funds, including funds held by a faculty member as part of official duties;

(g) Sexual harassment, as defined by *Subparagraph 4.4* of *Chapter VII* of these *Rules and Regulations;* and,

(h) Racial harassment as defined by *Subparagraph 4.3* of *Chapter VII* of these *Rules and Regulations.*

(4) Professional incompetence and/or neglect of professional duties;

(5) Mental or physical disablement of a continuing nature adversely affecting to a material and substantial degree of the performance of duties or the meeting of responsibilities to the institution, or to students and associates;

(6) Illegal use of drugs, narcotics, or controlled substances. A faculty member who, by a preponderance of the evidence, under these *Rules and Regulations*, is found to have illegally possessed, used, sold, or distributed any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus, shall be subject to termination, suspension or other discipline as determined by the President or the President's designee. That an employee is charged in a criminal case, or is found "not guilty" therein, shall not be construed as prohibiting administrative enforcement of these *Rules and Regulations*. If, in the judgment of the President or the Board of Regents, the best interests of the students or the Component or the System so dictate, the employee may be immediately removed from contact with students and other employees, pending resolution of disciplinary proceedings; and,

(7) Intentionally or knowingly violating any Board or administrative order, rule, or regulation, including the provisions of *Chapter V, Subparagraph 2.134* of these *Rules and Regulations*. The employee is presumed to have knowledge of such Board or administrative order, rule, or

regulation that is published in these *Rules and Regulations* or is a published policy of the Component.

4.52 Suspension. A President may, for good cause, suspend an accused faculty member pending immediate investigation or speedy hearing as hereinafter provided when the continuing presence of the faculty member poses a danger to persons or property or an ongoing threat of disrupting the academic process. An employee who is suspended or discharged from a particular duty or job at the Component may be suspended or discharged from all other duties or jobs in the Component for the same or other good cause. The President shall, as soon as possible, notify both the Chancellor and the Vice Chancellor and General Counsel of any such actions.

4.53 Summary Dismissal. In cases of good cause where the facts are admitted by the faculty member, summary dismissal may follow.

4.54 Hearing Tribunal. In all cases where the facts are in dispute, the accused faculty member shall be informed in writing of the charges which, on reasonable notice, will be heard by a special hearing tribunal whose membership, including its chair, shall be appointed by the President from members of the faculty whose academic rank is equal to or higher than that of the accused faculty member. At such a hearing:

(1) The hearing tribunal shall not include any accuser of the faculty member. The faculty member may challenge the alleged lack of fairness or objectivity of any tribunal member, provided such challenge is made prior to the submission of any evidence to the tribunal. The faculty member shall have no right to disqualify such member from serving on the tribunal. Each such challenged member shall determine whether he or she can serve with fairness and objectivity in the matter. In the event the challenged member chooses not to serve, the President shall appoint a substitute.

(2) The faculty member shall have a right to attend the hearing; confront and cross-examine adverse witnesses; present relevant evidence on his or her own behalf; testify or choose not to testify; and, be assisted or represented by counsel. The hearing shall be closed although the faculty member may request that it be open to the public. Notwithstanding a faculty member's request, the tribunal may close all or a portion of a hearing to deliberate or if it appears likely that privacy interests of others are relevant and could be affected by an open hearing.

(3) The Component, through a representative and/or through counsel, shall have the right to attend proceedings; present witnesses and evidence against the faculty member; and, cross-examine the faculty member (if the faculty member testifies) and his or her witnesses.

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

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

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

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

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

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

(1) a statement of the basis for the decision to terminate the faculty member's employment, together with a description of the manner in which the recommendation of termination was made;

(2) access the information and data upon which the recommendation was based; and,

(3) an opportunity to respond consistent with the requirements of due process.

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

(1) Whenever possible, faculty reduction will be accomplished through attrition;

(2) Within a designated program, the termination of the employment of a faculty member with tenure may not be recommended in favor of retaining a faculty member without tenure unless:

(a) The removal of a non-tenured faculty member would eliminate an essential part of a program or render a program dysfunctional; or,

(b) The removal of a non-tenured faculty member who is deemed to be of equal or greater merit than a tenured faculty member would jeopardize the advances achieved by the Component under its diversity program.

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

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

4.65 The President of each Component shall develop and publish in the Component's faculty handbook the Component's policy regarding termination of employment under *Subparagraph 4.5*, subject to the reviews and approvals specified in these *Rules and Regulations*.

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

4.71 Classroom. The faculty member is entitled to freedom in the classroom in discussing the faculty member's subject but should be judicious in the use of controversial material in the classroom and should introduce such material only as it has clear relationship to the subject field.

4.72 Research and Publication. The faculty member is entitled to freedom in research and in the publication of the results in accordance with responsible academic and professional practices.

4.73 Licenses and Permits. The faculty member shall be responsible for securing and maintaining any and all federal, state, and local licenses and permits required for his or her classroom, research, or other professional activities.

4.74 Speaking as a Citizen. The faculty member is a citizen, a member of a learned profession, and an employee of an educational component supported by the State. When the faculty member speaks or writes as a citizen, the faculty member should be free from Component censorship or discipline; but, the faculty member's special position in the community imposes special obligations. As a person of learning and a faculty member of a state funded educational component, the faculty member should remember that the public may judge his or her profession and Component by his or her utterance. Hence, the faculty member should at all times be accurate, exercise appropriate restraint, and should show respect for the opinions of others.

4.75 Partisan Political Activities. The Board of Regents recognizes and affirms a faculty member's right to participate in political activities as long as such political activities do not interfere with the discharge of the duties and responsibilities that a member of the faculty owes to the System or a Component or otherwise involve the System or a Component in partisan politics. If, in the President's or Board's judgment, the interest of the System or a Component so require, they may grant a leave of absence without pay to a member of the faculty. If a member of the faculty, who has not been granted a leave of absence, wishes to engage in political activity that interferes with the discharge of the duties and responsibilities that are owed to the System or a Component, the faculty member should voluntarily terminate employment with the Component. If the faculty member does not voluntarily terminate his or her employment and the President or the Board finds that the faculty member's political activity interferes with the discharge of the duties and responsibilities that are owed to the System or a Component, the President or the Board shall terminate such faculty member's employment by the Component.

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

4.8 Terms and Conditions of Employment.

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

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

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

(1) Professional meetings when, in the judgment of the President or his/her designee, attendance at such a meeting would contribute to the improvement of teaching or scholarship at the Component;

(2) Personal or immediate family illness;

(3) Family emergencies;

(4) Specific assignments of the President of short duration (the Board of Regents discourages specific assignments which will cause a faculty member to be absent from assigned classes);

(5) Special circumstances where the President considers such absences to be for valid reasons and

in the best interest of both the faculty member and the Component.

4.822 Unauthorized Absences. Unauthorized absences on the part of the faculty member are not permitted. Each Component shall regard such absences as a violation of the terms of the faculty member's appointment.

4.83 Outside Employment. The President of each Component shall approve and incorporate in the faculty handbook specific policies governing outside employment by all faculty members. These guidelines shall include but not be limited to the provisions and conditions of this S*ubparagraph*.

4.831 Faculty members should not be discouraged from accepting appropriate appointments of a consultative or advisory capacity with governmental agencies, industry, or other educational institutions as long as such activities do not conflict with the individual's work at the Component. The consideration to the System of such activity is the improvement of the individual through contact with the non-academic world. Faculty members should be discouraged from accepting regular employment outside the Component because such does not directly benefit the Component as indicated herein.

4.832 Conflict of interest must be avoided in all instances of outside employment. Conflict of interest means any outside activity which intrudes upon the faculty member's responsibility to the Component. See *Subparagraph 2.4* of this *Chapter* and *Chapter VIII* (*Ethics Code*).

4.833 No member of the faculty engaged in outside remunerative activities shall use in connection therewith the official stationery, supplies, equipment, personnel services, or other resources of the System or any of its Component universities. Nor shall such member of the faculty accept pay from private persons or corporations for tests, essays, chemical analysis, computer programming, bacteriological examinations, or other work of a routine character which involves the use of property owned by the System or its Components.

4.834 Every member of the faculty who gives professional opinions must protect the System and its Components against the use of such opinions for advertising purposes. That is, when work is done in a private capacity, the faculty member must make it clear to the employer that such work is unofficial and that, absent the President's prior approval, the name of the System and its Components are not in any way to be connected with the faculty member's name. Exceptions may be made for the name of the author attached to books, pamphlets, and articles in periodicals,

and the identification of an individual in publications of corporations or companies related to service as a member of an advisory council, committee, or board of directors.

4.835 A faculty member (as defined in *Subparagraph 1.11* of this *Chapter*) may not engage in any outside work or receive compensation from an outside source that creates a conflict of interest with the faculty member's duties at the Component. A conflict of interest includes the actions prohibited in *Subparagraph 3.2* of *Chapter VIII* of these rules. The faculty member shall notify the President or his/her designee of such activity.

4.836 Reporting Requirements. Any faculty member who seeks to engage in remunerative employment or consulting outside of his or her primary employment relationship with the Component, shall notify and obtain written permission from the head of his or her department before beginning such outside employment or consulting. If his or her department head determines that the employment or consulting serves a public purpose and does not unreasonably interfere or conflict with the faculty member's obligations or duties to the Component, the department head may authorize the employment or consulting.

4.84 Textbooks and Other Course Materials. Policies which govern textbooks and other materials prescribed for use by students will be specified for each Component in the faculty handbook for that Component.

4.841 Generally, the individual faculty member or the academic department should have wide discretion in the choice of materials to be used in the courses offered by the department with the approval by the chairman or head of the department. Although the authorship of books, outlines, manuals, and similar materials by members of the faculty should be encouraged, the prescribed use of these for students is a responsibility that goes beyond that of the individual author. Where practicable and equitable, the charge for outlines, syllabi, and similar materials prescribed for the use of students should be borne by the instructional department concerned. Whenever a charge is authorized for such copied materials, the prices should be as low as possible, consistent with the payment of a fair and reasonable royalty to the author or authors. This charge must be considered in conjunction with the a incidental course fees or charges" such that students are not charged more than once for the same material(s).

4.842 Textbooks, notebooks, manuals, or other materials for the use of students of a Component, written or prepared by a member of the faculty of that Component, shall not be

prescribed for the use of or sold to such students until such books, notes, manuals, or materials shall have been approved, with reasons stated, by the department head and approved by the academic Vice President. All such requests shall indicate the proposed prices and profits, and their authorization shall be effective only to the end of the fiscal year (August 31) for which such approval has been given.

4.85 Acceptance of Money from Students. Faculty members shall not, without approval of the President or his/her designee, collect from students any fees or charges to be expended for Component purposes or sell to students books, notes, materials or supplies. Faculty of the rank of lecturer or above, and other instructional personnel as designated by the Component President, may not accept pay from students for extra instruction or teaching of students registered in the Component. With prior written approval of the President or his or her designee, instructional employees below the rank of lecturer may accept pay from students for extra-class instruction or coaching but only in courses or sections of courses with which they have no instructional connection. The faculty handbook of the Component shall specify the procedure for approval at the Component level.

4.86 Knowledge of These *Rules & Regulations*. Each faculty member shall become acquainted with these *Rules and Regulations*, Component policies and faculty handbooks, catalogues, announcements of courses, other official publications, and printed or other material regularly prepared for the use of the faculty. The President shall have copies of these *Rules and Regulations*, Component policies and faculty handbook available at the President's office, the library, and other appropriate campus locations.

4.9 Honorary Titles and *Emeritus* Faculty.

4.91 Honorary Titles. Several honorary titles - Regents' Professor, University Distinguished Professor, *Emeritus (*or distinguished *emeritus)* Status - recognize long and distinguished service.

4.92 Regents' Professor. Upon the recommendation of the Chancellor, the Board of Regents, from time to time, may bestow the title of "Regents' Professor" upon a very select number of tenured faculty members who have demonstrated the following:

(1) Excellence in teaching and exceptional dedication to students;

(2) National or international distinction and acclaim for academic achievement or scholarship; and,

(3) Notable contributions and commitment to their Component institutions and communities.

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

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

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

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

(2) Associate Professor *Emeritus*, provided that the faculty member holds the rank of associate professor and has served the Component, with distinction, at least fifteen years.

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

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

(1) Use of the title "distinguished professor *emeritus*" or "distinguished associate professor *emeritus*."

(2) Membership (without vote) in the general faculty and in the college and department faculties in which membership was held at the time of retirement.

(3) Membership in the graduate faculty (without vote) if membership was held at the time of retirement.

(4) Eligibility for service on Component committees upon appointment by the President of the Component.

(5) Assignments of office space and use of laboratory facilities, when available, with the approval of the department head, dean of the college, and Provost and Vice President for Academic Affairs.

(6) Listing in the faculty directory and applicable publications.

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

4.10 Miscellaneous Provisions.

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

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

(1) General academic policies and procedures;

(2) Student life and activities;

(3) Requirements of admission and graduation;

(4) Honors and scholastic performance generally;

(5) Approval of candidates for degrees; and,

(6) Faculty rules of procedure.

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

of the Academic Deans, Academic Vice President, and President.

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

(1) Recruitment Negotiations. Negotiations looking to the possible appointment of persons for the following fall semester who are faculty members of other universities in active service or on leave-of-absence and should be begun and completed as early as possible in the academic year and the appropriate other Component officers informed of such negotiations.

(2) Notification of Resignation. A faculty member should not resign later than May 15 or thirty days after receiving notification of the terms of continued employment for the following year, whichever date occurs later.

(3) Appointment Offer. To permit a faculty member to give due consideration and timely notice to his or her Component, an offer of appointment for the following fall at a Component should be made before May 1 whenever possible.

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

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

(2) Faculty library privileges;

(3) Use of Component dining services;

(4) Authority to purchase a faculty-staff activity card on the same basis as active faculty members;

(5) Parking privileges provided to active faculty members of the Component;

(6) Continued eligibility for Component group health and life insurance as provided by statute;

(7) Use of internal Component mail service and facilities; and,

(8) Other privileges for retired faculty approved by the President of the Component.

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

5. UNCLASSIFIED AND CLASSIFIED STAFF EMPLOYEES.

5.1 Employment.

5.11 Hiring. The President of each Component is authorized to hire all unclassified and classified staff employees and other non-faculty personnel. With the exception of employees hired under *Subparagraph 1.13* of this *Chapter*, all employees hired under the authority of this *Subparagraph* shall serve without a fixed term and at the pleasure of the President.

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

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

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

5.114 Each Component may require a pre-employment, post-offer physical examination of applicants to be employed in regular positions if the physical examination is required of all applicants for a particular job position. The expense of the examination will be paid by the Component.

5.12 Salaries. The salary of each employee covered by *Subparagraph 5.11* of this *Chapter* shall be set by the President of the Component and in accordance with the approved budgets.

5.2 Terminations. The President of each Component is authorized to establish terms and conditions of employment, in accordance with law, and to terminate at any time the employment of any employee covered by *Subparagraph 5.11* of this *Chapter*.

5.3 Absences. The President of each Component shall adopt policies and guidelines covering the authorized absences for all personnel covered by *Paragraph 5* of this *Chapter*. Such policies and guidelines shall be in accordance with the provisions of current statutes and these *Rules and Regulations* (see *Subparagraph 2.51* of this *Chapter*).

5.4 Outside Employment. The provisions and conditions for outside employment by all classified and unclassified staff employees, including administrative officers, shall be the same as those established for faculty members under *Subparagraph 4.83* of this *Chapter*.

5.5 Acceptance of Money from Students. Administrative and staff employees shall not, without previous and special written approval of the Component administration, collect from students any fees or charges to be expended for Component purposes. Certain positions, such as cashiers and similar positions, may have this approval as part of their job descriptions. Acceptance of funds by Component employees, in any case, shall be only via official Component receipt mechanisms as approved by the Component's chief fiscal officer.

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

6. EMPLOYEE TRAINING.

The President of each Component is authorized to expend public funds for the training and education of its employees where the training or education is related to the current or prospective duty assignment of the employee. Any Component-specific written regulations governing such training and education shall be in accordance with the provisions of Texas *Government Code, Sections 656.044 and 656.047*.

6.1 Seminars and Workshops.

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

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

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

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

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

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

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

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

6.3 College Courses. Subject to availability of funding, employees may be reimbursed for certain college courses if the following conditions are met.

6.31 The employee's supervisor has determined that the course will enhance the employee's job performance.

6.32 The course is taken in accordance with the Component's written policies and appropriate written approval is obtained prior to enrolling in the course.

6.4 Training Subject to *Subchapter D. Chapter 656, Title 6, Texas Government Code* (Restrictions on Certain Training).

6.41 "Training" means instruction, teaching, or other education received by a Component employee that is not normally received by other Component employees and that is designed to enhance the ability of the employee to perform the employee's job. The term includes a course of study at an institution of higher education if the employing Component spends money to assist the Component employee to meet the expense of the course of study or pays salary to the employee to undertake the course of study as an assigned duty. The term does not include training required either by state or federal law or that is determined necessary by the Component and offered to all employees of the Component performing jobs.

6.42 If an employee receives training, as defined in *Subparagraph 6.41* of this *Paragraph* that is paid for by a Component, and during the training period the employee does not perform the employee's regular duties for three or more months as a result of the training, then the employee must agree in writing before the training begins to:

6.421 Work for the Component following the training for at least one month for each month of the training period; or

6.422 Reimburse the Component for all the costs associated with the training that were paid during the training period, including any amounts of the employee's salary that were paid and that were not accounted for as paid vacation or compensatory leave.

6.43 An employee may make a written request to the President of his or her Component to waive the requirements in *Subparagraph 6.42* of this *Paragraph* and release an employee from the obligation to meet those requirements. Each President may authorize such a waiver if he or she finds that such action is in the best interest of the Component or is warranted because of an extreme personal hardship suffered by the employee.

6.44 If an employee does not provide the services required in *Subparagraph 6.42* of this *Paragraph*, provides those services for less than the required term, or fails to make any required payments and is not released from the obligation, the employee is liable to the Component for the obligated amount and reasonable expenses incurred in obtaining payment, including reasonable attorney's fees and other collection costs.

1. PURPOSE

The purpose of this academic policy statement is to provide students with procedures for resolving academic grievances in a prompt and equitable manner.

2. GENERAL

2.01 Under the provisions of this policy, academic grievances include disputes over:

a. Course grades, except cases of academic dishonesty (see Academic Policy Statement 810213 for procedures in cases of academic dishonesty);

b. Unauthorized class absences or tardiness;

c. An instructor's alleged unprofessional conduct related to academic matters.; and/or

d. Withdrawal or suspension of privileges related to degree-required clinical rotation, internships, or other clinical service delivery in professional degree programs.

2.02 Allegations, questions, or appeals involving academic dishonesty (e.g., cheating, plagiarism, collusion, and/or abuse of resource materials) will be processed in accordance with the procedures set forth in Chapter VI of the Rules and Regulations, Board of Regents, The Texas State University System and addressed under Academic Policy Statement 810213 "Procedures in Cases of Academic Dishonesty."

2.03 The aggrieved student is entitled to have, as appropriate and in turn upon timely notice of appeal at each stage, the instructor, then department/school chair/director, then college Academic Review Panel, then academic dean (or their designee), and finally Provost and Sr. Vice President for Academic Affairs (or their designee) review the grievance and render a decision. If the department/school chair, college Academic Review Panel, academic dean, or Provost and Sr. Vice President for Academic Affairs finds that a disputed action conflicts with federal or state law; Texas State University System, Sam Houston State University, college, or departmental policy; or with an instructor's class policy, a decision should be rendered in favor of the aggrieved student. After consultation with the instructor, the University may, to the extent required, adjust the record in accordance with the ultimate grievance decision rendered at the completion of the last stage of the grievance process.

2.04 Degree programs in professional fields, including those associated with clinical settings, licensing, certification, and/or accreditation, may propose internal academic grievance procedures for matters including, but not limited to those listed in 2.01.d above. Once approved and signed by the Provost and Sr. Vice President for Academic Affairs, the program grievance procedures shall govern 2.01.d matters in that department and be the final authority over academic grievances in that program.

3. COLLEGE ACADEMIC REVIEW PANEL

3.01 There shall be in each college a standing college Academic Review Panel. The members of the panel shall be chosen by procedures established by the college dean. The panel will consist of three (3) faculty members and two (2) student members. The chair of the panel will be selected from the panel members by the appointees to the panel. A department/school chair/director or any party to the appeal being heard may not serve on the panel. At least two (2) faculty members and at least one (1) student member must be present for action to be taken.

3.02 The Academic Review Panel will proceed to hear an appeal of the decision on an alleged grievance only after the procedures outlined in paragraphs 4.01 through 4.04 below have been exhausted.

3.03 The Academic Review Panel will hear only appeals involving disputes over those matters set forth in paragraph 2.01.a through 2.01.d of this policy. Appeals regarding University/college degree requirements or student misconduct will not be addressed by the panel.

4. PROCEDURES

The steps below are to be followed in pursuing an academic grievance (Sec 2.01, a-d):

4.01 The student must first grieve to their instructor for a resolution of the matter and must do so in writing within ten (10) working days (working days are defined as Monday through Friday when the University is open) following the posting of the grade, the absence or tardiness, or the alleged conduct. The *Academic Grievance Procedures for Students – Grievance Form* may be found at this link.

4.02 The instructor must reply in writing to the aggrieved student within ten (10) working days following receipt of the appeal.

4.03 If an academic grievance is not satisfactorily resolved with the instructor, or the student does not receive a response from the instructor within ten (10) working days, the student may appeal to the chair/director of the academic department/school in which the complaint or dispute is centered. The student appealing must provide to the chair/director a written summary of the pertinent issues of the grievance within ten (10) working days of the date of the response of the instructor or when the response from the instructor was due. The chair/director of the academic department/school shall request relevant information from the instructor, including but not limited to, course syllabus, attendance records, assignment descriptions and scoring rubrics. In addition, the student and instructor may include statements from other faculty or staff members or any other informed individual who might act as advocates in support of their position in the appeal.

4.04 The chair/director of the academic department/school in which the complaint or dispute is centered reviews the documents provided by all parties involved in the grievance. The chair/director must respond to the student and the instructor with a written decision within ten (10) working days of receipt of a timely appeal.

4.05 If the student is not satisfied with the decision of the chair/director of the department/school or the student does not receive a response from the chair/director within ten (10) working days, the student may, within ten (10) working days of receipt of the chair's/director's decision or when the response from the chair/director was due, forward a written appeal including any documentation provided to the chair/director to the college dean in whose college the dispute arose, with a request to have the case heard by the college Academic Review Panel, which serves in an advisory capacity only to the college dean. Within ten (10) working days of receiving the appeal, the Academic Review Panel shall investigate the alleged grievance and present such findings and recommendations as it finds appropriate to the student, dean, and other relevant parties, including the department/school chair/director and the faculty member(s) against whom the grievance is directed. During the panel hearing(s), all parties involved in the original grievance shall be invited to appear before the Academic Review Panel. The student and instructor may request either oral or written statements from advocates. The inclusion of these statements at the hearing(s) shall be at the discretion of the Academic Review Panel. Under no circumstances shall advocates be permitted to directly question or cross-examine any person who is involved in the grievance. Legal counsel, if included by the grievant and/or the instructor, may act only in an advisory capacity and may not actively participate in the proceedings.

4.06 If a student wishes to appeal the Academic Review Panel recommendation, they must, within ten (10) working days of the receipt of the Academic Review Panel's written recommendation to the college dean, request in writing that the grievance be forwarded to the college dean in whose college the dispute arose for review and decision. The Academic Review Panel shall forward all documents pertaining to the dispute to the college dean, who shall inform the student, the instructor, and the administrators participating in the appeals process of the decision and the disposition of the matter within ten (10) working days of receipt of the appeal.

4.07 If a student wishes to appeal the college dean's decision, they must, within ten (10) working days, request in writing to the college dean that the grievance be forwarded to the Provost and Sr. Vice President for Academic Affairs. The college dean shall provide to the Provost and Sr. Vice President for Academic Affairs for review all documents pertaining to the dispute from the Academic Review Panel and the college dean. The Provost and Sr. Vice President for Academic Affairs, or their designee, shall inform the student, the instructor, and the administrators participating in the appeals process of the decision and the disposition of the matter within ten (10) working days of receipt of the appeal. The decision of the Provost and Sr. Vice President for Academic Affairs on the matter is final.

4.08 At any time during the appeal process, the person(s) reviewing the grievance may request, in writing, additional information from the student. The student then has ten (10) working days to respond to the request for additional information. Once the requested information has been received or when the student response was due, whichever is later, the reviewer(s) must issue a written decision within ten (10) working days.

4.09 Whenever possible, in good faith, all parties involved in the grievance shall work to resolve the grievance prior to the first day of the subsequent semester/session.

APPROVED: <signed>
Alisa White, Ph.D., President

DATE: 01/03/2023

CERTIFICATION STATEMENT

This academic policy statement (APS) has been approved by the reviewer listed below and represents SHSU's Division of Academic Affairs' policy from the date of this document until superseded.

Original:	August 23, 1990	Review Cycle:	Five years*
Reviewer:	Academic Affairs Council	Review Date:	Spring 2027

Approved: <signed> Date: 12/19/2022

Michael T. Stephenson, Ph.D.
Provost and Sr. Vice President
for Academic Affairs

*****Effective January 2018, Academic Policy Statements will be reviewed on a rotating 5-year schedule. To transition to a distributed review load, some policies may be reviewed prior to the 5-year timeframe, with subsequent reviews transitioning to the 5-year schedule.

College of Osteopathic Medicine
SAM HOUSTON STATE UNIVERSITY

Element 1.4: Governance and Program Policies

- **1.4-2c Supporting Documentation**
  - Policies for Confidentiality of Employment, Student, and Medical Records
    - SHSU Academic Policy Statement 810106 – link
    - SHSU Data Classification Policy IT-06 – link
    - SHSU HIPAA Breach Notification IT-31 – link

1. PURPOSE

This policy is established to assure compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA).

2. DEFINITIONS

For purposes of this policy, Sam Houston State University ("University") provides the following definitions:

2.01 *Student* - An individual who is receiving or has received instruction in a University course, including an activity which is evaluated toward a grade such as classroom instruction, an academic internship, or a student teaching assignment.

2.02 *Educational Record* - Any record maintained by the University, an employee of the University, or an agent of the University, which is directly related to a student or former student, EXCEPT:

a. A personal record kept by a University staff person or agent, which is in the sole possession of the person who made it.

b. Employment records used only in relation to a student's employment by the University. However, the records of a student's employment are educational records when:

(1) The position in which the student is employed depends on their status as a University student; or

(2) The student receives a grade or credit based on the student's performance as an employee.

c. Records maintained by the University used only for the provision of medical, psychiatric, psychological or other recognized professional treatments that are otherwise protected by a privilege recognized by State law. In order to maintain these records separate from educational records, the University will enforce the following conditions:

(1) No person other than the physicians, psychiatrists, psychologists, or other recognized professionals providing treatment will have access to information contained in the University health records. Such records, however, may be disclosed to other persons under the procedures to meet a health and safety emergency as described in the FERPA and this policy.

(2) Personal Identifiers will be protected. This includes the individual's name; the name of the individual's parents or other family members; the individual's addresses (permanent or present); the individual's social security number; any other number or symbol which identifies the individual; a list of the individual's personal characteristics; or any other information which would make the individual's identity known and can be used to label a record as the individual's.

3. ANNUAL NOTIFICATION

The University publishes in the S*tudent Guidelines*, available on the Dean of Students' Office website, a notice to students of their rights under the FERPA. Additionally, each fall semester a notice is sent to all enrolled University students via institutional email in coordination with advising and registration. The notice will include, but not be limited to, the rights listed in section 4.02 of this policy and as follows:

3.01 The right of the student to inspect and review the student's own educational records, including reference to this policy for the procedure for exercising the right to inspect and review education records.

3.02 The right of the student to consent to disclosures of personally identifiable information contained within the student's education records, including the intent of the University to limit the disclosure of information contained in a student's educational record to the following circumstances:

a. With prior written (includes electronic) consent from the student;

b. As an item of directory information, which the student has not refused to permit the University to disclose; or

c. Under any FERPA provisions which allow the University to disclose information without the student's prior consent, including disclosure of personally identifiable information from a student's education record to other school "officials" within the

University whom the University has determined to have a "legitimate educational interest" as those terms are defined in this policy.

3.03 The right of a student to petition the University to amend or correct any part of the student's educational record, which may be inaccurate, misleading, or in violation of privacy or other rights of the student, including reference to this policy for the procedure for requesting amendment of records. When the University decides it will not amend or correct a student's record, the student's right to a hearing to present evidence that the record is inaccurate, misleading, or in violation of privacy or other rights.

3.04 The right to file a complaint with the Family Policy Compliance Office of the U.S. Department of Education concerning alleged failures by the the University to comply with the FERPA.

3.05 How to obtain a copy of this policy and the locations where a student may obtain a copy.

4. STATEMENT OF RIGHTS

4.01 The University encourages students to be aware of all of their rights under the FERPA and this policy.

Since educational records will be used repeatedly by University officials and others to make important decisions affecting students' academic programs, documentation of enrollment, and academic performance, each student should assume a personal responsibility to make certain that the student's record is complete and accurate.

4.02 This policy is intended to inform students about the University's procedures to provide students with rights to:

a. Inspect and review the student's educational records;

b. Exercise control (with some limitations as provided in 3.02) over disclosure of information contained in the student's educational records;

c. Seek to correct educational records in a hearing, if necessary, when a student believes the student's records are inaccurate, misleading, or in violation of the privacy or other rights;

d. Report violations of the FERPA to the Family Policy Compliance Office of the U.S. Department of Education; and

e. Be informed about their FERPA rights.

4.03 The President of the University has delegated authority for the oversight of educational records to designated custodians. Each custodian is responsible for the administration of this policy. Students who have concerns or questions related to this policy should contact the appropriate educational record custodian for assistance.

5. LOCATIONS OF EDUCATIONAL RECORDS

Types	Office	Custodian
Admissions Records	Admissions Office	Director, Undergraduate Admissions
Cumulative Academic Records	Registrar's Office	Registrar
Health Records	Health Center	Administrator, University Health Center
Financial Aid Records	Financial Aid Office	Director, Financial Aid
Public Safety Service Records	Public Safety Services	Director, Public Safety Services
Financial Records	Student Account Services	Director, Student Account Services
Placement Records	Career Success	Director, Career Success
Counseling Records	Counseling Center	Director, Counseling Center
Disciplinary Records	Student Life Office	Dean of Students
Advising Records	Student Advising and Mentoring Center	Director/SAM Center

6. PROCEDURE TO INSPECT EDUCATIONAL RECORDS

6.01 Students who wish to inspect and review their records should submit a written request to the record custodian. The request should identify as accurately as possible the specific records the student wishes to inspect and review, the "Location of Educational Records" as listed in section 5 above, or the custodianship of specific University officials identified by title.

6.02 If it is mutually convenient, the record custodian will allow the student to inspect the records at once. If the student cannot inspect the records immediately, the official responsible for responding to the request will arrange a time convenient to both the student and the custodian for inspecting the records. In no case will the time designated for inspection be more than 45 days after the request for inspection has been made.

6.03 When a record contains personally-identifiable information about more than one student, a requesting student may inspect only the requesting student's own information.

6.04 The University reserves the right to refuse to permit a student to inspect and review the following educational records:

a. The financial statement of the student's parents or legal guardian.

b. Statements and letters of recommendation prepared by University officials or others that were placed in the student's records before January 1, 1975, or for which the student has waived their rights of access, provided the letters and statements are related the student's admission, employment application, or receipt of an honor.

c. Those records that are excluded from the FERPA definition of educational records (see "Definitions" in Section 2).

7. FEES FOR COPIES OF RECORDS

7.01 For those educational records for which the FERPA allows the parent or student to review, the University may charge a parent or student a fee for copies of the student's educational records, unless the imposition of the fee effectively prevents the parent or student from exercising the right to inspect and review the student's education records.

For official transcripts, students will be charged per University policy. Further information can be found on the University Registrar's webpage.

7.02 Sam Houston State University reserves the right to deny transcripts or copies of records not required by the FERPA in any of the following situations:

a. The student has an unpaid financial obligation to the University;
b. There is an unresolved disciplinary action against the student; or
c. There is unresolved litigation between the student and the University.

8. DIRECTORY INFORMATION

8.01 The University designates the personally-identifiable information contained in a student's educational record listed below as "directory information" and the University may, at its discretion, disclose this information without a student's further prior written consent:

a. The student's name
b. The student's permanent address
c. The student's major
d. The student's minor
e. The student's home telephone numbers
f. The student's degrees, diplomas, and certificates and dates of award
g. The student's honors and awards
h. The student's classification
i. The student's extracurricular activities
j. Weight, height, and related information of athletic team members
k. The student's SHSU e-mail address

8.02 Students have the first twelve (12) class days in a long term or the first four (4) days in a summer term to change their directory information release status via the Buckley Amendment form located on the University Registrar's webpage.

8.03 When a student refuses to permit the University to designate an item of information for release for the directory, the Registrar shall mark the item in the student's electronic file as "confidential" and no custodian shall make disclosures without the student's prior written consent.

8.04 The appropriate custodians of records are authorized to disclose directory information.

9. USE OF STUDENT EDUCATIONAL RECORDS

9.01 All University officials will follow a strict policy that information contained in a student's educational record is confidential and may not be disclosed to third parties without the student's prior consent except as otherwise provided in this policy.

9.02 The University maintains student educational records in order for the administrative staff and the faculty to perform their proper functions to serve the student body. To

carry out their responsibilities, these officials will have access to student educational records for legitimate educational purposes.

9.03 A "University official" includes:

a. A member of The Texas State University System Board of Regents.

b. Any and all persons employed by The Texas State University System or Sam Houston State University.

c. A person under contract to The Texas State University System or Sam Houston State University to perform a specific task where, by law or contract, the System or the University has the right to control access to the educational records.

9.04 University officials who meet the criteria listed above will have access to personally-identifiable information contained in student educational records if they have a legitimate educational interest in doing so. A "legitimate educational interest" is the person's need for information to:

a. Perform an administrative task which is outlined in the official position description or contract of the individual or which is otherwise related to the individual's position and duties;

b. Perform a supervisory or instructional task directly related to the student's education; and/or

c. Perform a service or benefit for the student such as health care, counseling, student job placement, or student financial aid.

9.05 Within the general policy that University officials must secure a student's prior written consent before they disclose personally-identifiable information contained in the student's educational records, the University reserves the right for its officials to make such disclosures without the student's consent in the following circumstances:

a. To another college, university, or other academic institution of higher education in which the student seeks or intends to enroll.

b. To certain federal and state officials who request information to audit or enforce legal conditions related to federally-supported educational programs in the University.

c. To parties who provide or may provide financial aid to the student to:

(1) Establish the student's eligibility for the financial aid.

(2) Determine the amount of financial aid.

(3) Establish the conditions for the receipt of the financial aid.

(4) Enforce the terms of the agreement between the provider and the receiver of the financial aid.

d. To state and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to any state status adopted prior to November 19, 1974.

e. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction; provided that the studies are conducted in a manner which will not permit the personal identification of students and their parents by individuals other than representatives of the organization, and the information will be destroyed when no longer needed for the purposes for which the study was conducted.

f. To accrediting organizations to carry out their accrediting functions.

g. To parents/legal guardians of a student if the parents claim the student as a dependent under the Internal Revenue Code of 1954. The University will exercise this option only on the condition that evidence of such dependency is furnished to the custodian of records. It is generally held that the FERPA rights of eligible students lapse or expire upon the death of the student.

h. To comply with a judicial order or lawfully issued subpoena. The University will make a reasonable effort to notify the student before it makes a disclosure under this provision.

9.06 University officials may release education records to parties after the redaction of all personally identifiable information from the records, provided that the University official has made a reasonable determination that a student’s identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

9.07 The University authorizes its officials to make the needed disclosures from student educational records in a health or safety emergency if the official deems:

a. The disclosure to be warranted by the seriousness of the threat to the health or safety of the student or other persons;

b. The information to be necessary and needed to meet the emergency; and
c. Time to be an important and limiting factor in dealing with the emergency.

9.08 University officials may not disclose personally-identifiable information contained in a student's educational record, except directory information or under the circumstances listed above, without with the student's prior written consent. The written consent must include:

a. A specification of the information the student consents to be disclosed;

b. The purpose for which the disclosure may be made;

c. The person or organization or the class of persons or organizations to whom the disclosure may be made; and

d. The date of the consent and, if appropriate, a date when the consent is to be terminated.

9.09 The student may obtain a copy of any record the University discloses pursuant to the student's prior written consent.

9.10 The University will not release information contained in a student's educational records, except directory information, to any third parties except its own officials, unless those parties agree that they will not disclose the information without the student's prior written consent.

10. GUIDELINES TO BE FOLLOWED WHEN HARD COPY STUDENT ACADEMIC RECORDS ARE PRINTED FROM THE UNIVERSITY'S INFORMATION RESOURCES

10.01 Access codes will be restricted to authorized University officials.

10.02 Students may obtain official transcripts from the Registrar's Office for an appropriate fee provided there is no hold on their receipt of such transcript (e.g., delinquent student loan); further, students are entitled under the State Public Information Act to an unofficial transcript.

10.03 The following third-party message appears on the hard copy of any student's academic record retained in the office of University officials in order to relieve the President and the Registrar from liability should the record fall into unauthorized hands and legal action result.

> "Confidential. Release of information contained on this document without the written consent of the person(s) identified on the document is in violation of Sec. 438 Public Law 90-247, the Family Educational Rights and Privacy Act and the Texas Public Information Act, Government Code, Chapter 552."

10.04 Said records must be destroyed when no longer needed.

11. RECORDS OF REQUEST FOR ACCESS AND DISCLOSURES MADE FROM EDUCATIONAL RECORDS

The University will maintain a record of each request granted or rejected and each disclosure of personally-identifiable information from the educational records of the student that indicates:

a. The name of the person or agency that made the request;

b. The interest the person or agency had in the information;

c. The date the person or agency made the request; and

d. Whether the request was granted and, if it was, the date access was permitted or the disclosure was made.

The University will maintain this record of disclosure as long as it maintains the student's educational record.

12. PROCEDURES TO CORRECT EDUCATIONAL RECORDS

12.01 Request for Correction - The University will permit a student to challenge the content of their educational records to ensure that records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights the student. (Note: Under the FERPA, the University is permitted to refuse to consider a student's request to change the grade an instructor assigns for a course).

12.02 For purposes the procedure to seek to correct educational records, the term "incorrect" will be used to describe a record that is inaccurate, misleading, or in violation of privacy or other rights of a student. Also, in this section, the term "requester" will be used to describe a student or former student who seeks record correction.

12.03 If a student or former student discovers incorrect information in their educational records, they should informally discuss the problem with the record custodian. If the custodian finds the record is incorrect because of an obvious error, and it is a simple matter to correct it to the satisfaction of the requester, the custodian may make the change.

12.04 If the custodian does not change the record to the requester's satisfaction or the record does not appear to be obviously incorrect, the custodian will:

a. Provide the requester a copy of the questioned record at no cost; and
b. Ask the requester to initiate a written request for the change with the custodian.

12.05 The written request should at least identify the item the requester believes is incorrect and state whether it:

a. Is inaccurate, and the basis for any such contention;
b. Is misleading, and the basis for any such contention; or
c. Violates the privacy or other rights of students, and the basis for any such contention.

12.06 The record custodian will then amend the educational record of the student or refuse to amend it in whole or in part. The record custodian shall notify the requester of any refusal and advise the requester of the right to a hearing.

12.07 Upon completion of each of the steps in this section and upon timely notice of a request for hearing, the hearing will be held within a reasonable period of time, and it will be conducted by an impartial University official appointed by the President. The requester may have anyone of their choice, including an attorney, at the hearing. If the requester is not satisfied with the result of the hearing, they may file a grievance with the Family

Policy Compliance Office of the U.S. Department of Education. If the requester does not agree with the University's decision as to the interpretation of the records, the requester may file their own interpretation with the University. The requester's interpretation will be placed with their educational record and maintained by the University. The University will provide the interpretation of the student and the interpretation of the University with the educational record of the student.

APPROVED: <signed>
Alisa White, Ph.D., President

DATE: 01/03/2023

CERTIFICATION STATEMENT

This academic policy statement (APS) has been approved by the reviewer listed below and represents SHSU's Division of Academic Affairs' policy from the date of this document until superseded.

Original:	August 6, 1981	Review Cycle:	Five years*
Reviewer:	Academic Affairs Council	Review Date:	Spring 2027

Approved: <signed> Date: 12/19/2022
Michael T. Stephenson, Ph.D.
Provost and Sr. Vice President
for Academic Affairs

*****Effective January 2018, Academic Policy Statements will be reviewed on a rotating 5-year schedule. To transition to a distributed review load, some policies may be reviewed prior to the 5-year timeframe, with subsequent reviews transitioning to the 5-year schedule.

Sam Houston State University
A Member of The Texas State University System
Information Technology Services (IT@Sam)

Data Classification Policy: IT-06

PURPOSE:

Data Classification provides a framework for managing data assets based on value and associated risks and for applying the appropriate levels of protection as required by state and federal law as well as proprietary, ethical, operational, and privacy considerations. All SHSU data, whether electronic or printed, must be classified as Confidential, Protected, or Public. Consistent use of data classification reinforces with users the expected level of protection of SHSU data assets in accordance with SHSU policies.

The purpose of the Data Classification Policy is to provide a foundation for the development and implementation of necessary security controls to protect information according to its value and/or risk. Security standards, which define these security controls and requirements, may include document marking/labeling, release procedures, privacy, transmission requirements, printing protection, computer display protections, storage requirements, destruction methods, physical security requirements, access controls, backup requirements, transport procedures, encryption requirements, and incident reporting procedures.

SCOPE:

The SHSU Data Classification policy applies equally to all Data Owners and Data Custodians.

POLICY STATEMENT:

Data Owners and/or Data Custodians must classify data as follows:

1. Confidential: Sensitive data that must be protected from unauthorized disclosure or public release based on state or federal law, (e.g. the Texas Public Information Act, FERPA, HIPPA) and other constitutional, statutory, judicial, and legal agreements. Examples of Confidential data may include, but are not limited to:

    a. Personally identifiable information such as a name in combination with Social Security Number (SSN) and/or financial account numbers
    b. Student education records such as posting student identifiers and grades
    c. Intellectual property such as copyrights, patents and trade secrets
    d. Medical records

2. Protected: Sensitive data that may be subject to disclosure or release under the Texas Public Information Act but requires additional levels of protection. Examples of Protected data may include but are not limited to SHSU:

    a. Operational information
    b. Personnel records
    c. Information security procedures
    d. University-related research
    e. SHSU internal communications

3. Public: Information intended or required for public release as described in the Texas Public Information Act.

DEFINITIONS:

Confidential Data: Information that must be protected from unauthorized disclosure or public release based on state or federal law (e.g. the Texas Public Information Act, and other constitutional, statutory, judicial, and legal agreement requirements).

Data Classification: Classifying data according to their category of Confidential, Protected or Public.

Data Custodian: The person responsible for overseeing and implementing physical, technical, and procedural safeguards specified by the data owner.

Data Owner: Departmental position responsible for classifying business data, approving access to data, and protecting data by ensuring controls are in place.

Protected Data: Sensitive data that requires a level of protection but may be subject to disclosure or release – Public Information Act.

Public Data: Information intended or required for public release.

Related Policies, References and Attachments:

An index of approved IT@Sam policies can be found on the SHSU Information Technology Services Policies website at http://www.shsu.edu/intranet/policies/information_technology_policies/index.html. Reference materials, legal compliance guidelines, and policy enforcement are available in the IT-00 Policy Compliance Document. The SHSU Information Security Program and SHSU Information Security User Guide are also available on the Information Technology Services Policies website.

Reviewed by: Mark C. Adams, Associate VP for Information Technology, January 30, 2015
Approved by: President's Cabinet, June 27, 2011
Next Review: November 1, 2016

IT Policy IT-31

HIPAA BREACH NOTIFICATION POLICY

1. GENERAL

Sam Houston State University (SHSU), a HIPAA Hybrid Entity, and its Health Care Components (HCCs) are accountable to the Department of Health and Human Services and to individuals for the proper safeguarding of the private information entrusted to their care.

2. PURPOSE

To enable HCCs in accordance with 45 C.F.R. § 164.400 et seq. to comply with applicable state and federal laws and regulations governing notice to affected individuals in the event of a breach of patient privacy.

3. DEFINITIONS

3.01 Business Associate. A person or entity that performs a function or service that creates, receives, maintains, or transmits protected health information for a HIPAA covered entity. A Business Associate may be a department within SHSU or an unaffiliated third party.

3.02 Covered Functions. Performance of activities that makes an entity a health plan, health care provider, or health care clearinghouse.

3.03 Covered Entity. Entities, to include designated SHSU Health Care Components, that operate a health plan, health care clearinghouse, or provide health care services and transmits protected health care information in electronic form.

3.04 SHSU Health Care Component (HCC). A department that either performs covered functions or would meet the definitions of a covered entity or business associate if it were a separate legal entity.

3.05 Hybrid Entity. A single legal entity whose activities include both covered and non-covered functions and that designates one or more departments as HCCs.

3.06 Protected Health Information (PHI). Individually identifiable health information created, received, maintained or electronically transmitted by a covered entity. Protected health information excludes individually identifiable health information:

a) in education records covered by the Family Educational Rights and Privacy Act (FERPA).

b) in employment records held by a HCC in its role as employer; and

c) regarding a person who has been deceased for more than 50 years.

(See 45 C.F.R. § 160.103 and § 164.105).

4. APPLICATION

4.01 HCC Personnel. This Policy applies to all HCC personnel, including HCC administration, medical staff, clinical and administrative personnel, volunteers, and HCC's business associates.

4.02 Breaches of (PHI). This Policy applies only if there is a breach of a patient's individually identifiable health information. For purposes of this Policy, a breach is presumed if there is an unauthorized access, acquisition, use or disclosure of unsecured PHI unless (1) the HCC can

demonstrate that there is a low probability that the information was compromised based a risk assessment of certain factors described below, or (2) the situation fits within one of the following exceptions to the breach notification rule:

a) Any unintentional acquisition, access, or use of PHI by a member of the HCC's workforce or a person acting under HCC's authority if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in violation of the HIPAA privacy rules.

b) Any inadvertent disclosure by a person who is authorized to access PHI at the HCC to another person authorized to access patient information at the HCC or its business associate and the PHI disclosed is not further used or disclosed in violation of the HIPAA privacy rules.

c) A disclosure of PHI if the HCC has a good faith belief that the person to whom the disclosure was made would not reasonably have been able to retain such information.

d) The use or disclosure involves PHI that has been "secured" according to standards published by HHS. Currently, this only applies to electronic patient information that has been properly encrypted consistent with standards published by HHS. HHS will publish future guidance for securing patient information on its website, https://www.hhs.gov/hipaa/for-professionals/breach-notification/guidance/index.html. (45 C.F.R. § 164.404-408).

5. PROCEDURE

5.01 Mitigating Potential Breaches. If HCC personnel improperly access, acquire, use or disclose PHI and immediate action may cure or mitigate the effects of such use or disclosure, HCC personnel should take such action. For example, if HCC personnel improperly access or acquire PHI, they should immediately stop, close, and/or return the information. If HCC personnel mistakenly disclose PHI to the wrong person, they should immediately request the return of the information and confirm that no further improper disclosures will be made. If the potential breach is significant or requires further action to mitigate its effects, HCC personnel should immediately contact their supervisor or the SHSU Privacy and Security Officer for assistance and direction.

5.02 Reporting Potential Breaches to the SHSU Privacy and Security Officer. HCC personnel shall immediately report any suspected breach of PHI in violation of the HIPAA Rules or the HCC's privacy policies to the SHSU Privacy and Security Officer. Failure to timely report suspected breaches may result in sanctions as described below.

5.03 Investigating Potential Breaches. The SHSU Privacy and Security Officer shall promptly investigate any reported privacy breach or related patient complaint to determine whether there has been a "breach" of PHI as defined above, and if so, how notice should be given. The SHSU Security and Privacy Officer shall document his or her investigation and conclusions, including facts relevant to the risk assessment. (45 C.F.R. §§ 164.414 and 164.530). To determine whether a breach has occurred, the SHSU Privacy and Security Officer shall consider:

a) Whether the alleged breach involved PHI. (45 C.F.R. § 164.402)

b) Whether the alleged breach violates the HIPAA Privacy Rule. Disclosures that are incidental to an otherwise permissible use or disclosure (e.g., a patient overhears a physician speaking with another patient, or sees information about another patient on a whiteboard or sign-in sheet) do not violate the privacy rule so long as

the HCC implemented reasonable safeguards to avoid improper disclosures. (45 C.F.R. § 164.502)

c) Whether there is a low probability that the protected health information has been compromised considering relevant factors, including at least the following: (1) the nature and extent of the information involved; (2) the unauthorized person who used or received the information; (3) whether the information was actually acquired or viewed; and (4) the extent to which the risk to the information has been mitigated. (45 C.F.R. § 164.402)

d) Whether the alleged breach fits within one of the exceptions identified in Section 4.0.2, above. (45 C.F.R. § 164.402)

5.04 Notice – In General. If the SHSU Security and Privacy Officer determines that a breach of unsecured PHI has occurred, the affected HCC Administration shall notify the patient, HHS, and the media (if required) consistent with this Policy and the requirements of 45 C.F.R. §§ 164.404- .408 et seq. Any notice provided pursuant to this Policy must be approved and directed by SHSU Security and Privacy Officer and/or the affected HCC Administration. No other HCC personnel are authorized to provide the notice required by this Policy unless expressly directed by the SHSU Security and Privacy Officer and/or the affected HCC Administration.

5.05 Notice to Individuals. If a breach of PHI has occurred, the affected HCC Administration shall notify the affected patient(s) without unreasonable delay and in no case later than 60 days after the breach is discovered. The notice shall include to the extent possible: (1) a brief description of what happened (e.g., the date(s) of the breach and its discovery); (2) a description of the types of information affected (e.g., whether the breach involved names, social security numbers, birthdates, addresses, diagnoses, etc.); (3) steps that affected patients should take to protect themselves from potential harm resulting from the breach; (4) a brief description of what the HCC is doing to investigate, mitigate, and protect against further harm or breaches; and (5) contact procedures for affected persons to ask questions and receive information, which shall include a toll-free telephone number, e-mail address, website, or postal address at which the person may obtain more information. The notice shall be written in plain language. (45 C.F.R. § 164.404)

a) Notice by Mail or Email. The affected HCC Administration shall notify the patient by first-class mail to the patient's last known address. If the patient agrees, the notice may be sent by e-mail. The notice may be sent by one or more mailings as information is available. (45 C.F.R § 164.404(d))

b) Substitute Notice. If the affected HCC lacks sufficient contact information to provide direct written notice by mail to the patient, the affected HCC Administration must use a substitute form of notice reasonably calculated to reach the patient. (45 C.F.R. § 164.404(d))

1) Fewer than 10 affected patients. If there is insufficient contact information for fewer than 10 affected patients, the affected HCC Administration shall provide notice by telephone, e-mail, or other means of written notice. If the affected HCC lacks sufficient information to provide any such substitute notice, the SHSU Security and Privacy Officer shall document same. (45 CFR § 164.404(d)(2)(i))

2) 10 or more affected patients. If there is insufficient contact information for 10 or more affected patients, The affected HCC Administration shall do one of the following: (1) post a conspicuous notice on the home page of affected HCC's website for 90 days with a hyperlink to the additional

information required to be given to individuals as provided above; or (2) publish a conspicuous notice in major print or broadcast media in the area where affected patients reside. The notice must include a toll-free number that remains active for at least 90 days so individuals may call to learn whether their PHI was breached. (45 C.F.R. § 164.404(d)(2)(ii))

c) Immediate Notice. If the SHSU Security and Privacy Officer believes that PHI is subject to imminent misuse, the affected HCC Administration may provide immediate notice to the patient by telephone or other means. Such notice shall be in addition to the written notice described above. (45 C.F.R. § 164.404(d)(3))

5.06 Deceased Patient; Notice to Next of Kin. If the patient is deceased and the affected HCC knows the address for the patient's next of kin or personal representative, the affected HCC Administration shall mail the written notice described above to the next of kin or personal representative. If the affected HCC does not know the address for the next of kin or personal representative, then the affected HCC is not required to provide any notice to the next of kin or personal representative. The SHSU Security and Privacy Officer shall document the lack of sufficient contact information. (45 C.F.R. § 164.404(d)(1))

5.07 Notice to HHS. If the SHSU Security and Privacy Officer determines that a breach of PHI has occurred, the affected HCC Administration shall also notify HHS of the breach as described below.

a) Fewer than 500 Affected Patients. If the breach involves the PHI of fewer than 500 persons, the affected HCC Administration may either (1) report the breach immediately to HHS as described in subsection (b), or (2) maintain a log of such breaches and submit the log to HHS annually within 60 days of the end of the calendar year. Instructions for maintaining and submitting the log are posted on the HHS website. (45 C.F.R. § 164.408(c))

b) 500 or More Affected Patients. If the breach involves 500 or more persons, the affected HCC Administration shall notify HHS of the breach at the same time the affected HCC Administration notifies the patient or next of kin. Instructions for maintaining and submitting the log are posted on the HHS website. (45 C.F.R. § 164.408(b))

5.08 Notice to Media. If a breach of PHI involves more than 500 residents in a state, the affected HCC Administration will also notify prominent media outlets in such state. The notice shall be provided without unreasonable delay but no later than 60 days after discovery of the breach. The notice shall contain the same elements of information as required for the notice to the patient described above. The SHSU Security and Privacy Officer shall work with affected HCC Administration to develop an appropriate press release concerning the breach. (45 C.F.R. § 164.406)

5.09 Notice from Business Associate. If an HCC's business associate discovers a breach of PHI, the business associate shall immediately notify the SHSU Security and Privacy Officer of the breach. The business associate shall, to the extent possible, identify each person whose information was breached and provide such other information as needed by the HCC to comply with this Policy. Unless the SHSU Security and Privacy Officer directs otherwise, the affected HCC Administration shall notify the patient, HHS, and, in appropriate cases, the media as described above. (45 C.F.R. § 164.410)

5.10 Delay of Notice Per Law Enforcement's Request. The affected HCC Administration shall delay notice to the patient, HHS, and the media if a law enforcement official states that the notice would impede a criminal investigation or threaten national security. If the law enforcement official's statement is in writing and specifies the time for which the delay is required, the

affected HCC Administration shall delay the notice for the required time. If the law enforcement official's statement is verbal, the SHSU Security and Privacy Officer shall document the statement and the identity of the law enforcement official, and the affected HCC Administration shall delay the notice for no more than 30 days from the date of the statement unless the officer provides a written statement confirming the need and time for delay. (45 C.F.R. § 164.412)

5.11 Training Employees. The HCC shall train its workforce members concerning this Policy, including members' obligation to immediately report suspected privacy violations. The SHSU Security and Privacy Officer shall ensure that this Policy is included in training given to new workforce members, and thereafter in periodic training as relevant to the workforce members' job duties. (45 C.F.R. § 164.530)

5.12 Sanctions. HCC personnel may be sanctioned for a violation of this Policy, including but not limited to the failure to timely report a suspected privacy violation. HCC may impose the sanctions it deems appropriate under the circumstances, including but not limited to termination of employment and report the sanctions to the SHSU Security and Privacy Officer. (45 C.F.R. § 164.530)

5.13 Documentation. The SHSU Security and Privacy Officer shall prepare and maintain documentation required by this Policy for a period of six (6) years, including but not limited to reports or complaints of privacy violations; results of investigations, including facts and conclusions relating to the risk assessment; required notices; logs of privacy breaches to submit to HHS; sanctions imposed; etc. (45 C.F.R. § 164.530)

6. POLICY REVIEW

SHSU shall regularly review this policy at least every two (2) years. The Policy shall be reviewed for consistency with other University policies and the policies of The Texas State University System, which shall govern in the event of a conflict.

Approved by: President's Cabinet
Date: October 7, 2019

College of Osteopathic Medicine
SAM HOUSTON STATE UNIVERSITY

Element 1.4: Governance and Program Policies

- **1.4-2d Supporting Documentation**
  - Policies for Fiscal Management and Accountability
    - TSUS Rules and Regulations Chapter III – link

THE TEXAS STATE UNIVERSITY SYSTEM

RULES AND REGULATIONS

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

Adopted September 1, 1980
Amended November 18, 2022

CHAPTER III. SYSTEM - COMPONENT OPERATIONS

1. ITEMS REQUIRING BOARD APPROVAL.

The following items shall be submitted to the Board of Regents for approval. Inconclusive, open-ended, or multifarious motions shall not be submitted to the Board.

1.1 Contracts.

1.11 Contracts, purchases, and agreements in the amount of $1 million or more (*see* Paragraph 10 of this Chapter for Contracts procedures), whether said amount is income or expenditure, with the exception of:

(1) Private, governmental, and foundation grants or agreements in which the donor or agency stipulates the purpose for which the funds are to be expended.

(2) Materials purchased for resale in auxiliary operations and in central supply.

(3) Materials purchased for normal inventory stock for the physical plant operation.

(4) Maintenance, testing, and service contracts on elevators, computers, office equipment, campus utility systems, software, and life safety systems.

(5) Library subscription services.

(6) Recurring printing orders.

(7) Contracts with outside organizations for continuing education or professional programs that use campus facilities.

(8) Fuel purchased for Component operations.

(9) Purchased utilities, including water and waste hauling, but excluding electricity and natural gas (which are subject to approval by the Chancellor). Components are authorized, within Presidential spending authority limits, to execute Energy Future Strip agreements. The Component is required to send a copy of the executed contract to the Vice Chancellor and Chief Financial Officer.

(10) Contracts involving planning, design, renovation, or construction of buildings and other physical facilities.

(11) "Employment Contracts" as described in *Paragraph 1.13* of *Chapter V*.

(12) Renewal or extension of annual software and network service contracts.

(13) Consortia purchasing or interagency agreements through the Texas Connection Consortium (TCC) for Student Information System (SIS) licensing and maintenance.

(14) Purchases utilizing existing contracts from Group Purchasing Organization (GPO) agreements; however, any individual purchase exceeding the delegated authority levels requires approval of the Board.

(15) Football game contracts; however, football game contracts in excess of $500,000 must be approved by the Chancellor.

1.12 Financial institution depository contracts, which shall be put out for bid, in accordance with state law, no less frequently than every six (6) years, through the Office of the Vice Chancellor and Chief Financial Officer.

1.13 Food services contracts.

1.14 Vending machine contracts over $1 million.

1.15 Contracts and agreements with support or development foundations.

1.16 Contracts for operation of bookstores on campus.

1.17 Contracts for lease of Component golf course and related services.

1.18 Leases of personal property, including equipment, for one year or more, involving expected aggregate payments exceeding $1 million. Payments between $500,000 and $1 million must be approved by the Chancellor.

1.19 Amendments, Modifications, Renewals or Extensions. Amendments, modifications, renewals or extensions of contracts and agreements previously approved by the Board must be submitted to the Board. Such items shall undergo the same System Administration review as the original contracts and agreements. This subparagraph shall not apply to options to renew or extend for specified term(s) that were part of a contract or agreement approved by the Board.

1.2 Faculty Matters. Faculty matters, including but not limited to appointment, reappointment, granting of tenure, changes in tenure or employment status, dual employment, development and other leaves, and termination.

1.3 Financial Matters.

1.31 Operating budgets (including Component employee salaries). Adjustments to the annual operation budgets shall be provided to the Board of Regents as an "informational item" on a semi-annual basis.

1.32 Proposals for issuance of bonds.

1.33 Capital leasing projects.

1.4 Mandatory Tuition and Fees, including but not limited to:

1.41 Designated Tuition, including for Dual Credit and Early College High School courses.

1.42 Board Authorized Tuition.

1.43 Medical Center Fee.

1.44 Student Center Fee.

1.45 Transportation Fee.

1.46 Student Services Fee.

1.47 Course Fee.

1.48 International Education Fee.

1.49 Records/Publications Fee.

1.4(10) Library Fee.

1.4(11) Advising Fee.

1.4(12) Computer/Technology Fee.

1.4(13) Institutional Services Fee.

1.4(14) Intercollegiate Athletics Fee.

1.4(15) Recerational Sports Fee.

1.4(16) Program Fee.

1.4(17) Distance Learning Fee.

1.4(18) Residence Hall and Meal Plan Rates.

1.4(19) Statutory Tuition. Statutory tuition for students concurrently enrolled at any component institution shall be waived in accordance with *Texas Education Code 54.216*.

1.5 Construction Matters.

1.51 Prior to submission to the Board for consideration and approval, the following items must be first submitted to and approved by the Vice Chancellor and Chief Financial Officer in consultation with the Chancellor:

(1) Component Comprehensive Facilities Master Plan and any amendments thereto.

(2) A Capital Improvements Program (CIP) encompassing the next six years of construction projects needed to preserve, enhance, and add to facilities assets in line with the approved Master Plan. A Component may amend its CIP at any time with Board approval. It is anticipated that the Board will review and approve a revised six-year CIP prior to the beginning of each Fiscal year.

1.52 Public Art Program. In accordance with *Government Code 444.029*, the Board of Regents directs that one percent of each new major construction project with a total project cost of $1 million or greater be allocated for the acquisition of works of public art.

1.521 "Public art," as used in this Paragraph, refers to any visual, pictorial, graphic or sculptural work of art that is commissioned or purchased for purposes of public display.

1.522 Public art commissioned under the Public Art Program shall not include university logos or branding and should not be predominantly a university color. Public art should retain a residual value as noted by the professional art community.

1.523 Projects that consist solely of improvements to campus infrastructure, athletic fields, greenhouses, parking facilities, utility plants, chillers and offices and facilities located off-campus are exempt from the one percent allocation for the acquisition of works of public art. The final decision as to whether a specific project is exempt from having to allocate one percent for the acquisition of works of public art shall be made by the Chancellor.

1.524 Guidelines for Acquisition. The Chancellor may promulgate guidelines or policies that address the following:

(1) The work's provenance, i.e., is it well known and can its authenticity or genuineness be clearly established;

(2) Whether the vendor or owner can establish clear legal ownership, title, and copyright to the work, as well as his or her right to sell it;

(3) Whether the artist, living or dead, has achieved recognition or renown through an exhibition history or a provenance of being in public or private collections or museums;

(4) The work's exhibition history or published references, if any;

(5) If the artist is not well known, whether the work has aesthetic value or historical significance;

(6) The contribution an individual work of art can be expected to make to the Component's educational mission, as well as to its existing collection of public art;

(7) The Component's ability to assure the proper long-term care of the individual work of public art, including security, conservation, and maintenance;

(8) Whether the work is in context with the proposed location or building;

(9) Such other factors as appropriate.

1.525 Director of Public Art. The Director of Public Art shall administer the Public Art Program.

1.526 Location of the Art. These works of public art shall be located at or near the site of the construction project or the funds may be aggregated, as described in *subparagraph 1.527*.

1.527 Aggregation of Funds. As permitted under the law and applicable to the source of funds, the funds may be aggregated and expended pursuant to a comprehensive art and aesthetic improvement plan.

1.528 Approval Process. A Committee on Public Art will be created and promulgate its operating procedures establishing the criteria for membership, duties, and terms of each committee member. A Component President shall select and/or approve a majority percentage of the committee members. Prior to execution of a contract for design and fabrication or acquisition of public art, the Public Art Director will bring recommendations from the Committee on Public Art to the President. The Public Art Director will bring the President's recommendation to the Chancellor for response.

1.529 Deaccessions. In order to increase the value of the Collection and recognizing the responsibility associated with acquiring and maintaining public art under the Public Art Program, non-binding recommendations for deaccessions will be made by the Director of Public Art to the Component President.

1.52(10) The Chancellor may adjust the one percent allocated for public art to align with the overall project.

1.53 New Major Construction Project. The term "new major construction project" for purposes of this *Rule* shall mean any new building or addition to an existing building with a total project cost of $1 million or more. The term "new major construction project" does not include projects that consist solely of improvements to campus infrastructure, athletic fields and stadiums, greenhouses, parking facilities, chill plants, utility plants, and offices and facilities located off-campus. The final decision as to whether a specific project is a "new major construction project" that triggers the requirements of this *Rule* shall be made by the Chancellor or his or her designee.

1.54 All agreements for construction, design and associated services for capital projects with a total project cost of $1 million or more shall utilize standard forms promulgated by the Vice Chancellor and Chief Financial Officer.

1.6 A Policies and Procedures Manual for Planning and Construction to govern the administration of the system-wide planning, design and construction program. These policies and procedures shall require compliance with all governing Federal and State laws and regulations and shall list all the current building codes that designs will be required to follow. The Board may direct changes to the Chancellor's published policies and procedures at its discretion.

1.7 Each construction project in excess of $8 million shall require specific Board approval at each of the following stages:

1.71 Provision for the project on the Master Plan;

1.72 Inclusion of the project on the CIP;

1.73 At the completion of the Design Development phase (prior to submission of the project to the Texas Higher Education Coordinating Board, when required under Coordinating Board Rules), and prior to starting construction of the project.

1.8 The Board delegates to the Chancellor and Presidents authority to enter into contracts for the design and construction of capital projects in accordance with the TSUS Policies and Procedures Manual for Planning and Construction. The Chancellor is authorized to promulgate policies, and otherwise conduct any and all activities necessary to make each

project ready for approval by the Board at the stages listed above. The Chancellor may further delegate his authority to appropriate System Administration staff and/or to the Component Presidents.

1.9 As soon as practicable after the time each project previously approved by the Board is completed, the Vice Chancellor and Chief Financial Officer shall submit a comprehensive Project Completion Report to the Board.

1.(10) Curriculum Matters.

1.(10)1 Twelfth and fourth class day reports.

1.(10)2 Course additions, deletions, and changes.

1.(10)3 Degree program additions, deletions, and changes.

1.(10)4 Academic department additions, deletions, and changes.

1.(10)5 Out-of-state course offerings.

1.(11) Admission Requirements/Standards. Student admissions standards, entrance requirements, and degree qualifications as determined, prescribed and recommended by each Component as specified in *Chapter VI, Paragraph 2* of these *Rules and Regulations.*

1.(12) Gift Acceptance.

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

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

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

1.(13) Real Property.

1.(13)1 Purchases, Exchanges, Leases, Sales or Easements. The Board retains authority to approve all purchases, exchanges, leases, or sales of real property, or the granting of easements on, Components' real property, except for ground leases of five (5) years or less and delegations stated in *Paragraph 1.(13)2*.

1.(13)2 Delegation of Authority re Real Property. The Chancellor is delegated authority to approve a purchase, exchange, lease, or sale of, or easement on, real property valued up to $3,000,000;

provided the Vice Chancellor and General Counsel has approved the operative documents as to legal form. The President of each Component is delegated authority to purchase, exchange, lease or sell real property valued up to $500,000; provided the Vice Chancellor and General Counsel has approved the operative documents as to legal form.

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

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

1.(16) Attorney General Requests. Requests for Attorney General Opinions pertaining to Component or System operations must be requested by the Board Chairman, unless, in the Chancellor's judgment, the best interests of the System or of a Component require immediate action. In such a case, the Chancellor shall notify the Board Chairman prior to, or as soon as practicable after filing the request, and share the same with the full Board. A Component President is authorized to request a *Public Information Act*[5] (*PIA*) opinion when such opinion relates exclusively to the President's Component. The Chancellor is authorized to request a *PIA* opinion when such opinion relates to the System Administration or to two or more Components. All *PIA* opinion requests shall be submitted through the Vice Chancellor and General Counsel, who shall designate a System *Public Information Act* Coordinator to work with Component *Public Information Act* Coordinators to manage submission of such requests.

1.(17) Athletics.

1.(17)1 The addition or reduction of university supported athletic teams.

1.(17)2 Changes in athletic association classification.

2. RELATIONSHIP BETWEEN SYSTEM AND COMPONENTS.

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

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

[5] *Government Code, Chapter 552*.

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

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

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

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

3. LEGAL AFFAIRS.

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

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

3.1 All motions for contracts and agreements (as defined in *Chapter III, Paragraphs 1.11* and *1.12*) must conform to the format requirements set forth in *Paragraphs 10.4* and *10.5* of this *Chapter*, and be reviewed by the Vice Chancellor and General Counsel and Vice Chancellor and Chief Financial Officer prior to submission to the Board of Regents. The subject contract or agreement, once authorized, must be reviewed and approved as required in *Paragraphs 10.4* and *10.5*. Other contracts and agreements involving the Components may be reviewed at the discretion of the Component or as requested by the Vice Chancellor and General Counsel. The Board may postpone consideration of a motion for a contract to a subsequent meeting to enable the Board an opportunity to review and discuss the contract document.

3.2 All legal opinions, in whatever form, submitted to the Board of Regents or to be issued for the review of or for reliance upon by parties outside the System or its Components.

3.3 All lawsuits brought against or for the System or a Component, together with the resolution or settlement thereof, shall be monitored and/or approved by the System Administration and Vice Chancellor and General Counsel.

3.4 Modifications of the student and employee handbooks and other policy-setting documents of the Component.

3.5 Personnel contracts.

3.6 Major disciplinary proceedings initiated against faculty, staff, or students which involve hearings or appeals shall be transmitted as soon as practicable. If an emergency situation exists, the Component shall inform the System Administration or Vice Chancellor and General Counsel of any action taken as soon as possible. Occurrence reports on any employee of a Component against whom disciplinary action is contemplated, exclusive of disciplinary warnings, shall be provided to such office as soon as possible.

3.7 Retention, supervision and monitoring of outside legal counsel.

3.8 Communications and interactions with the Attorney General's Office or other legal, contractual, or regulatory dealings with state, federal or private organizations, including but not necessarily limited to the NCAA, athletic conferences, and similar agencies.

3.9 Sting operations on campus to be conducted by Component or outside law enforcement personnel.

4. CONSTRUCTION PROCEDURES.

4.1 Component Master Plan Committees.

4.11 Composition. Each president shall establish and chair (or otherwise designate a chair for) a Component Master Plan Committee whose members shall be approved by the Chancellor or his/her designee. All Component constituents shall be represented, including but not necessarily limited to the Board of Regents, which shall be represented by a Regent to be appointed by the Chairman (*see Chapter I, Subparagraph 6.7*); the System Administration Office; Component academic, fiscal, student affairs, facilities/planning/construction representatives; faculty; staff; students; and members of the local community (for example, civic, governmental, business and industry leaders).

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

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

5. ACADEMIC AND HEALTH AFFAIRS PROCEDURES.

5.1 General Curriculum Policies. Each of the Components shall follow the curriculum policies of the Board of Regents and *Education Code, Sections 61.051* and *61.052.*

5.11 Approval of Requests. Each request for new courses, degree programs or departments requires approval by the Board of Regents and the Texas Higher Education Coordinating Board before being included in the catalogue.

5.12 Notice of Requests. All requests for curriculum changes must be submitted to the members of the Academic and Health Affairs Committee timely as determined by System Administration.

5.13 Nature of Requests. The nature of each request for a curriculum change and its justification shall be set out in a brief written statement, which shows the title and number of the course, the semester credit hour value, and the department in which the course or program will be offered.

5.14 Degree Programs. Each request for a new degree program shall include a request for the new courses which the program requires.

5.15 Graduate Programs. Each request for a graduate program shall be evaluated on the need of the program and qualifications of the faculty.

5.16 Deletions. Any course which has not been taught at anytime for the previous three years, as designated by the Coordinating Board, shall be dropped unless authorized for continuation by the Academic and Health Affairs Committee.

5.17 Committee Considerations. In passing upon requests for new courses, the Academic and Health Affairs Committee shall give consideration to the number of courses already available in that department and the enrollment in such courses.

5.18 Off-Campus Courses. Off-campus courses shall be offered only in accordance with guidelines approved by the Coordinating Board.

5.19 Short Courses. The Components shall not offer or allow a student to register for any short courses (any course taught over a period of less than three weeks) where the combined academic credit to be earned for all course work attempted would exceed an average of one semester credit hour per contact week.

5.1(10) Before any course previously authorized by the Board of Regents and the Coordinating Board can continue to be taught, the course

syllabus shall be reviewed once a year by the appropriate departmental chair or head.

5.1(11) Out-of-Country Courses or Programs. As a condition of being permitted to take or participate in Component approved out-of-country courses or programs, a student shall first execute a liability waiver and release of claims in favor of the Board of Regents, the Component, and their respective officers and employees.

5.2 Faculty Academic Workload Policy. Faculty have a fundamental role in fostering student success and advancing our Component institutions. Teaching, research, creative activity, and service are important elements of faculty academic workloads and will vary due to differences in each Component institution's mission.

5.2.1 Component Faculty Workload Policy. Each Component institution will develop a faculty workload policy for that Component consistent with general policies developed by the Texas Higher Education Coordinating Board and Texas Education Code 51.402. The policy will establish the faculty workload standards, provide guidelines for adjustments of workloads reflecting different kinds of instruction, and provide a schedule for awarding equivalent teaching load credit for the assignment of other academic duties.

5.2.2 Academic Workload Monitor. Each Component president shall designate the individual who will monitor workloads, prepare and review appropriate workload reports, and submit the reports to the president for approval.

5.2.3 Faculty Workload Reports. Within 30 days of the end of each academic year, the Vice Chancellor for Academic and Health Affairs will submit a report of faculty workloads to the Board as defined by Education Code 51.402(c).

5.3 Other Reports. The Academic and Health Affairs Committee shall examine reports on the academic well-being of the Component Institutions on a regular basis, including, but not limited to, student enrollment, student success, and Faculty workload.

5.4 Health Specific Policies. The Academic and Health Affairs Committee shall consider, report on, and make recommendations to the Board of Regents regarding:

5.41 Health related programs;

5.42 Sam Houston State University College of Medicine (COM):

5.421 Substantive aspects of policies and programs related to the academic and health philosophy and objectives of the COM;

5.422 Matters relating to medical education;

5.423 Proposed changes to the COM's mission statement;

5.424 Bylaws and rules and regulations of the medical staff; concerning mechanisms and controls for the achievement and maintenance of high standards of professional practices in and at the hospital, clinic, or patient-care facility, provided the Committee shall have first counseled with the Vice Chancellor for Academic and Health Affairs and submitted such bylaws, rules, regulations and standards for legal review prior to implementation per the System *Rules and Regulations*;

5.425 Matters affecting the library as well as the research, training and community service activities of the COM;

5.426 Effect of System Policies and *Rules and Regulations*. In the event of conflict between COM policies or the *Rules and Regulations*, the latter shall govern. By way of example and not limitation, capital improvement projects, acceptance of gifts, due process and other policies impacting faculty/staff and students, policies requiring review and approval of contracts, spending authority and audit matters shall remain subject to University and System policies and *Rules and Regulations*.

See *Chapter I, Subparagraph 6.3*, for the enabling authority of the Academic and Health Affairs Committee.

6. FINANCIAL AFFAIRS.

6.1 Insurance Coverage. The Texas State University System is authorized to purchase policies of insurance for the System and its Components as provided by this *Subparagraph* or for other purposes that may be specifically authorized by statute.

6.11 Blanket Fidelity Bonds. Blanket fidelity bonds shall be required to cover all employees of the Components under the governance of the Board. The System's Vice Chancellor and Chief Financial Officer is responsible for coordinating acquisition of the blanket fidelity bonds.

6.12 Director's and Officer's Liability Insurance. Director's and officer's liability insurance shall be required to cover all regents, directors and officers of the System and its Components. The System's Vice Chancellor and Chief Financial Officer is

responsible for coordinating acquisition of the Director's and Officer's coverage.

6.13 Intercollegiate Athletic Activities. The Components are authorized to purchase policies of insurance providing for the medical care, treatment, and services for injuries sustained by students while participating in or during supervised practices for intercollegiate athletic activities and to pay the premiums for such insurance out of the Component's auxiliary funds.

6.14 Automobile Liability and Physical Damage. The Components are authorized to purchase liability insurance to insure their administrative officers and other employees from liability arising from the use, operation, and maintenance of automobiles, trucks, tractors, power equipment, aircraft and motor boats or watercraft that are or may be used in the operation of the Component. The System's Vice Chancellor and Chief Financial Officer is responsible for coordinating acquisition of this coverage.

6.15 Property, Equipment Breakdown and Terrorism Insurance. The Components are authorized to purchase insurance for equipment, buildings, and facilities, as allowed by statute. The System's Vice Chancellor and Chief Financial Officer is responsible for coordinating acquisition of this coverage.

6.2 Debt Issuance Services

6.21 Bond Counsel. The Board shall employ bond counsel to advise and represent it in all matters pertaining to the issuance or proposed issuance of bonds of any type, the pledge of institutional credit, the assumption of deferred fiscal obligations, or the encumbrance of facilities of any Component under the governance of the Board. Bond counsel shall be employed by the Board upon such terms and conditions and under such fee arrangement as the appointing order of the Board shall designate.

6.22 Financial Advisor. The Board shall employ a financial advisor to provide financial advice and represent the Board in concert with bond counsel in all matters pertaining to the issuance or proposed issuance of bonds of any type, the pledge of institutional credit, the assumption of deferred fiscal obligations, and the encumbrance of facilities of any Components under the governance of the Board. The financial advisor shall be employed by the Board upon such terms and conditions and under such fee arrangement as the appointing order of the Board shall designate.

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

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

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

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

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

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

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

6.6 Local Bank Accounts. The Board delegates authority to the Chancellor for the System Administration and the Presidents for their respective Components to establish local bank accounts as deemed necessary. All local checks must be signed by at least one Component fiscal officer. A check signer with authorized facsimile signatures may be used on checks for less than $35,000. All checks in the amount of $35,000 and over shall have the original signature of two fiscal officers. Payments in the amount of $35,000 and over made by Automated Clearing House ("ACH") shall have the original signature of two fiscal officers on the voucher documentation supporting the payment.

6.61 Banks with an Automated Payment Fraud Prevention Process. If the Component's local bank provides an automated payment fraud prevention process (e.g., positive payee) for payments, the Component may use the electronic signature of one of its fiscal officers for processing checks. Before the payment is finalized by the bank, the Component shall utilize a fraud prevention process

to review and approve electronically both check and Automated Clearing House ("ACH") individual payments exceeding $50,000.

6.7 Financial Reports. All Component books, records, ledgers, and accounts shall be kept and maintained in conformity with recommendations of the State Auditor and the State Comptroller of Public Accounts, subject to approval of the Board. All proposed operating budgets and all biennial appropriation requests shall be examined, considered, and approved by the Board in open meetings.

6.71 Annual Operating Budget and Budget Summary. The President of each Component shall prepare and submit annually to the Board at its May or August meeting, as specified each year by the Board, a proposed budget for the operation of the Component for the next fiscal period. Copies of all proposed operating budgets shall be available to all members of the Board and the Chancellor at least eight calendar days in advance of such Board meeting. A budget summary is to be prepared and submitted in writing at least eight calendar days in advance of such Board meeting. The proposed operating budget and budget summary shall be in the form and detail recommended by the Chancellor with the approval of the Board, with all income estimated and itemized by fund, project, or department. A true and correct copy of the adopted operating budget of each Component shall be filed with the System Administration as a public document and a conformed copy delivered to the Chancellor and to all appropriate agencies by the President of the Component. Upon adoption of the operating budgets by the Board, all subsequent expenditures shall conform therewith.

6.72 Annual Financial Report. The Annual Financial Report shall be prepared in accordance with the provisions of the statutes, the *General Appropriations Act (Article III-Special Provisions* and *Article IX-General Provisions)*, as may be amended or superseded, and with the requirements established by the Comptroller of Public Accounts. The reports shall be approved by the chief fiscal officer and submitted to the System Administration for inclusion in the Consolidated System-wide Report. This submission should allow sufficient time for consolidation and subsequent submissions to the required State agencies within the time requirements as specified by State law.

6.73 Investment Report. A quarterly investment report will be prepared by each Component as prescribed by The Texas State University System Investment Policy for Operating Funds and Endowment Funds.

6.8 Purchase of Food, Refreshments, and Awards with Institutional Funds that are not otherwise restricted. The Board of Regents has determined that the expenditure of institutional funds that are not otherwise restricted for the purchase of food, refreshments, and achievement awards assists the Components in the System in carrying out their educational functions, promotes education in the State of Texas, and provides an important public

purpose. Accordingly, the Board authorizes each Component to use such funds for the purchase of food, refreshments, and achievement awards in accordance with the following guidelines. The President of each Component is delegated the authority to determine if specific expenditures for the purchase of food, refreshments, and achievement awards, using institutional funds, fall within the following objective guidelines established by the Board, and the Component President is authorized to implement this policy through appropriate directives and delegation.

6.81 Direct Purpose. Expenditures of Component funds that are not otherwise restricted for food, refreshments, and achievement awards must have one or more of the following guidelines as a direct purpose:

6.811 The recognition or promotion of academic achievement, athletic achievement, scholarship, and/or service to the Component or State.

6.812 The promotion of the communication of intellectual ideas among students, faculty and staff, administrators, and/or representatives of the public.

6.813 The support of student events and activities which are sponsored by the Component.

6.814 The recruitment of highly qualified students, faculty, and staff.

6.815 The promotion of the exchange of ideas with community leaders regarding the Component role in the community.

6.816 The assistance of the Regents, accrediting agencies, officials from other Components, and/or public officials in inspecting and/or reviewing facilities and programs.

6.817 The support of the Component's program of continuing education.

6.82 Specific Limitations. Specific guidelines and limitations on the expenditures for food, refreshments, and achievement awards from certain types of auxiliary funds are as follows:

6.821 Funds expended for continuing education conferences, seminars, and short courses must have been included in the continuing education registration fees assessed.

6.822 Funds expended which were received from Component concessions, student services fees, student organizations, and other auxiliary funds must have been previously budgeted.

6.823 Other locally generated income and auxiliary funds (not restricted to administrative, education and general, research, plant expansion, loan, endowment, or scholarship

programs) may be used to the extent that they have previously been budgeted.

6.824 No funds under the control of intercollegiate athletics may be used to purchase alcoholic beverages.

6.9 Facsimile Documents. Facsimiles (fax copies) of various authorizations, requests, invoices, and so forth are acceptable as documentation for financial transactions. Original documentation must be retained by the originating party and remain available for inspection/audit.

6.(10) Acceptance of Small Gifts. The Board welcomes contributions, both large and small, in aid of the various missions of the Component (see *Chapter III, Subparagraph 1.(12)*).

6.(11) Permanent and Quasi Endowments. The Board encourages creation of permanent endowments at System Components and authorizes each President to set the monetary levels required to establish such endowments. The establishment, abolishment and change to the corpus of a quasi-endowment is subject to Board approval.

6.(12) Travel Guidelines.

6.(12)1 In-State Travel. The Component Presidents, or their respective designees, are authorized to approve the in-state travel for personnel within their Components.

6.(12)2 Out-of-State Travel. The Component Presidents, or their respective designees, are authorized to approve out-of-state travel for personnel within their Components, provided the travel request is sought and approved by the President or the President's designee in advance of the travel.

6.(12)3 Out-of-Country Travel and Reimbursements. All out-of-country, official System or Component travel and reimbursements (excluding trips to Mexico, Canada, and U.S. territories) require advance approval by the Component President, or his or her designee. Component Presidents' out-of-country-travel and reimbursements require pre-approval by the Chancellor; and the Chancellor's out-of-country travel and reimbursements require pre-approval by the Board chair. Travel by and reimbursements for regents and system office employees require advance approval by the Chancellor or his or her designee.

6.(12)4 Official Business. The allocation of funds for individuals to attend out-of-state meetings shall be restricted to expenditures for official business, and the available funds shall be allocated so as to encourage maximum participation by the faculty and staff.

6.(12)5 Exceptions. Any exceptions to the above guidelines shall require prior approval of the Board of Regents.

6.(13) Disposal of Property and Equipment. Each Component President may dispose of property or equipment considered surplus because it is obsolete or useless for the Component's needs or purposes. Prior to external disposal in accordance with System and Component regulations, such items may be made available to other system Components.

6.(13)1 In accordance with Texas *Government Code, Section 2175.304(c)*, in disposing of such property, preference shall be given to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property in another manner. If more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the Component shall give preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a taxable wealth per student that entitles the district to an allotment of state funds under *Education Code, Chapter 42, Subchapter F*, or to the assistance organization designated by such a school district.

6.(13)2 Materials or equipment that can be used for instructional purposes may be transferred directly to a public school or school district, or an assistance organization designated by the school district, at a price or for other consideration to which the Component and the public school or school district or the assistance organization agree or for no consideration as the Component determines appropriate. Surplus instructional property and equipment must first be advertised through the Texas Higher Education Coordinating Board prior to disposition.

6.(13)3 If the Component is unable to dispose of the property as required by *Paragraph 6.(13)1*, the President shall have the authority to dispose of property or equipment with a book value of less than the capitalization value determined by the Comptroller's Office by means of sale on the basis of arm's length negotiation or competitive bid, or by transfer to another state agency or governmental sub-division at a mutually agreed value, or by donation (subject to written approval of the President) to an assistance organization certified by the Texas Facilities Commission.

6.(13)4 Sales of property or equipment with a book value equal to or more than the Comptroller's capitalization amount shall be made on a basis of competitive bids.

6.(13)5 Sales of property or equipment less than five years old and with a book value of $10,000 or more shall be approved in advance by the Chairman of the Finance and Audit Committee.

6.(13)6 Surplus computer equipment must be offered to the Texas Department of Corrections prior to disposition under *Subparagraphs 3, 4, or 5* above.

6.(13)7 Exchange and Disposal of Surplus Library Materials. To facilitate sharing of information resources and reduction of costs, Component libraries may exchange surplus library materials by:

(1) Offering such materials to local public school or other governmental libraries with preference given to low performing schools per Texas *Government Code, §2175.304*; and/or,

(2) Bartering with or exchanging materials with other system libraries; and/or,

(3) Making such materials available for exchange through TexShare or appropriate national library materials exchange lists, provided no other system library desires the materials; and/or,

(4) After thirty (30) days on TexShare or appropriate national library materials exchange lists, notifying "out-of-print" book dealers and negotiating sale or exchange of materials.

6.(14) Premiums from Vendors. Any monetary rebate or rebate in the form of a product or products extended by a vendor by virtue of the Component, its departments, employees, or students having directly or indirectly made purchases from the vendor or committing to make future purchases from the vendor is, if not accounted for as a reduction of expense, a gift to the Component and must be acknowledged as such by the Component's development office. Such monetary gifts shall be placed into a general Component development/enrichment fund to be used in the same manner as other gifts to the Component. Arrangements for the acceptance of product rebates or other forms of consideration must be approved by the appropriate Component Vice President or the President. Excluded from these procedures are the traditional complimentary books or materials used to evaluate textbook adoption decisions, and calendars, pens, coffee cups or other materials bearing the name or logo of the vendor which are intended as advertising.

6.(15) Indirect Cost Recovery. All grant proceeds shall be used to support and encourage research and grants (sponsored programs). Eligible uses include:

(a) conducting pre-grant feasibility studies;

(b) preparing competitive proposals for sponsored programs;

(c) providing carry-over funding for research efforts to provide continuity between externally-funded projects;

(d) supporting new researchers, pending external funding;

(e) purchasing capital equipment directly related to expanding the research capability of the institution;

(f) research or sponsored program administrative costs; and

(g) engaging in research programs of critical interest to the general welfare of the citizens of the state of Texas.

6.(16) Tax Identification Numbers. Student and other organizations are prohibited from utilizing the Component's federal employer or other tax identification numbers. The only organizations that may utilize such number(s) are those that derive their existence and their funding solely from the Component. Examples include, but are not limited to, residence hall associations and student governments. To quality for use of the tax number(s), the expenditures must be made from Component accounts and must have a business purpose related to the mission of the Component.

6.(17) Electronic Transactions. The Components of The Texas State University System are authorized to process business transactions through various electronic means. This includes, but is not limited to, direct deposit of wage and salary payments, in-coming and out-going wire transfers, ACH, credit/debit cards, and in-house processing. All electronic transactions must incorporate adequate security precautions and written approvals so as to protect the financial integrity of each Component. Signatory authority and documentation is to be consistent with that required for non-electronic transactions.

6.(18) Investment Policy. The Components of The Texas State University System may invest their funds in accordance with the Board approved Investment Policy, which is hereby incorporated into these *Rules and Regulations*.

(1) The authority to sign Corporate Resolutions on behalf of The Texas State University System and its Components, confirming the person or persons authorized to approve investment transactions is delegated to the Vice Chancellor and Chief Financial Officer. Requests to the Vice Chancellor and Chief Financial Officer to authorize Component investment officers to approve investment transactions shall be made by letter from the Component's President, in which the names of all persons being authorized to conduct such business for the Component are specified.

6.(19) Wireless Communication Services and Equipment. Each Component shall establish policies regulating employee availability, acquisition, and use of wireless communication services and equipment for official business. A Component:

(1) May not enter into any such agreement for the sole and personal benefit of any employee;

(2) May support an employee's wireless communications service costs for conducting official business by providing a monthly

payroll allowance or reimbursing the employee's business-related costs.

(3) Must discontinue support if: a) the employee discontinues his or her service plan; b) support exceeds the employee's costs for the plan; or, c) the employee's job duties no longer require wireless communication services; and,

(4) Shall inform each affected employee that he or she is solely responsible for any personal federal tax liability incurred as a result of his or her receipt of this benefit.

6.(20) Identity Theft Prevention Program ("Red Flags Rule"). Considering the size and complexity of its operations and accounting systems, as well as the nature and scope of its activities, each President shall assure that his or her Component develops an Identity Theft Prevention Program ("Program") that includes reasonable policies and procedures to detect, identify, mitigate, and prevent identity theft.

6.(20)1 Program Administrator. Each Component shall name a Program Administrator to be the primary administrator empowered to manage and execute all aspects of the Program, including the engagement of other institutional departments and personnel as necessary to detect, identify, mitigate, and prevent identity theft.

6.(20)2 Scope of Regulation. Each Component program shall minimally address the following areas, to the extent applicable to Component operations:

(1) Issuance of student identification cards that are part of a national debt card (such as Visa or MasterCard);

(2) Use of consumer reports or background checks;

(3) Handling of consumer accounts that involve multiple payments, including but not necessarily limited to the following:

(a) The federal Perkins Loan Program;

(b) The federal Family Education Loan Program;

(c) Institutional loan programs for students, faculty, or staff; or,

(d) Institutional tuition (or fee) installment payment plans (*Education Code, section 54.007*).

7. THE AUDIT FUNCTION.

7.1 Internal Audits. The Texas State University System (System) internal audit function, rules and policies shall comply with the mandatory elements of the *International Professional Practices Framework (Internal Auditing Standards),* as promulgated by The Institute of Internal Auditors and with the *Texas Government Code, Chapter 2102,* the *Texas Internal Audit Act.* The *Rules and Regulations,* as related to the audit function, shall serve as the Texas State University System Internal Audit Charter and the protocols under which the audit function shall operate. The Chief Audit Executive shall develop and maintain internal policies and procedures to comply with the audit function rules.

7.11 Definition of Internal Auditing. Internal auditing is an independent objective, assurance and consulting activity designed to add value to an organization; improve its operations; and otherwise assist accomplishment of its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of control, governance, and risk management processes.

7.12 Mission of Internal Audit. The mission of the internal auditing function is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight.

7.13 Independence and Objectivity of Auditors. Because of the critical nature of the internal audit function to the fiscal, administrative, and operational integrity of the System and its Components, the Chief Audit Executive and auditors under her or his direct or indirect supervision shall maintain their independence and objectivity of judgment. System auditors shall be ineligible to hold any other appointment or title, whether paid or unpaid, with the System or any of its Components.

7.14 Core Principles. The internal auditing function will adhere to the Core Principles as defined by the *International Professional Practices Framework.*

7.15 Code of Ethics. In addition to complying with the System Standards of Conduct (see *Chapter VIII*), System auditors are also expected to comply with the Code of Ethics outlined in the *International Professional Practices Framework.*

7.2 Board, Management and Internal Audit Responsibilities. The Board of Regents is primarily responsible for providing governance, guidance, and oversight of management within the System. Management is responsible for establishing and maintaining adequate internal controls to ensure achievement of System goals and objectives. The internal audit function is designed to provide positive support to the Board, System and Component administrations in the effective discharge of their respective responsibilities.

7.3 Reporting Structure. The Chief Audit Executive shall have sole responsibility for all System and Component audit functions and personnel, including, but not limited to, hiring and termination of audit staff, setting of salaries, and otherwise establishing terms and conditions of employment, and establishing the annual budget for the internal audit function, submitting the same to the Chancellor for approval. The Chief Audit Executive will timely advise the Chancellor regarding desired audit budget initiatives.

7.4 Audit Space. The Chair of the Finance and Audit Committee and the Chief Audit Executive will examine annually whether the provision of on-campus office spaces for the audit function creates a perceived conflict of interest or otherwise poses an impediment to the auditors' independence.

7.5 Access. The Chief Audit Executive and auditors under her or his direct or indirect supervision shall have full, free, and unrestricted access to all activities, records, property, infrastructure, and personnel of System Administration and the Components. Any review, whether planned or unplanned, announced or unannounced, may involve the gathering of evidence and testimony from individuals within or outside the System.

7.6 Handling of Information Gathered.

7.61 Documents. Documents and information obtained during any audit or review shall be safeguarded and otherwise handled in a professionally responsible and confidential manner in accordance with Texas Law.

7.62 Criminal or Serious Policy Violations. Information obtained during any audit or review that may involve criminal or serious policy violations shall be communicated to the Board of Regents, the Chancellor, the Component President, and, where appropriate or otherwise required by law, to Component and/or outside law enforcement or other oversight agencies.

7.7 Nature and Scope of Work. The internal audit activity will evaluate and contribute to the improvement of governance, risk management, and control processes, utilizing a systematic and disciplined approach.

7.71 Assurance Services (Audits). Assurance services involve the objective assessment of evidence to provide an independent opinion or conclusion regarding an entity, operation, function, process, system, or other subject matter. The nature and scope of the assurance engagement are determined by the internal auditor. Examples include, but are not limited to:

(1) Determining the adequacy, efficiency, and effectiveness of System and Component governance, control and risk management processes;

(2) Reviewing the reliability and integrity of financial and operating information;

(3) Reviewing the effectiveness of processes established to ensure compliance with policies, procedures, and applicable laws and regulations;

(4) Evaluating processes related to information systems and data security; the development and deployment of information systems; and the creation/modification of support infrastructures;

(5) Reviewing controls designed to safeguard System and Component assets;

(6) Evaluating economy and efficiency of resource utilization;

(7) Assessing achievement of results and outcomes as defined by established objectives, goals, and performance measures; and

(8) Performing follow-up work to ascertain and report on whether management has taken appropriate remedial action on internal and external audit findings or recommendations.

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

(1) Reviewing client-prepared responses to external audit reports;

(2) Training on fraud prevention, internal controls, and risk assessment processes;

(3) Analyzing client or third-party prepared data; and

(4) Scribing client-facilitated risk assessment exercises.

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

Fraud review results are not routinely disclosed or discussed with anyone other than those who have a legitimate need to know. In the event that a review substantiates fraudulent or irregular activities, the Chief Audit Executive or his/her designee will communicate results in accordance with provisions outlined in the *Internal Auditing Standards*. The Chief Audit Executive will communicate substantiated fraud or other irregularities committed by Texas State University System employees or contractors to the State Auditor's Office in accordance with Texas *Government Code §321.022*.

7.74 Emergency Appropriations. In the event a Component receives emergency appropriations from the state, the receipt, disbursement, and reporting of such appropriations will be subject to review by the Chief Audit Executive and Component auditors.

7.75 Intercollegiate Athletics. The internal audit function shall conduct periodic audits of intercollegiate athletics and related activities and report the same in accordance with processes established elsewhere in these *Rules and Regulations*.

7.76 Systemwide Compliance Program. The Systemwide compliance program is conducted under the auspices of the audit function and is designed to promote and encourage, through objective assessments and other activities, behavior and compliance with applicable policies, laws, and rules governing higher education.

7.8 Audit Risk Assessment and Audit and Compliance Plan Development.

7.81 Component Risk Assessment and Audit Plans. On an annual basis, each Component Director shall perform a risk assessment to be used in developing a Component Audit Plan for the subsequent fiscal year. The risk assessment process shall include input from Component management and utilize other procedures as may be necessary and reasonable to ensure that risks unique to the Component are considered and evaluated in the planning process. Component Audit Plans shall be submitted to the Chief Audit Executive for input and approval. Risk-based testing of contract administration shall be included in the Annual Audit Plan. An assessment as to whether the institution has adopted the rules and policies required by *Section 51.9337* of the Texas *Education Code* shall be performed annually.

7.82 System Administration Risk and Compliance Assessment and Audit Plan. The Chief Audit Executive shall solicit input from the Finance and Audit Committee, the Chancellor, and Vice Chancellors regarding the risk assessment to be used in developing an Audit and Compliance Plan for System Administration. Risk-based testing of contract administration shall be included in the annual Audit and Compliance Plan. An assessment as to whether System Administration has adopted the rules and policies required by *Section 51.9337* of the Texas *Education Code* shall be performed annually.

7.83 Consolidation of Audit Plans. The System Administration and Component Audit Plans shall be consolidated into a Systemwide Audit and Compliance Plan, which will be presented by the Chief Audit Executive to the Finance and Audit Committee for approval at the meeting to be held prior to the fourth quarter Board of Regents meeting. The Finance and Audit Committee shall include discussion of the status of current and subsequent year Audit Plans and submit its recommendations for approval to the full Board.

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

7.9 Audit and Compliance Reports.

7.91 Content. Consistent with provisions outlined in the *Internal Auditing Standards*, when formal audit and compliance reports are prepared, each report shall contain, at a minimum;

(1) A brief description of the scope and objectives of the project;

(2) A brief summary highlighting significant observations and/or recommendations;

(3) A summary of management responses and the total financial impact, if any, of recommendations (this summary shall be provided to the Finance and Audit Committee at each regular Board meeting); and

(4) A detailed discussion of the observations and recommendations, including management's written response as outlined in Paragraph 7.922.

Draft reports prepared by the Component Directors or the System Compliance Officer shall be submitted to the Chief Audit Executive for review and approval prior to submitting the draft reports to Component management.

7.92 Management Response.

7.921 Time for Response. Management must respond to each report within two weeks of the issuance of the report draft. Upon a showing of extenuating circumstances by management and the Component Director's

recommendation, the Chief Audit Executive may extend the time for response.

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

(1) A statement of agreement or disagreement with each recommendation.

(2) In cases where management agrees to implement a recommendation, the response shall include a summary of planned actions, a timetable for implementation, and the names and titles of the individuals responsible for ensuring implementation of the recommendation.

(3) In cases where management does not agree to implement a recommendation, the response shall include justification for disagreement. In such cases, the Chief Audit Executive may include follow-up comments, addressing the adequacy of the justification provided.

(4) The President of a Component, who has an audit involving circumstances described in *Paragraph 7.93*, of this *Chapter* shall include in his or her quarterly Board report the status of the recommendations/findings until they have been verified and resolved by the Component Director to the Chief Audit Executive's satisfaction.

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

(1) Fraud, theft, or misappropriation of System resources exceeding $50,000;

(2) Significant instances of non-compliance with Component and/or System rules, policies or procedures, internal controls, state or federal regulations or laws;

(3) Situations in which a member of the audit staff has experienced undue management pressure or delay; or,

(4) Other circumstances (or amounts), which, in the Chief Audit Executive's discretion, are material and substantial.

7.(10) Communications.

7.(10)1 Quarterly Status Reports. The Component Directors and System Compliance Officer shall forward a summary of the status of management's implementation of audit and compliance recommendations in a format and time prescribed by the Chief Audit Executive for inclusion in the quarterly Board agenda materials.

7.(10)2 Follow-Up Audit Work. The Chief Audit Executive shall prescribe a follow-up audit tracking system for use by internal audit employees to ensure timely follow-up on all audit recommendations.

7.(10)3 External Audit Communications. The Chief Audit Executive shall act as the System and Component general liaison with the State Auditor's Office. Each Component Director shall function as the on-site liaison between that Component and the State Auditor's Office or other external auditors. The Component Director shall notify the Chief Audit Executive of any external audit work, planned entrance and exit conferences, and significant audit issues promptly and timely upon notification by the State Auditor's Office or external auditors.

8. ELECTRONIC FINANCIAL TRANSACTIONS.

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

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

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

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

(2) Facilities shall be named or statues or monuments erected only for persons who have made outstanding or meritorious contributions

to the Component or the System or who have attained the highest distinction in their respective fields of endeavor.

(3) Facilities may be named or statues or monuments erected for entities that have supported the Component or the System in an exceptional or noteworthy way.

(4) When the naming of facilities or the erecting of statues or monuments is contemplated as part of a special private-fund development effort or campaign, the prospective contributor shall be informed that any naming is subject to Chancellor and Board approval. Any brochures or other communications, in whatever form, that advertise naming opportunities shall clearly state that all such namings are subject to Board approval.

(5) Naming facilities or erecting statues or monuments in honor of Component or System administrative officials, faculty, staff, or elected or appointed public officials shall normally occur only after the employment or public service has concluded.

(6) Nothing in this Rule shall be construed to require Board approval of informal or functional names or designations of Facilities that do not contain the name of a person or entity.

9.2 Naming of Academic Programs. The Board of Regents retains exclusive authority for naming academic programs at the Components. Such honorees shall normally have attained national or statewide stature in their fields of endeavor or otherwise significantly contributed to the development of a Component.

9.3 Building Plaques. Building plaques shall be provided on all new buildings, major landscaping projects, and major renovations where the function of the building changes or the building is substantially renovated. Existing building plaques shall remain in the case of renovation projects.

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

9.4 Removing Names of Component Facilities. The Board of Regents retains exclusive authority for the removal of names of buildings and other geographic areas on Component or System-owned or controlled property ("Facilities") when such names of buildings and other geographic areas were previously approved by the Board of Regents.

10. CONTRACTS, PURCHASES, AND AGREEMENTS.

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

10.2 Authority.

10.21 All contracts, purchases, and agreements in the amount of $1 million or more as defined in *Chapter III, Subparagraph 1.1*, shall be submitted to the Board of Regents for approval.

10.22 Contracts, purchases, and agreements in the amount of $500,000 or more, but less than $1 million, are subject to approval by the Chancellor. Additionally, the Chancellor retains authority to approve those contracts in the amount of $1 million or more excepted from Board approval under Subparagraph 1.11 of this Chapter.

10.23 All contracts and agreements submitted to the Board or Chancellor shall be submitted for review by the Vice Chancellor and Chief Financial Officer and the Vice Chancellor and General Counsel prior to submission to the Board or Chancellor. The Vice Chancellor and General Counsel shall advise the Board or Chancellor of any contract or agreement that may have adverse legal ramifications.

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

10.25 The President may delegate power to contract, purchase, or enter into agreements in amounts of $500,000 or less, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, to other employees of the Component. Such delegation must be specific and in writing to be

effective. The President will remain responsible for all such delegated contracts, purchases, and agreements, and for the proper administration of all grants and agreements funded by private individuals, governmental agencies, and foundations, regardless of delegation of power to contract, purchase, or enter into agreements.

10.26 The President shall not enter into any faculty or personnel contracts or agreements which are not subject to approval of the Board unless the authority for such action has been previously delegated to the President by the Board.

10.3 Contract Vendor Employee Background Check Policies. System Components shall engage in due diligence in awarding contracts to vendors of services, who will maintain permanent staffing on the campus.

10.31 Due Diligence on Vendors. Before awarding a contract to a vendor of services, who will permanently place employees on the campus where such employees will be working with or around students, the Component shall:

(1) During the bidding or negotiation process, notify prospective vendors, in writing, of the requirements of this paragraph;

(2) Secure credit and criminal background checks on the vendor's officers and managers dealing with or on the campus; and,

(3) Research prior or pending claims against the vendor (e.g., negligent hiring claims).

10.32 Content of Contracts. All contracts in which the vendor permanently places employees on the campus, working with or around students, shall include the following provisions and requirements:

(1) A general liability policy, providing primary coverage and naming the Component, System, Regents, and their employees as additional insureds;

(2) Indemnity and/or hold harmless clauses, protecting the Component, the System, Regents, and their employees from third party claims, caused, in whole or in part, by the actions or omissions of vendor, its employees, or other persons that the vendor causes to be on the campus;

(3) A representation by the vendor that it has conducted the following background checks on its officers, employees, or other persons it causes to be on the campus:

(a) Sex offender and criminal history databases where the above individuals will be placed permanently on the campus, working with or around students;

(b) Criminal history and credit history background checks where the above individuals will be handling money, informational technology, or other security-sensitive areas as determined by the President;

(4) That the President may require the vendor to remove any person from the campus that, in his or her judgment, poses a danger to health or safety;

(5) An "independent contractor" clause.

10.4 Form and Procedure. All contracts, purchases, and agreements covered by *Subparagraph 10.21* of this *Chapter* of these *Rules and Regulations* shall be entered into after each instrument is considered and approved in open meeting. Each instrument shall identify the Component and shall be recorded in the minutes of the meeting at which it is approved. The original or a copy of an executed instrument shall be retained pursuant to the Texas State Records Retention Schedule by the signatory Component as a record of the Board. Additional copies of any contract or agreements may be executed and delivered as the Board may determine.

Endorsement Format. All contracts approved by the Board of Regents shall be endorsed by the contractor, firm, or agency, by and through its authorized representatives. On behalf of the System, the contracts shall have signature blocks for the President or his or her designee; for the Vice Chancellor and Chief Financial Officer, indicating "Reviewed and Recommended," in the case of financial contracts; for the Vice Chancellor and General Counsel, indicating "Approved as to legal form"; and a line indicating "APPROVED by the Board of Regents of the Texas State University System on [date] at [place]," with an attestation signature block for the Chancellor, as Secretary to the Board.

10.5 Form of Motions for Contracts, Purchases and Agreements.

10.51 The Motion for any contract requiring Board approval shall contain the essential details of the transaction, including the following information:

(1) Parties to the Contract;

(2) Subject matter of the Contract;

(3) Duration of the Contract, including any potential Amendments extending the Contract; and,

(4) Price or not-to-exceed amount of the Contract, including any Amendments.

10.52 The Explanation to the Motion shall minimally include:

(1) The Subject Matter of the Contract, including the Purpose of the acquisition;

(2) The Source of Funding;

(3) A Statement that it has been or will be reviewed by the Vice Chancellor and Chief Financial Officer and the Vice Chancellor and General Counsel; and,

(4) A Statement verifying that the solicitation method and vendor selection process complies with applicable state laws, TSUS Rules and Regulations and the TSUS Contract Management Handbook.

10.6 Regental Prerogative. Any Regent who wishes to see and/or discuss a contract or contracts, may notify the Chancellor.

10.7 Contract Reporting

10.71 Component Institutions must comply with contract reporting requirements set forth in the TSUS Contract Management Handbook.

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

11. COPYRIGHT POLICY.

11.1 Policy Statement and Purpose.

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

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

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

11.2 Ownership of Copyright.

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

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

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

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

11.25 If a work is directed or contracted by the Component on a work for hire basis, then the Component owns the copyright.

11.26 Copyright ownership in works that are created pursuant to sponsored or third-party research funding, including works funded by grants, shall be determined in accordance with the terms of any agreement governing such funding. If any such agreement is silent as to ownership, then the Component shall own the copyright of such works

11.3 Distribution of Copyright Royalties.

11.31 Royalty income received by a Component through the sale, licensing, leasing, or use of copyrightable material in which a Component has a property interest may be shared with the creator(s) and the Component where the material originated. When such sharing occurs, any distribution which grants the creator more than fifty percent (50%) of royalties shall require approval of the Board of Regents. In the event of multiple creators, the proper distribution of the fifty percent (50%) creators' share shall be determined by the creators through a written agreement

11.32 In the event that a creator contributes a personal work to a Component, a written agreement accepting such contribution shall be executed. The terms of the agreement shall include a statement governing the division of royalties between the Component and the creator.

11.33 In cases of extramural funding, the terms of the funding agreement shall govern the division of any royalties that may result from commercialization of materials resulting therefrom. In the event that the funding agreement vests royalty rights in a Component, and does not provide any royalty share for the creator, the creator shall be entitled to the same proportionate share he or she would have received if the work had not been extramurally funded. Such a royalty payment to the creator, however, may not violate the terms of the funding agreement. Such share shall be a proportion of whatever share is owned by the Component under the terms of the funding agreement and this policy.

11.4 Revision of Materials. Materials owned by a Component under the terms of this policy shall not be altered or revised without providing the creator a reasonable opportunity to assume the responsibility for the revision. If the creator declines the opportunity to revise such material, the assignment of responsibility for the revision will be made by the President.

11.5 Withdrawal of Materials. Materials owned by a Component shall be withdrawn from use when the Component in consultation with the creator deems such use to be obsolete or inappropriate. No withdrawal or other discontinuance shall take place that would violate the terms of any licensing or other agreement relating to the materials.

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

11.7 Use of Copyrighted Software.

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

software license agreements, will be subject to disciplinary action up to and including termination of employment or expulsion from school.

11.71 The use of Component-owned or leased hardware or software is limited to Component business or instruction-related activities and incidental use (as authorized in TSUS Policy Guideline: Appropriate Use of Information Technology Resources [*Appendix A-2* of these *Rules and Regulations*]). Software that has not been purchased or licensed by the Component or for which the individual user cannot demonstrate or certify purchase or license for business or instructional use may not be loaded onto Component-owned or leased computers.

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

(1) Make only one backup copy of the software for archival purposes. If the underlying license is discontinued, this copy must be destroyed.

(2) Make a copy if it is required as an essential step (and NOT AS A MERE CONVENIENCE) in installing the software on the computing equipment.

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

(1) A user shall not install software on more than one computer, unless written evidence exists that the Component has purchased the software and the license gives the purchaser the right to install it. Should a user find such software, the user should immediately uninstall the software, remove the files from the computer, and destroy any media copies.

(2) Manuals, and other copyrighted materials, shall not be copied without specific, written permission of the publisher.

(3) Upgrading a software package does not release the software user from the terms of the original agreement, unless the software developer changes the license agreement. The old version of the software may not continue to be used on a different computer or be distributed for use to others.

(4) When concurrent use is allowed by the license agreement, the number of concurrent users of a local area network (LAN) version of purchased software may not exceed the number of licensed users.

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

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

(1) Guidelines for use of Component computer hardware and software;

(2) Computer and Software Use—User Education;

(3) Software Selection, Budgeting & Acquisition;

(4) Software Inventory, Audit & Copyright Compliance.

12. PATENT POLICY.

12.1 Purpose. The Components within The Texas State University System are dedicated to instruction, research, and public service. It is the policy of the Board of Regents of the System that each Component carry out its scholarly work in an open and free atmosphere and publish results obtained therefrom freely. The Board recognizes that patentable inventions and discoveries may arise on occasion in the course of scholarly work conducted by the employees and students of its Component. It is the purpose of this policy to insure that such inventions and discoveries are used and controlled in a fashion that maximizes their benefit to the public, the inventor, and the System.

12.2 Applicability. This policy shall apply to all persons employed by a Component of The Texas State University System and to anyone using facilities owned or under the supervision of a Component in connection with the development of a patentable product.

12.3 Condition of Employment and Enrollment. The patent policy of the Board of Regents, as amended from time to time, shall be deemed to be a part of the conditions of employment of every employee of each Component, including student employees, and of the conditions of enrollment and attendance by every student at each Component.

12.4 Ownership. Except as otherwise described in this policy, every invention or discovery or part thereof that results from research or other activities

carried out at a Component, or that is developed with the aid of the Component's facilities, staff, or through funds administered by the Component, shall be the property of the Component.

12.41 Student Ownership. Ownership of inventions or discoveries developed by students using Component facilities while engaging in coursework, including but not limited to capstone projects, senior design engineering projects, and maker space projects, may be owned by the student. The discovery or invention may not (1) be related to the student's roles, duties, or activities as an employee of a Component Institution, (2) list a co-inventor who is employed by a Component Institution, or (3) have been funded, in whole or in part, by a sponsored program, grant, or contract received by a Component Institution. The inventor(s) of any such invention or discovery must disclose to the appropriate Component office.

12.5 Inventions Made on Own Time. Inventions or discoveries made by Component employees or students in their personal time and not involving the use of Component facilities are the property of the inventor except in case of conflict with any other applicable agreement.

12.51 For purposes of this policy, an individual's "personal time" shall mean time other than that devoted to normal or assigned functions in teaching, extension, Component service, or direction or conduct of research on Component premises or utilizing "Component facilities".

12.52 The term "Component facilities" shall mean any facility, including equipment and material, available to the inventor as a direct result of the inventor's affiliation with the Component, and which would not be available to a non-Component individual on the same basis.

12.53 Persons who claim that inventions or discoveries are made on personal time and without the use of Component facilities have the responsibility to disclose all such inventions to the Component in accordance with the disclosure procedures applicable to inventions made on Component time or with the use of Component facilities. It shall be the responsibility of the inventor to demonstrate the basis of the inventor's claim that only personal time and no Component facilities were utilized.

12.54 If the inventor so desires, inventions or discoveries made on personal time and without the use of Component facilities may be assigned to the Component. Under this arrangement, the procedures will be the same as for inventions or discoveries made by Component personnel on Component time or with the use of Component facilities and materials.

12.6 Patents Arising From Government Sponsored Research. Patents on inventions or discoveries arising from research financed by federal, state, or local government may be controlled by the terms of the grants and contracts specified by the government agency sponsoring the research, or

by applicable law. In some cases, the sponsoring government agency may claim rights to patents resulting from the sponsored research.

12.61 Except as provided by law or by government-supported grants or contracts, or when no patent rights are claimed by the government agency, or when such rights are waived by the government, patents arising from government sponsored research are controlled by this Patent Policy.

12.62 When a patent arising out of research supported under government grants or contracts is owned by a Component that Component will, if requested, agree to a non-exclusive royalty-free license for use of such patent by the sponsoring government agency.

12.63 If such a patent is owned by the sponsoring government agency, the Component shall be free to use the invention so covered for its own scientific and educational purposes without payment of royalty or other charge, consistent with applicable law.

12.7 Patents Arising From Research Sponsored by Non-Governmental Entities. Each Component must ensure that its facilities and the results of the work of its employees are applied in a manner which best serves the interests of the public. Likewise, the legitimate interests of a private sponsor who provides financial or other support to research carried out through the Component must be considered.

12.71 Components should normally reserve the right to ownership of patents on inventions or discoveries arising out of research supported in whole or in part by grants or contracts with non-governmental organizations or firms. Contracts or agreements which are entered into between a Component and such organizations or firms should contain clauses setting forth such a reservation unless deviations therefrom are requested by the sponsor and approved by the Component consistent with the public interest.

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

12.8 Component Patent Committee. The President of each Component shall appoint a Component Patent Committee, consisting of no less than three members, one of whom shall be designated by the President to serve as chairman of the Committee. Such Committee shall perform the duties

delineated in this policy and such other duties as may be assigned to it by the President.

12.9 Duty to Disclose Discoveries and Inventions. All individuals covered by this policy have a duty to disclose in writing their inventions and discoveries promptly to the pertinent Component Patent Committee.

12.91 The duty to disclose arises as soon as the individual has reason to believe, based on his or her own knowledge or upon information supplied by others, that the invention or discovery may be patentable.

12.92 Certainty about patentability is not required before a disclosure should be made.

12.93 Individuals shall execute such declarations, assignments, or other documents as may be necessary in the course of invention evaluation, patent prosecution, or protection of patent rights, to insure that title in such inventions shall be held by the Component, where this policy indicates the Component shall hold title, or by such other parties as may be appropriate under the circumstances.

12.(10) Review By Patent Committee. The Component Patent Committee, after receiving disclosure of an invention, shall forward a recommendation to the Component President concerning such discovery. Such recommendation shall include: (1) the committee's opinion whether the Component has an ownership interest in the invention in question, or whether such invention was one developed on personal time and without use of Component facilities, and (2) whether and how the Component should assert and exploit its ownership interest in any invention or discovery.

12.(11) Waiver of Component Interests.

12.(11)1 If the Component President, after reviewing the recommendation of the Component Patent Committee, concludes that an invention or discovery is one developed on personal time and without the use of Component facilities, the President shall advise the inventor that the Component asserts no ownership interest in the invention or discovery.

12.(11)2 If the Component President, after reviewing the recommendation of the Component Patent Committee, concludes that a Component should not assert and exploit its interest in an invention developed on Component time or with the use of Component facilities, the inventor shall be notified that he is free to obtain and exploit a patent in his own right, and the Component shall not have any further rights, obligations or duties thereto except as it may specifically reserve.

12.(12) Patent Management. The President of each Component, or any person designated by him, is authorized to negotiate with reputable agencies or

firms to secure for each Component arrangements for the management of inventions and discoveries in which the Component decides to assert and exploit its ownership interest.

12.(12)1 Such management may include, but is not limited to, competent evaluation of invention and discovery disclosures, expeditious filing of applications for patents, and licensing and administration of patents.

12.(12)2 A Component is authorized to administer its own patent management and licensing program without the use of a patent management agent, if it determines that such arrangement may better serve Component and public interests.

12.(13) Licenses. The President of each Component may grant licenses for the use of inventions and discoveries in which the Component has an ownership interest.

12.(13)1 It is recognized under some circumstances the granting of an exclusive license may be appropriate because in the absence of such a condition some inventions or discoveries may not reach the market place for the public benefit.

12.(13)2 Normally, an exclusive license may be granted for a period not to exceed five years, although the President may grant a longer period of exclusive license when he deems it advisable.

12.(14) Royalties.

12.(14)1 In consideration of the disclosure and assignment of invention rights, the inventor, or the inventor's heirs, successors, and assigns, normally shall receive fifty percent (50%) of the net royalties or other net income arising from an invention or discovery, after a deduction for administrative and patent management costs. Administrative and patent management costs include, but are not limited to, the costs associated with the patenting, licensing, and protection of patent rights. The remaining fifty percent (50%) of net royalties shall accrue to the Component responsible for the invention or discovery. Special facts concerning an invention or discovery may warrant a different distribution of royalties.

12.(14)2 Agreements with respect to royalties shall be in writing and signed by the inventor and the President of the Component.

12.(14)3 Any agreement which grants the inventor more than fifty percent (50%) of the net royalties shall require approval of the Board of Regents.

12.(15) Disposition of Income. In the disposition of any net income accruing to a Component from patents, first consideration will be given to the promotion of research.

12.(16) Avoidance of Conflicts.

12.(16)1 Any employee covered by *Subparagraphs 12.(17)2, 12.(18)1,* or *12.(18)2* of this *Chapter* shall report in writing to the Component President, or his designee, the name of any business entity as referred to therein in which the person has an interest or for which the person serves as a director, officer, or employee and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be accumulated in the office of the President (or designee), who shall immediately thereafter file his report with the System Administration. Upon approval by the Board of Regents, the report shall be submitted to the Governor and Legislature as required by the *Texas Education Code, Section 51.912*).

12.(16)2 Prior to signing any consulting agreement that deals with patent rights, trade secrets, or the like, where any Component time, facilities, materials, or other resources are involved, Component personnel and students must bring the proposed agreement to the attention of the appropriate administrators of the Component and either obtain a waiver of Component rights or otherwise modify the consulting agreement to conform with this policy, as is determined by the Component in its discretion.

12.(17) Equity Interests.

12.(17)1 Owned by the Component. In agreements with business entities relating to rights in inventions and discoveries owned by a Component, the Component may receive equity interests as partial or total compensation for the rights conveyed.

12.(17)2 Owned by an Employee. In accordance with Texas *Education Code, Section 51.912*, and subject to review and approval by the President of a Component, employees of a Component who conceive, create, discover, invent, or develop inventions or discoveries may hold an equity interest in a business entity that has an agreement with the Component relating to the research, development, licensing or exploration of those discoveries or inventions.

12.(17)3 The Component may negotiate, but shall not be obligated to negotiate, an equity interest on behalf of any employee as a part of an agreement between the Component and a business entity relating to inventions and discoveries conceived, created, discovered, invented, or developed by the employee and owned by the Component.

12.(17)4 Dividend income and income from the sale or disposition of equity interests held by a Component pursuant to agreements relating to inventions and discoveries shall belong to the Component and shall be distributed in accordance with the

provisions of this policy. Dividend income and income from the sale or disposition of an equity interest held by a Component employee pursuant to an agreement between the Component and a business entity relating to rights in inventions and discoveries conceived, created, discovered, invented, or developed by such employee shall belong to the employee.

12.(18) Business/Management Participation.

12.(18)1 By Employees. Any Component employee who conceives, creates, discovers, invents, or develops an invention or discovery shall not serve as a member of the board of directors or other governing board, or as an officer or an employee (other than as a consultant in accordance with Component and Regent policies and regulations) of a business entity that has an agreement with the Component relating to the research, development, licensing, or exploitation of that invention or discovery without prior review and approval by the President of the Component.

12.(18)2 For the Component. When requested and authorized by the Board of Regents, an employee may serve on behalf of the Board as a member of the board of directors or other governing board of a business entity that has an agreement with a Component relating to the research, development, licensing, or exploitation of inventions and discoveries.

13. ABANDONED AND UNCLAIMED PERSONAL PROPERTY.

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

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

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

14. INDEMNIFICATION OF REGENTS AND EMPLOYEES.

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

15. REPORTING OF WRONGFUL OR FRAUDULENT CONDUCT.

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

16. USE OF AUTHORITY.

Power to Authorize Expenditures Out of System Funds. No expenditure from funds under the control of the Board or Component shall be made, no debt or obligation shall be incurred, and no promise shall be made in the name of the System, any of its Components, or of the Board by any member of the respective faculties or staffs of the System or any of its Components except:

16.1 In accordance with general or special budgetary apportionments authorized in advance by the Board and entered into its minutes; or,

16.2 In accordance with authority specifically vested by the Board in a committee of the Board; or,

16.3 In accordance with authority to act for the Board when it is so specifically vested in the Component President and with the monetary limitations as set forth by these *Rules and Regulations* or by special action by the Board.

16.4 It shall be the duty of the several Component administrative officers to see that all claims for payments of items not authorized as indicated above are refused and returned unpaid.

16.5 There shall be no sale to or purchase from the System or its Components by the Component President, unless purchased as surplus property and/or at a duly authorized public auction. This *Subparagraph* shall not apply to goods and services which the system or its Component universities make available for purchase by faculty and staff or on the open market by the general public.

17. "BEST VALUE" PROCUREMENT.

Section 51.9335(a)-(e) of the *Texas Education Code* authorizes institutions of higher education to use "best value" procurement process which provide greater autonomy and flexibility in the procurement of goods and services.

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

18. HISTORICALLY UNDERUTILIZED BUSINESSES.

18.1 Purpose. The Texas State University System Board of Regents promotes full and equal opportunity for all businesses to provide the goods and services needed to support the mission, administrative, and logistical operations of System Components. The Board commits its Components to a good faith effort to increase purchases and contract awards with Historically Underutilized Businesses (HUB) firms through race, ethnic, and gender neutral means and consistent with the state's goals for HUB participation and overall social advancement and economic prosperity.

18.2 Scope. This policy applies to acquisition of commodities, professional and other services, and construction by System Administration and Component Institutions, including auxiliary enterprises, regardless of funding source (treasury or non-treasury funds).

18.3 Incorporation by Reference. The Historically Underutilized Business Program Rules promulgated by the Comptroller of Public Accounts are adopted into and shall become part of these *Rules and Regulations*.

19. INFORMATION TECHNOLOGY "IT".

19.1 Purpose. In order to assure that System and Component institutions' information resources are effectively and properly managed; to protect these assets against unauthorized access, disclosure, modification or destruction; and to assure the availability, integrity, and confidentiality of information, each Component institution shall develop and disseminate institutional policy statements consistent with the policies as referenced in *Subparagraph 19.2* (*see Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C (TAC 202)).*

19.2 Information Technology Policies. Information Technology Policies for the Texas State University System and Component institutions (TSUS IT Policies) shall be made available on the System's website. Each Component institution may adopt the TSUS IT policy statements as is or adapt the language and format to suit their institution. The TSUS IT Policies are to be considered the minimum policy requirement for each Component institution.

19.3 Electronic and Information Resource Accessibility. Each Component shall develop policies and mechanisms, providing for Electronic and Information Resource Accessibility including compliance; exceptions; training; Electronic Information Resources Accessibility Coordinator (EIRAC) designee; and, definitions (*see Appendix A-15*).

19.4 Central Review and Oversight. Each Component shall develop policies and mechanisms, providing for Information Resources Manager (IRM) and Information Security Officer (ISO) review and oversight, including the authorization to reject, of all Component information technology acquisitions, including, but not limited to, computing hardware, software, and hosting services, regardless of source of funds.

19.5 Authority and Responsibility. Questions related to information technology policies at any component institution should be addressed to the IRM at the component institution.

20. SMOKING AND TOBACCO POLICY.

20.1 Purpose. The Texas State University System is committed to providing a safe, healthy, and pleasant environment for its faculty, staff, and students. To that end, each Component shall develop a comprehensive institutional policy creating a smoke-free and tobacco-free environment on the premises of the Component.

20.2 Scope. The policy shall apply to all faculty, staff, students, employees of contractors, and visitors of the Component and shall address the use of tobacco products, including smoke and smokeless tobacco, in Component owned or leased premises.

21. INTERCOLLEGIATE ATHLETICS.

21.1 Statement of Values. The Texas State University System Board of Regents believes that participation in athletics is an appropriate part of the academic experience and that a well-balanced intercollegiate athletics program in which both men and women enjoy equal opportunity to participate is likewise of institutional benefit. To this end, the Board is committed to assuring integrity and accountability in the administration of such programs while fostering careful institutional oversight of day-to-day operations.

21.2 General Principles. Consistently with the Association of Governing Boards of Colleges and Universities' 2007 *Statement on Board Accountability*, the Board adopts the following general principles:

(1) Individual Missions. Each Component's educational values, practices, and missions shall guide the decision to establish intercollegiate athletics programs and the standards by which they are conducted.

(2) Presidential Authority. Responsibility and authority for the administration of athletics departments, including all basic policies, personnel and finances are vested in the Presidents.

(3) Equal Treatment. Every student athlete shall receive fair and equitable treatment within the letter and spirit of *Title IX* of the *Education Amendments of 1972.*

(4) Funding Oversight. All funds raised and expended in connection with intercollegiate athletics programs shall be accounted for through the Component's accounting system. Athletics department budgets shall be developed and monitored in accordance with the Component's general budgeting procedures.

(5) Non-University Income. Income from non-Component sources for coaches and athletics administrators is subject to presidential review and approval. When the income involves Component's facilities, trade or service names or marks, the arrangement shall be memorialized in a written contract.

(6) Notification of Possible Major Infraction. Each Component shall have established processes to review information concerning potential major violations of NCAA or NJCAA legislation. One step in that process shall be the immediate notification by the Component to the Chancellor and the Vice Chancellor and General Counsel of the Component's receipt of a Notice of Inquiry from NCAA or NCJAA enforcement staff concerning a possible major violation since that could result in corrective, punitive, or disciplinary actions by the NCAA or NJCAA, the athletic conference, or the Component itself. The notification shall include the nature of the alleged major infraction; the NCAA, NJCAA, conference, or institutional bylaw involved; the plan for investigating the allegation; and a corrective action plan. The Chancellor shall timely notify the Board as appropriate.

(7) Audit. See *Subparagraph 7.75* of this *Chapter*.

22. SEXUAL MISCONDUCT POLICY.

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

23. CHILD ABUSE REPORTING POLICY AND TRAINING.

23.1 Purpose. The Texas State University System is committed to maintaining a supportive and safe educational setting, one that enhances the well-being of all members of its community and strives to create a secure environment for children.

23.2 Policy. Each Component shall adopt an institutional policy that governs: (i) the reporting of child abuse and neglect; and, (ii) training to detect the same (see, respectively, *Chapter 261, Family Code* and *Education Code, Section 51.9761.* The policy shall include the following provisions:

(1) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report to:

(a) any local or state law enforcement agency;

(b) the Department of Family and Protective Services; or

(c) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

(2) If a professional (as defined by *Section 261.101, Family Code*) has cause to believe that a child has been or may be abused or neglected (as defined by *Section 261.001* or *261.401, Family Code*) or that a child is a victim of an offense under *Section 21.11, Penal Code,* the professional shall make a report not later than the 48th hour after he or she first suspects abuse, neglect or other infraction. A professional may not delegate to or rely on another person to make the report.

(3) A person or professional shall make a report in the manner required by this Paragraph if he or she has cause to believe that an adult was a victim of abuse or neglect and determines, in good faith, that disclosure of the information is necessary to protect the health and safety of another child or an elderly person (as defined in *48.002, Human Resources Code*):

(4) The requirement to report applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

23.3 Training. Each Component institution shall provide training for employees who are professionals that includes:

(1) techniques for reducing a child's risk of sexual abuse or other maltreatment;

(2) factors indicating a child is at risk for sexual abuse or other maltreatment;

(3) the warning signs and symptoms associated with sexual abuse or other maltreatment and recognition of those signs and symptoms; and

(4) the requirements and procedures for reporting suspected sexual abuse or other maltreatment.

24. ACTIVE ATTACK RESPONSE AND TRAINING PLAN.

24.1 Purpose. The Texas State University System is committed to providing a safe environment for its faculty, staff and students. As active attack situations pose an unfortunate, ongoing threat to our campus communities, each System Component shall develop an Active Attack Response and Training Plan that addresses preparedness, response, management, mitigation, infrastructure and recovery after an active attack situation. At a minimum, the plan should be consistent with requirements outlined in Texas Education Code, Section 51.217(b) and include the following characteristics:

(1) Input from and collaboration with appropriate local emergency management personnel;

(2) A training program for personnel charged with emergency management and response;

(3) A program for conducting annual, mandatory training, exercises and drills;

(4) Communications and awareness Components, designed to reach a maximum number of faculty, staff and students;

(5) Prevention Components that address mental health, threat assessment and training; and,

(6) A requirement that compliance with the Plan shall be monitored by a System compliance officer and reported biennially to the Board through the Chancellor or his or her designee.

24.2 Scope. Each Component's policy shall apply to all faculty, staff, students and, if assigned to work on the campus permanently, employees of contractors.

College of Osteopathic Medicine
SAM HOUSTON STATE UNIVERSITY

Element 1.4: Governance and Program Policies

- **1.4-2e Supporting Documentation**
  - Policies for Ethics, Incorporating the AOA Code of Ethics
    - SHSU-COM Ethics Policy including the AOA Code of Ethics – link
    - TSUS Rules and Regulations Chapter VIII – link

Sam Houston State University

1. GENERAL

As a part of the Texas State University System (TSUS), the SHSU-COM follows the TSUS Rules and Regulations Chapter VIII. Ethics Policy, and the Texas Government Code, Title 5 after which the TSUS policy is modeled. In addition, SHSU-COM has adopted the Code of Ethics established by the American Osteopathic Association (AOA) formulated to guide its member physicians in their professional lives.

2. AOA CODE OF ETHICS[1]

The standards presented are designed to address the osteopathic physician's ethical and professional responsibilities to patients, to society, to the AOA, to others involved in health care and to self. Further, the American Osteopathic Association has adopted the position that physicians should play a major role in the development and instruction of medical ethics.

Section 1. The physician shall keep in confidence whatever she/he may learn about a patient in the discharge of professional duties. The physician shall divulge information only when required by law or when authorized by the patient.

Section 2. The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

Section 3. A physician-patient relationship must be founded on mutual trust, cooperation and respect. The patient, therefore must have complete freedom to choose her/his physician. The physician must have complete freedom to choose patients who she/he will serve. However, the physician should not refuse to accept patients for reasons of discrimination, including, but not limited to, the patient's race, creed, color, sex, national origin, sexual orientation, gender identity, or handicap. In emergencies, a physician should make her/his services available.

Section 4. A physician is never justified in abandoning a patient. The physician shall give due notice to a patient or to those responsible for the patient's care when she/he withdraws from the case so that another physician may be engaged.

[1] The AOA Code of Ethics state herein is modified only to conform with Texas law as appropriate for state agencies and the TSUS Rules and Regulations.

Section 5. A physician shall practice in accordance with the body of systematized and scientific knowledge related to the healing arts. A physician shall maintain competence in such systematized and scientific knowledge through study and clinical applications.

Section 6. The osteopathic medical profession has an obligation to society to maintain its high standards and, therefore, to continuously regulate itself. A substantial part of such regulation is due to the efforts and influence of the recognized local, state and national associations representing the osteopathic medical profession. A physician should maintain membership in and actively support such associations and abide by their rules and regulations.

Section 7. Under the law a physician may advertise, but no physician shall advertise or solicit patients directly or indirectly through the use of matters or activities, which are false or misleading.

Section 8. A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless she/he is actually licensed on the basis of that degree in the state in which she/he practices. A physician shall designate her/his osteopathic school of practice in all professional uses of her/his name. Indications of specialty practice, membership in professional societies, and related matters shall be governed by rules promulgated by the American Osteopathic Association.

Section 9. A physician should not hesitate to seek consultation whenever she/he believes it advisable for the care of the patient.

Section 10. In any dispute between or among physicians involving ethical or organizational matters, the matter in controversy should first be referred to the appropriate bodies of the profession with authority to review such disputes.

Section 11. In any dispute between or among physicians regarding the diagnosis and treatment of a patient, the attending physician has the responsibility for final decisions, consistent with any applicable osteopathic hospital rules or regulations.

Section 12. Any fee charged by a physician shall compensate the physician for services actually rendered. There shall be no division of professional fees for referrals of patients.

Section 13. A physician shall respect the law. When necessary a physician shall attempt to help to formulate the law by all proper means in order to improve patient care and public health.

Section 14. In addition to adhering to the foregoing ethical standards, a physician shall recognize a responsibility to participate in community activities and services.

Section 15. It is considered sexual misconduct for a physician to have sexual contact with any current patient whom the physician-patient relationship currently exists.

Section 16. Sexual harassment by a physician is considered unethical. This policy adopts the definition of sexual harassment as defined in the Texas State University System Sexual Misconduct Policy.

Section 17. From time to time, industry may provide some AOA members with gifts as an inducement to use their products or services. Members who use these products and services as a result of these gifts, rather than simply for the betterment of their patients and the improvement of the care rendered in their practices, shall be considered to have acted in an unethical manner.

Section 18. A physician shall not intentionally misrepresent himself/herself or his/her research work in any way.

Section 19. When participating in research, a physician shall follow the current laws, regulations and standards of the United States or, if the research is conducted outside the United States, the laws, regulations and standards applicable to research in the nation where the research is conducted. This standard shall apply for physician involvement in research at any level and degree of responsibility, including, but not limited to, research, design, funding, participation either as examining and/or treating provider, supervision of other staff in their research, analysis of data and publication of results in any form for any purpose.

3. COVERAGE
   This policy covers all faculty and professional employees at SHSU-COM and affiliated clinical sites to ensure timely review and updating of credentials to determine their qualifications are appropriate.

THE TEXAS STATE UNIVERSITY SYSTEM

RULES AND REGULATIONS

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

Adopted September 1, 1980
Amended November 18, 2022

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

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

1.1 Anti-Fraud Statement. The Texas State University System does not tolerate any type of fraud, waste, or abuse. The System is committed to ensuring that our organization maintains the highest standards of ethical conduct and integrity throughout all aspects of its operations. As public servants, System and Component faculty and staff are guardians of the resources entrusted to them and have a responsibility to students, parents, alumni, donors, and the citizens of Texas to ensure that those resources are used efficiently and for their intended purposes. The System does not tolerate any form of retaliation against individuals providing information concerning suspected fraud, material waste, abuse, or other unethical behavior.

1.2 Chancellor and President Responsibilities. If the Chancellor has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the Chair of the Finance and Audit Committee and to the Chief Audit Executive. If a President has such reasonable cause, he or she shall report the same to the Chancellor and to the Chief Audit Executive.

1.3 Employee Responsibility. If an employee has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the Component Internal Audit Director; to the System Chief Audit Executive; to *EthicsPoint*, the System's internet-based fraud reporting hotline; or to the State Auditor's Office.

1.4 *EthicsPoint* Fraud Reporting Hotline. The System has established, through a private contractor, an internet-based reporting hotline, *EthicsPoint*, to provide individuals with a confidential avenue for reporting concerns about potential waste, fraud, and abuse of resources, the lack of compliance with laws and regulations, or violations of the System's *Code of Ethics*. Reports filed through *EthicsPoint* are forwarded to and investigated by individuals who are independent of System management. *EthicsPoint* can be accessed through the Components' and the System Office's webpages. Except in rare circumstances, reports received through *EthicsPoint* will not be investigated if established complaint processes at the campus-level have not been utilized. The *Texas Public*

Information Act shall govern rules on disclosure of documents and records.

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

2. BOARD EXPENSES AND ALLOWANCES.

2.1 Transportation, Meals, and Lodging.

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

(1) reimbursement of expenses for meals and lodging as provided by law; and

(2) reimbursement for transportation and incidental expenses at rates specified in the General Appropriations Act for State employees.

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

(1) Actual costs of lodging and meals for in-state travel, except that such reimbursements may not exceed the current maximum established by law;

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

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

2.3 Improper Travel Reimbursement. When a Regent or an employee engages in travel for which compensation is to be received from any source other than System funds, he or she shall not submit a claim under the provisions

of The Texas State University System travel regulations. A Regent or an employee who receives an overpayment for a travel expense shall reimburse The Texas State University System for the overpayment.

2.4 Travel Bonus (Frequent Flyer) Awards. Regents or employees who earn credit with airlines, hotels, car rental companies, etc. for official travel are not required to account for such credit or to use such for official travel only.

2.5 Official Travel by Spouses and Relatives of Regents or Employees. Spouses and other relatives of Regents or employees may qualify to have travel expenses paid by The Texas State University System if their presence at a function or on a trip is for an official purpose benefiting The Texas State University System and/or the State of Texas. In making a determination of whether the presence of a spouse or relative is for an official purpose, the factors to be considered are the nature and duties of the Regent's or employee's office, the traditional role, if any, of the spouse or relative, the purpose of the particular trip, and the spouse or relative's connection with that purpose.

2.6 Foreign Travel. A request by a Regent, System President, or System employee for travel outside of the United States, excluding Mexico or Canada, requires prior approval by the Chancellor.

2.7 Reimbursement of Expenses. Verified expense accounts shall be submitted to the Chancellor or appropriate Component official for processing and the same shall be subject to review and control of the Board.

3. CONFLICTS OF INTEREST.

3.1 Ethics Commission Financial Disclosure Statements. Each Regent, the Chancellor and the Presidents of the Components shall file a financial statement with the Texas Ethics Commission not later than April 30, each year in which such Regent, Chancellor or President has served in such capacity for any portion of the immediately preceding twelve (12) months on forms prescribed by the commission. Within thirty days of filing with the Texas Ethics Commission, each Regent and President shall notify the Vice Chancellor and General Counsel of their compliance with this provision.

3.2 Contracts Prohibited. Except as provided below, neither the System nor a Component thereof may enter into a contract in which a Regent or the Regent's spouse has a direct or indirect pecuniary interest.

3.3 Recusal Required for Certain Types of Contracts Involving Pecuniary Interests. If a Regent is a stockholder or director of a corporation seeking to enter into a contract with the System or a Component thereof, but owns or has a beneficial interest in no more than one percent of the corporation's outstanding capital stock, the contract may be executed so long as it is an affiliation agreement, license (including a license of intellectual property),

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

3.4 Regent Disclosure of Personal or Private Financial Interest. A Regent who has a personal or private financial interest in a measure, proposal, or decision pending before the Board (other than a contract covered by *Subparagraph 3.3* of this *Chapter*) shall disclose such interest in a public meeting of the Board, and such disclosure shall be entered in the minutes of the Board. The Board may consider such measure, proposal, or decision, but any Regent having such an interest shall not vote or otherwise participate in such deliberation or action of the Board. This procedure may not be utilized for contracts covered by *Subparagraph 3.3* of this *Chapter*.

3.5 Potential Conflict of Interest of Regent. As soon as possible after becoming aware of any potential conflict of interest, a Regent shall disclose such fact and any other relevant information to the Board and to the Vice Chancellor and General Counsel. In such an event, the Vice Chancellor and General Counsel shall review the potential conflict and issue an opinion.

3.6 Contracts with Nonprofit Corporations. The Board is not precluded from entering into contracts or other transactions with nonprofit corporations merely because a Regent also serves on the board of or is a member of the nonprofit corporation. Other factors and interests, such as pecuniary or personal interests, may require disclosure and recusal, as described above.

3.7 Disclosure of Interest in Property to be Acquired. Regents, the Chancellor and the President of the Component are required to disclose any legal or equitable interest in property that is to be acquired with public funds. Such disclosure must be made at least 10 days before the date the property is to be acquired by purchase or condemnation.

4. CODE OF ETHICS.

4.1 Prohibited Actions of Regents. A Member of the Board of Regents shall not:

(1) Accept or solicit any gift, favor, or service that might reasonably tend to influence the Regent in the discharge of official duties or that the Regent knows or should know is being offered with the intent to influence the Regent's official conduct;

(2) Accept employment or engage in a business or professional activity the Regent might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of his or her official position or otherwise withhold from the Board information in his or her possession that might

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

(3) Accept other appointments or any employment or compensation that could reasonably be expected to impair the Regent's independence of judgment in the performance of official duties;

(4) By his or her actions or through his or her silence, allow the Board to consider any matter in which he or she will benefit, financially or otherwise, whether directly or indirectly. Further, it is a violation of this *Rule* if the benefit inures to a third party or parties, in whose welfare the Regent is interested. The Regent shall refrain from commenting on the matter to the Board, its regents or employees; and leave the room while the Board deliberates and votes on the matter;

(5) Make personal investments that could reasonably be expected to create a substantial conflict between the Regent's private interest and the public interest;

(6) Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed official duties in favor of another; or,

(7) Commit acts of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; or, knowingly authorizing improper claims.

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

(1) Accept or solicit any gift, favor or service that might reasonably tend to influence the employee in the discharge of official duties;

(2) Use an official position to secure special privileges or exemptions for the employee or others, except as may be otherwise authorized by law;

(3) Accept employment or engage in any business or professional activity which might reasonably be expected to require or induce the employee to disclose confidential information acquired by reason of such employee's official position or impair the employee's independence of judgment in the performance of public duties;

(4) Disclose confidential information gained by reason of one's employment, or otherwise use such information for personal gain or benefit;

(5) Transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member or in which the employee owns a controlling interest unless the Board of Regents has reviewed the matter and determined no conflict of interest exists;

(6) Make personal investments in any enterprise which could reasonably be expected to create a substantial conflict between the private interests of the employee and the public interests of his or her employer;

(7) Receive any compensation for services as a state employee from any source other than the State of Texas, except as otherwise permitted by law;

(8) Commit any act of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; knowingly authorizing improper claims; or,

(9) Engage in any form of sexual harassment or racial harassment as defined in these Rules and Regulations.

5. BENEFITS, GIFTS AND HONORARIA.

5.1 Definitions. A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a Regent or an employee has a direct and substantial interest.

5.2 Bribery. A Regent or an employee shall not solicit, offer, or accept any benefit in exchange for his or her decision, opinion, recommendation, vote, or other exercise of official power or discretion.

5.3 Prohibited Benefits. A Regent or an employee shall not solicit, accept, or agree to accept any benefit from any person the Regent or employee knows is interested in or is likely to become interested in any contract, purchase, payment, claim, or transaction involving the Regent's or employee's discretion. This prohibition does not apply to (1) gifts or other benefits conferred on account of kinship or a personal, professional, or business relationship independent of a Regent's or employee's status, respectively, as a member of the Board or as an employee; (2) a fee prescribed by law to be received by a Regent or employee or any other benefit to which he or she is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a member of the Board or an employee of the System or a Component; (3) a gift, award, or memento that is received from a lobbyist who is required to make reports under Government Code, Chapter 305 and, (4) items having a value of less than

$50, not including cash or negotiable instruments. A Regent or an employee who receives an unsolicited benefit that he or she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

5.4 Food, Lodging, Transportation, and Entertainment Received as a Guest. A Regent or employee may accept food, lodging, transportation, or entertainment from persons or entities he or she knows or reasonably should know are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the Board's discretion only if the Regent or employee is a "guest" as defined by Texas law. A Regent or an employee is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the Regent or employee. Regents, the Chancellor and the Presidents of Components are required to report any such benefits valued at over $250 on their annual disclosure statements filed with the Texas Ethics Commission.

5.5 Gifts or Benefits from Friends, Relatives, and Associates. Regents and employees may accept gifts or benefits from personal friends, relatives, or business associates with whom they have a relationship independent of their official status, so long as the benefit is not offered in exchange for official action or decision.

5.6 Gifts or Benefits from Outside Donors. A gift or benefit from an outside donor designated to supplement the salary of a specific Component or System employee shall be subject to approval by the Component or System CEO, before being presented to the Board of Regents for approval, as required by *Chapter III, Paragraph 1.33*. Gifts for the Presidents shall be subject to the Chancellor's approval, and gifts to the Chancellor shall be subject to the Board Chair and Vice Chair's approval prior to presentation to the full Board. Such gifts shall be made to the Component or System directly and earmarked for distribution to the employee through the payroll process. Salary supplements shall be reported to the State Auditor's Office and the U.S. Internal Revenue Service as required by law. The employee receiving the salary supplementation shall comply with the conflict of interest provisions for employees outlined in *Subparagraph 4.2* of the System's *Code of Ethics,* found in *Paragraph 4* of this *Chapter*.

5.7 Awards. Regents and employees may accept plaques and similar recognition awards.

5.8 Honoraria. Regents and employees may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide but for their official position or duties. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking engagement at a conference or similar event, provided the Regent's or

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

6. POLITICAL ACTIVITIES.

6.1 Use of System Funds, Personnel or Property. No Regent shall expend or authorize the expenditure of any State appropriated funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure.

6.2 Political Contributions. Regents may make personal contributions to candidates for office and political organizations, with one exception. A Regent may not expend more than $100 for the cost of correspondence to aid or defeat the election of a Speaker candidate.

6.3 Entertainment. If a System or Component employee provides tickets to a public official to allow the official and/or his guests to attend an event, an officer or employee of the System or a Component will serve as host to the official, and must attend the event.

6.4 Perishable Food Items. System or Component employees may provide Public officials with small, infrequent gifts of perishable food items delivered to their offices. These are not considered to be "benefits" for purposes of the provisions of the Penal Code prohibiting such.

6.5 Expenses for Public Officials. System Components may pay expenses in order to furnish information to state officials relevant to their official position, including presentations about the programs and services of The Texas State University System and its Components.

6.6 Use of Official Authority Prohibited. No System or Component employee may use his or her official authority or influence, or permit the use of a program administered by the System to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. No System or Component employee may do any act or attempt to interfere with anyone who seeks to pay, lend, or contribute private funds or private property to a person or political organization for political purposes. Any System or Component employee who violates either of these provisions is subject to immediate termination of employment, in accordance with the Government Code.

6.7 Use of System Funds or Property. No System or Component employee shall expend or authorize the expenditure of any System or Component funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure. No System or Component funds may be expended for the payment of full or partial salary of any employee who is also the paid lobbyist of any individual, firm, association, or corporation. System and Component facilities may be used as polling places for local, state, and national elections.

6.8 Voting and Political Participation. As employees of the State of Texas, System and Component employees have the rights of freedom of association and political participation guaranteed by the state and federal constitutions, except as limited by valid state laws. System and Component employees shall be allowed sufficient time off to vote in public elections without a deduction from pay or from accrued leave time.

6.9 Political Campaign Events on System Property. The Chief Executive Officers of the Components of The Texas State University System shall be responsible for promulgating rules for the regulation of political campaign meetings or speeches and other activities relating to political campaigns on property under their control. Such regulations shall be implemented by the Chancellor after approval by the Board of Regents.

6.10 Employees as Candidates and Officeholders. System and Component employees may run for election and serve as members of the governing bodies of school districts, cities, towns, or other local governmental districts. No campaign activities may be conducted during official business hours unless the employee has requested and received permission to use leave time for such purpose. Any employee elected to such a position may not receive any salary for serving as a member of such governing bodies.

6.11 Political Contributions from Employees. System and Component employees may make personal contributions to candidates for office and political organizations, with the exception that no state employee may contribute personal services, money, or goods of value to a candidate campaigning for speaker of the Texas House of Representatives.

7. USE OF AUTHORITY.

7.1 Misapplication of Property. A Regent shall not intentionally or knowingly misapply anything of value belonging to the government that comes into the Regent's custody or possession by virtue of his or her office with the intent to obtain a benefit or to harm another.

7.2 Nepotism. Regents are prohibited from appointing, voting for, or confirming the appointment of any person related to such Regent within the third degree by consanguinity (blood) or within the second degree by affinity (marriage) when the salary or compensation for such person is to be paid from public funds. All employment decisions must be made in compliance with *Chapter V, Subparagraph 2.2* of the System's *Rules and Regulations*.

7.3 Misuse of Official Information. A Regent shall not, in reliance on information to which he or she has access in his or her official capacity and which has not been made public: (1) acquire or aid another in acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or, (2) speculate or aid another in speculating on the basis of such information.

8. DUAL OFFICE HOLDING.

8.1 Non-Elective State or Federal Office. System and Component employees may hold non-elective offices with boards, commissions, and other state and federal entities provided that the holding of such office, (1) is of benefit to the State of Texas, or is required by state or federal law, and (2) is not in conflict with the employee's position. Such appointments must be approved by the responsible CEO of the Component. Prior to the Chancellor's or a CEO's accepting an invitation to serve in an additional non-elective office, the Board of Regents must determine that the appointment meets the two requirements stated above. The Board must also make an official record of any compensation to be received by the Chancellor or CEO from such appointment, including salary, bonus, per diem or other types of compensation.

8.2 Positions of Employment with Government Agencies. System and Component employees may hold other positions of employment with agencies, boards, commissions, or other entities of government so long as the holding of such positions is consistent with the prohibitions against dual office holding in the Texas Constitution. Special rules for multiple employments with the State are provided in *Chapter 667* of the *Government Code*. The person seeking dual employment must be informed of the special rules before that person becomes employed by more than one agency or institution. Consulting arrangements with federal, state, or local governmental agencies of a detached and independent advisory nature are not considered to be appointments with such agencies.

9. TRAINING.

9.1 Training of Regents. Each Regent shall receive training regarding the duties and obligations of the office as required by statute.

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

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

10.1 Expansion of Code of Ethics. This *Paragraph 10* expands and supplements the Code of Ethics contained in *Paragraphs 1-9* of this *Chapter*, for Components' officials and employees, including those officials and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts.

10.2 Adherence to Policies Relating to Procurement. All officials and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts shall adhere to all System and Component policies, handbooks, guidelines and protocols designed to promote ethical and lawful behavior in the procurement process.

10.3 Disclosure of Conflicts of Interest. Employees and officials involved in procurement or contract management for a Component shall promptly disclose to the Component any potential conflict of interest specified by state law or System or Component policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor.

10.4 Prohibited Contracts. A Component may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following Component employees or officials have a financial interest:

(1) A member of the Board of Regents, unless, pursuant to *Education Code, Section 51.923(e)*, the member does not have a "substantial interest" in the business entity or vendor;

(2) The Chancellor, President, Vice Chancellor and General Counsel, Chief Procurement Officer, or Procurement Director of the Component; or,

(3) A family member related to an employee or official described by *Subparagraph (2)* within the second degree of affinity or consanguinity.

10.41 A Regent, employee or official has a prohibited financial interest in a procurement if the Regent, employee or official:

(1) Owns or controls, directly or indirectly, or otherwise has an ownership interest of at least one percent in the entity seeking the contract or procurement, including the right to share in profits, proceeds, or capital gains; or

(2) Could reasonably foresee that a contract with such an entity might result in a financial benefit to the employee or official or to a third party or parties in whose welfare the employee or officer is interested.

10.42 A financial interest prohibited by this *Subparagraph* does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

10.5 Notice to Employees and Officials of Expected Standards of Conduct. Employees and officials, including those engaged in procurement of goods and services, are hereby put on notice that their primary responsibility is to accomplish the duties and responsibilities assigned to the positions they hold. All employees and officials shall comply with the standards of conduct found in these System *Rules and Regulations.*

10.6 Compliance with Law Required. Each official or employee of a Component is expected to obey all federal, state, local laws, and these System *Rules and Regulations* regarding ethics and shall be subject to disciplinary action for violation of those laws, rules and regulations.

10.7 Conflict of Interest Prohibited. Each employee or official of a Component is prohibited from having a direct or indirect financial or other interest; engaging in a business transaction or professional activity; or incurring any obligation that conflicts with the proper discharge of the employee's or official's duties related to the public interest.

10.8 Conflict of Commitment Prohibited. Each employee or official of a Component is prohibited from participating in activities outside the Component which interfere with the employee’s or official’s duties and responsibilities to the Component.

10.9 Outside Employment or Activities. Engaging in outside employment or activities, including board service, is not a right or entitlement and may be permitted when, in the sole judgment of the President or his/her designee, the employment or activity does not:

(1) Interfere with the employee or official's ability to perform his/her public responsibilities and duties because of demands upon the individual's time;

(2) Impair the employee or official's independence of judgment in fulfilling his/her public responsibilities and duties;

(3) Reasonably expect or require the employee or official to disclose confidential information acquired in or because of his/her public responsibilities and duties; or

(4) Reasonably expect or require the employee or official to advance a position or course of action that conflicts with his/her public responsibilities and duties or the best interests of the Component as determined by the President.

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

10.10 Reporting of Conflicts of Interest. As soon as an employee or official discovers or learns that he/she may have a conflict of interest regarding a procurement or contract management, he/she shall:

(1) Promptly disclose the same to the President through his/her supervisors, providing the specifics of the conflict, including but not limited to, disclosure of the name(s) of the person(s) or entity(ies) involved; the exact nature of the relationship; and such other information or documents as the President may require;

(2) Discontinue work on the procurement or contract management in question and recuse him/herself from involvement in the same; and

(3) Expect that his/her supervisors will deny physical or electronic access to files and documents related to the procurement.

10.11 Acting as Agent Not Permitted. An official or employee of a Component may not act as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the Component.

10.12 Use of Component Resources. Component funds, personnel, facilities, property (real or personal) shall not be used for the personal use, benefit, or profit of any individual employee or official or for a third party in whose welfare the employee or official is interested. A more detailed policy governing use of Component resources shall be created.

10.13 Training Required. Training shall be mandated for officers and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods and information resources purchasing technologies.

10.14 Publication of Policies. The provisions of this *Chapter VIII, Paragraphs 4. 8, 9* and *10,* shall be included in the policies of all Components; published on their web pages; included in procurement contract manuals; and generally be made known to vendors seeking to provide goods and services.

10.15 Reporting to Board of Regents or Designee. A Component's contract management office or procurement director shall immediately report to the Chancellor, in his or her role as Secretary to the Board of Regents, any serious issue or risk that is identified with respect to a contract monitored under these *Rules and Regulations.*

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

11.1 Disclosure Required. In any public communication the content of which is based on the results of sponsored research, a faculty member or other employee or appointee of a Component who conducted or participated in

conducting the research, shall conspicuously disclose the identity of each sponsor of the research.

11.2 Definitions. In this Paragraph:

(1) “Component” refers to a System college, university, or institute that falls within the meaning of "institution of higher education" assigned by Section 61.003 of the Texas Education Code.

(2) "Public communication" means oral or written communication intended for public consumption or distribution, including:

(a) Testimony in a public administrative, legislative, regulatory, or judicial proceeding;

(b) Printed matter including a magazine, journal, newsletter, newspaper, pamphlet, or report; or

(c) Posting of information on a website or similar Internet host for information.

(3) "Sponsor" means an entity that contracts for or provides money or materials for research.

(4) "Sponsored research" means research:

(a) That is conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the Component conducting the research; and

(b) In which payments received or the value of materials received under that contract or grant, or under a combination of more than one such contract or grant, constitutes at least 50 percent of the cost of conducting the research.

12. DISCLOSURE OF INTERESTED PARTIES CONTRACTING WITH SYSTEM COMPONENTS.

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

12.1 Contracts Exempted. This *Paragraph 12* does not apply to a sponsored research contract, an interagency contract, or a contract related to health and human services if the value of the contract cannot be determined at

the time the contract is executed and any qualified vendor is eligible for the contract.

12.2 Disclosure Form. The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission and shall include:

(1) A list of each interested party for the contract of which the contracting business entity is aware; and

(2) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

12.3 Submission to Texas Ethics Commission. The Component shall submit a copy of the disclosure to the Texas Ethics Commission not later than the 30th day following the date the Component receives a disclosure of interested parties required under this *Paragraph 12*.