

THE TEXAS STATE UNIVERSITY SYSTEM



RULES AND REGULATIONS

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

**Adopted September 1, 1980
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CHAPTER I. THE BOARD OF REGENTS

1. LEGAL HISTORY.

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

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

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

2. AUTHORITY.

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

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

¹*Education Code, Section 95.01.*

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

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

2.3 Degrees, Certificates and Diplomas

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

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

3. COMPOSITION.

The Board of Regents of The Texas State University System is composed of nine members appointed by the Governor of Texas with the advice and consent

²*Education Code, Section 95.21 (a).*

³*Education Code, Section 95.21 (b).*

of the State Senate. Board members are appointed to serve six-year terms expiring February 1 of odd-numbered years, with three members being appointed biennially.

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

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

3.1 Comprehensive Universities:

- 3.11 Lamar University in Beaumont;
- 3.12 Sam Houston State University in Huntsville, including a Multi-Institution Teaching Center ("MITC") at the Woodlands;
- 3.13 Sul Ross State University in Alpine, including the Rio Grande College with campuses in Del Río, Eagle Pass, and Uvalde.
- 3.14 Texas State University, including the Round Rock Higher Education Center;

3.2 Two-year Colleges or Institutes:

- 3.21 Lamar Institute of Technology in Beaumont;
- 3.22 Lamar State College-Orange; and,
- 3.23 Lamar State College-Port Arthur.

4. MEETINGS.

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

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

⁴Government Code, Chapter 551.

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

5. OFFICERS OF THE BOARD OF REGENTS.

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

5.1 Elected Officers and Responsibilities.

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

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

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

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

5.2 Appointed Officers and Responsibilities

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

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

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

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

6. COMMITTEES OF THE BOARD OF REGENTS.

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

- 6.1 Committee Meetings. In the absence of a Committee member or members at a scheduled meeting of any Committee, the Committee Chair may ask other regents to serve *ad hoc* on the Committee. In the event that no Committee member is present for a scheduled Committee meeting, the Chancellor may either reschedule the meeting, if feasible, or refer all Committee business to the full Board for consideration and disposition.

- 6.2 Board of Regents' Planning and Construction Committee. This Committee has primary responsibility for establishing, in consultation with the Chancellor, the Board's planning and construction agendas and for making recommendations to the Board regarding the planning, construction, maintenance, and use of System and Component buildings and other physical facilities.

For further information concerning construction, see *Chapter III, Section 4, Construction Procedures*.

- 6.3 Academic Affairs Committee. The Academic Affairs Committee has primary responsibility for submitting recommendations to the Board concerning all courses, programs, and degrees which are offered or proposed by each Component. The Committee shall also examine each Component's Twelfth and Fourth Class Day Enrollment Reports, Small Class Reports, admission standards and degree requirements, faculty qualifications in relationship to subjects taught, catalogue course and program offerings, role and scope, curriculum duplication and general program balance, and curricular emphasis of each Component, reporting thereon to the Board.

For further information concerning curriculum, see *Chapter III, Section 5, Curriculum Procedures*.

- 6.4 Finance and Audit Committee. This Committee has oversight of all the System and component financial and audit matters and is responsible for making recommendations to the Board respective to:

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

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

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

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

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

- 6.6 Information Resources Committee. This Committee has primary responsibility for submitting recommendations, in consultation with the Chancellor, to facilitate efforts fully to leverage the System's combined investments for information technology infrastructure and to realize system-wide improvements and efficiencies in Component business processes.

For further information concerning information resources, see *Chapter III, Paragraph 19, Information Technology "IT," and Appendices A-2 through A-5, TSUS Policy Guidelines 01-02 through 04-02*.

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

- 6.8 Component Master Plan Committees.

- 6.81 Composition. Each president shall establish and chair (or otherwise designate a chair for) a Component Master Plan Committee whose members shall be approved by the Chancellor or his/her designee. All component constituents shall be represented, including but not necessarily limited to the Board

of Regents (whose representative shall be appointed by the Chairman from the membership of the Component's Local Committee); System Administrative Office; Component academic fiscal, student affairs, facilities/planning/construction representatives; faculty; staff; students; and members of the local community (for example, civic, governmental, business and industry leaders).

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

7. HONORARY DOCTORATES

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

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

CHAPTER II. SYSTEM ADMINISTRATION

1. FUNCTION.

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

2. LOCATION.

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

3. OFFICERS OF THE SYSTEM ADMINISTRATION.

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

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

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

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

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

- 3.6 Vice Chancellor for Contract Administration. The Vice Chancellor for Contract Administration is the chief administrative officer of The Texas State University System, primarily responsible for contract management and administration of System and Component planning, construction, maintenance, and use of buildings and other physical facilities, including, but not necessarily limited to, long-term planning and construction and administration of policies in the subject area. He or she performs duties under authority delegated by the Board of Regents through the Chancellor.
- 3.7 Vice Chancellor for Academic Affairs. The Vice Chancellor for Academic Affairs is the chief academic officer of The Texas State University System who performs duties under the authority delegated by the Board of Regents through the Chancellor. The Vice Chancellor for Academic Affairs is responsible for providing system-wide leadership, assistance, and coordination among the system Components in maintenance, enhancement, and promotion of academic and research programs, in addition to performing the following specific duties: representing the System on academic matters before professional, grant-making, regulatory, and oversight bodies; encouraging an academic environment that serves the geographic, economic, and cultural diversity of the state; coordinating initiatives relating to content delivery utilizing various technologies; and generally enhancing the System's teacher education mission.

4. OPERATIONS.

4.1 Employment.

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

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

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

- 4.21 Attending regular and special meetings of the Board.
- 4.22 Attending formal meetings of Board committees.
- 4.23 Visiting a Component on System business.

- 4.24 Attending conferences, workshops, and/or seminars for continuing professional education with approval of the Chancellor.
 - 4.25 Such other special and limited purposes in accordance with State regulations. Verified expense accounts shall be submitted to the Chancellor for approval, and the same shall be subject to review and control by the Board. The Chancellor shall be reimbursed for expenses incurred, which shall be reported quarterly to the Chair of the Finance and Audit Committee.
- 4.3 Financial Reports. All books, records, ledgers, and accounts of System and Component administrations shall be kept and maintained in conformity with recommendations of the State Auditor and the State Comptroller of Public Accounts subject to approval of the Chancellor and Board. All proposed operating budgets and all biennial appropriation requests shall be first examined, considered, and approved by the Chancellor and presented to the Board for review and approval at an open meeting.
- 4.31 Annual Operating Budget. The Chancellor shall prepare or cause to be prepared and submit annually to the Board at its May or August meeting, as specified each year by the Board, proposed budgets for the operation of the System and its Components for the next fiscal period. Copies of all proposed operating budgets shall be submitted in writing to all members of the Board at least eight calendar days in advance of such Board meeting. The proposed operating budgets shall reflect all income estimated and itemized by sources, with all expenditures estimated and itemized by fund, project, or department. True and correct copies of the adopted operating budgets of System Components shall be filed in the respective Component President's office and in the System Administrative Office as public documents and conformed copies delivered by the Chancellor to all appropriate agencies. Upon adoption by the Board of the operating budget, all subsequent expenditures shall conform therewith. Each change affecting the current operating budget for each fund group which exceeds \$100,000 for the four-year institutions and \$25,000 for the two-year Components shall be subject to Board approval.
 - 4.32 Biennial Appropriations Request. All System and Component requests for appropriations shall be submitted to the Board for approval prior to the convening of the legislature. Such requests shall be prepared by the chief fiscal officer of the System or Component and approved by the respective President and by the Chancellor and shall conform to the requirements promulgated by the Legislative Budget Board, the Governor's Office of Budget and Planning, and the Texas Higher Education Coordinating Board.

4.4 Staff Development Program Rules.

4.41 Definition. This program is to provide training through workshops, seminars, institutes, training sessions, extension courses, Component courses (with or without academic credit), and other special programs or activities offered either within or outside the State as authorized by *Government Code, Chapter 656*. Such programs must be of concentrated, precise content and designed to improve the individual's professional or technical knowledge in the performance of the individual's present or prospective duties and responsibilities. This program is for selected individual staff members and will be provided on the basis of need of the System and to the extent funds are available.

4.42 Objectives. To improve and enhance the individual's professional and technical knowledge and ability in the performance of the individual's present or prospective duties and responsibilities.

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

4.44 Administration - Eligibility Requirements.

- (1) Out-of-Agency Staff Development education and training authorized by the System will be conducted primarily for the benefit of the System.
- (2) The training and education must be related to the employee's current or prospective duty assignment during the period of participation.
- (3) Such training and education must be approved by the Chairman of the Board of Regents for System Administration personnel or Component Presidents and by the Governor's Office for Regents.

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

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

the Component's President in which the names of all persons being authorized to conduct such business are specified.

5. MINUTES OF THE BOARD MEETINGS.

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

CHAPTER III. SYSTEM - COMPONENT OPERATIONS

1. ITEMS REQUIRING BOARD APPROVAL.

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

1.1 Contracts.

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

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

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

1.2 Personnel.

- 1.21 Employment of administrative officers, faculty, and non-classified employees.
- 1.22 Termination of administrative officers, faculty, and non-classified employees (including resignations, retirements, and discharges).
- 1.23 Changes of position status of administrative officers, faculty, and non-classified employees.
- 1.24 Changes in tenure status.
- 1.25 Dual employment of administrative officers, faculty, and non-classified employees.
- 1.26 Intra-system Contracts. Agreements between or among system Components or between a Component and employee(s) of a sister institution shall be first approved by the appropriate vice chancellor upon review and approval of the Vice Chancellor and General Counsel.

1.3 Financial Matters.

- 1.31 Operating budgets (including Component employee salaries).
 - 1.32 Each budget adjustment in excess of \$100,000 for the four year institutions and \$25,000 for the two-year institutions.
 - 1.33 Salary supplements.
 - 1.34 Legislative appropriation requests.
 - 1.35 Proposals for issuance of bonds.
 - 1.36 Capital leasing projects.
- 1.4 Charges, Fees and Rates. No course fee shall be presented for the Board's consideration unless the Vice Chancellor for Finance has first approved such fee as both reasonable and necessary.
- 1.41 Registration fees.
 - 1.42 Student services fees.
 - 1.43 Medical services fee.
 - 1.44 Student center fees.
 - 1.45 Student transportation fees.
 - 1.46 Room and board rates.

- 1.47 Special course fees.
 - 1.48 Diploma, certificate, auditing, and extension and correspondence instruction fees.
 - 1.49 Board authorized tuition.
 - 1.4(10) Designated tuition.
 - 1.4(11) International fee.
 - 1.4(12) Computer related charges, including but not limited to computer or technology service, computer access and computer use.
 - 1.4(13) Concurrently Enrolled Students. Upon prior written approval of the Chancellor, upon the recommendation of the Vice Chancellor for Finance, system component institutions are authorized to waive all or part of the tuition and fees charged by the institution for a student enrolled in a course for which the student is entitled to receive, simultaneously, both:
 - (1) Course credit toward the student's high school academic requirements; and,
 - (2) Course credit toward a degree offered by the institution.
- 1.5 Construction Matters.
- 1.51 Prior to submission to the Board for consideration and approval, the following items must be first submitted to and approved by the Vice Chancellor for Contract Administration ("VCCA") in consultation with the Chancellor:
 - (1) Component Comprehensive Facilities Master Plan and any amendments thereto.
 - (2) A Capital Improvements Program (CIP) encompassing the next six years of construction projects needed to preserve, enhance, and add to facilities assets in line with the approved Master Plan. A Component may amend its CIP at any time with Board approval. It is anticipated that the Board will review and approve a revised six-year CIP prior to the beginning of each Fiscal year.
 - 1.52 Public Art Program. Believing that a university or college campus should be a pleasant and aesthetic environment that inspires reflection and learning, the Board of Regents directs that one percent of the construction budget of each new major construction project, as defined by the Chancellor, be allocated for the acquisition of works of public art.

- 1.521 "Public art," as used in this Paragraph, refers to any visual, pictorial, graphic or sculptural work of art that is commissioned or purchased for purposes of public display.
- 1.522 Guidelines for Acquisition. The Chancellor may promulgate guidelines or policies (for the acquisition of public art) that address the following:
- (1) The work's provenance, i.e., is it well known and can its authenticity or genuineness be clearly established;
 - (2) Whether the vendor or owner can establish clear legal ownership, title, and copyright to the work, as well as his or her right to sell it;
 - (3) Whether the artist, living or dead, has achieved recognition or renown through an exhibition history or a provenance of being in public or private collections or museums;
 - (4) The work's exhibition history or published references, if any;
 - (5) If the artist is not well known, whether the work has aesthetic value or historical significance;
 - (6) The contribution an individual work of art can be expected to make to the Component's educational mission, as well as to its existing collection of public art;
 - (7) The Component's ability to assure the proper long-term care of the individual work of public art, including security, conservation, and maintenance;
 - (8) Whether the work is appropriate to the proposed location or building;
 - (9) Such other factors as he or she judges to be appropriate.
- 1.523 Location of the Art. These works of public art shall be located at or near the site of the construction project or the funds may be aggregated, as described in *subparagraph 1.5243*.
- 1.524 Aggregation of Funds. Insofar as permissible under the law and applicable to the source of funds, the funds may be aggregated and expended pursuant to the comprehensive art and aesthetic improvement plan, as approved by the Chancellor.

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

to follow. The Board may direct changes to the Chancellor's published policies and procedures at its discretion.

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

- 1.(10)4 Academic department additions, deletions, and changes.
- 1.(10)5 Out-of-state course offerings.
- 1.(11) Admission Requirements/Standards. Student admissions standards, entrance requirements, and degree qualifications as determined, prescribed and recommended by each Component as specified in *Chapter VI, Section 2 of these Rules and Regulations*.
- 1.(12) Gift Acceptance.
 - 1.(12)1 Gifts of real property regardless of value.
 - 1.(12)2 Other gifts which exceed \$10,000 in value except cash and securities. When necessary to comply with donor desires, and when recommended by the President of the Component and approved by the Chairman of the Local Committee of the Board, such gifts may be accepted prior to the next Board meeting, but will be reported to the Board at its next regular meeting.
 - 1.(12)3 The President of each Component will report all gifts with a value of at least \$5,000 (including cash, personal property, and intellectual property) to the Chancellor for reporting publicly to the Board. Upon written request of the donor, the Board report and minutes shall not state the donor's name and/or the gift's value.
- 1.(13) Real Property.
 - 1.(13)1 Purchases, Exchanges, or Sales. The Board retain authority to approve all purchases, exchanges, or sales of Components' real property.
 - 1.(13)2 Leases. All leases involving Components' facilities or real property (whether the Component is a lessor or lessee), require Board approval except the following:
 - (1) Ground leases of five (5) years or less;
 - (2) Leases that do not exceed the Chancellor's delegated authority under *Paragraph 1.1 of this Chapter III*; and
 - (3) Leases that exceed the presidents' delegated authority under *Paragraph 1.1 of this Chapter III* are subject to the Chancellor's approval.
- 1.(14) Naming of Buildings. See *Section 9 of this Chapter*.
- 1.(15) Proposed Legislation. Proposed legislation on behalf of the System or its Components, unless, during a legislative session, the Chancellor, after consultation with the Board Chair, determines that the best

interests of the System or its Component(s) require pursuit of legislative action.

1.(16) Attorney General Requests. Requests for Attorney General Opinions pertaining to Component or System operations, except for opinions requested in response to a written request for information under the *Public Information Act*⁵, must be requested by the Board Chairman or by the Board. A Component President is authorized to request a *Public Information Act* opinion when such opinion relates exclusively to the President's Component. The Chancellor is authorized to request a *Public Information Act* opinion when such opinion relates to the System Administration or to two or more Components. Such requests shall be submitted through the Vice Chancellor and General Counsel, who shall designate a System *Public Information Act* Coordinator to work with Component *Public Information Act* Coordinators to manage submission of such requests.

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

1.(18) Athletics.

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

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

2. RELATIONSHIP BETWEEN SYSTEM AND COMPONENTS.

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

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

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

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

⁵Government Code, Chapter 552.

⁶Government Code, Chapter 662.

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

any action taken as soon as possible. Occurrence reports on any employee of a Component against whom disciplinary action is contemplated, exclusive of disciplinary warnings, shall be provided to such office as soon as possible.

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

4. CONSTRUCTION PROCEDURES.

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

5. CURRICULUM PROCEDURES.

- 5.1 Curriculum Policies. Each of the Components shall follow the curriculum policies of the Board of Regents and *Education Code, Sections 61.051* and *61.052*.
 - 5.11 Approval of Requests. Each request for new courses, degree programs, or departments must be approved by the Board of Regents with subsequent approval by the Texas Higher Education Coordinating Board before being included in the catalogue.
 - 5.12 Notice of Requests. All requests for curriculum changes must be submitted to the members of the Academic Affairs Committee and the System Administration at least eight calendar days prior to the scheduled Board meeting.
 - 5.13 Nature of Requests. The nature of each request for a curriculum change and its justification shall be set out in a brief written statement. The statement shall show the title and number of the course, the semester credit hour value, and the department in which the course or program will be offered.
 - 5.14 Degree Programs. Each request for a new degree program shall include a request for the new courses which the program requires.
 - 5.15 Graduate Programs. Each request for a graduate program shall be evaluated on the need of the program and qualifications of the faculty.

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

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

6. FINANCIAL AFFAIRS.

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

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

6.12 Director's and Officer's Liability Insurance. Director's and officer's liability insurance, as approved by the Board, shall be required to cover all regents, directors and officers of the System and its Components. The System's Vice Chancellor for Finance is responsible for coordinating acquisition of the Director's and Officer's coverage.

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

6.14 Liability Insurance for Motor Vehicles. 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.

6.15 Equipment and Facilities Insurance. The Components are authorized to purchase insurance for equipment, buildings, and facilities which may be required by Bond Resolutions, contracts and grants, as allowed by statute.

6.2 Debt Issuance Services

6.21 Bond Counsel. The Board shall employ bond counsel to advise and represent it in all matters pertaining to the issuance or proposed issuance of bonds of any type, the pledge of institutional credit, the assumption of deferred fiscal obligations, or the encumbrance of facilities of any Component under the

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

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

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

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

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

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

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

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

- 6.5 Purchase Vouchers. Each Component President is authorized to delegate signature authority for purchase vouchers to one or more fiscal officers. At the time of approval, purchase vouchers shall have attached all relevant documentation to support the disbursement.
- 6.6 Local Bank Accounts. The Board delegates authority to the Chancellor for the System Administrative Office and the presidents for their respective Components to establish local bank accounts as deemed necessary. All local checks must be signed by at least one Component fiscal officer. A check signer with authorized facsimile signatures may be used on checks for less than \$35,000. All checks in the amount of \$35,000 and over shall have the original signature of two fiscal officers. Payments in the amount of \$35,000 and over made by Automated Clearing House ("ACH") shall have the original signature of two fiscal officers on the voucher documentation supporting the payment.
- 6.61 Banks with an Automated Payment Fraud Prevention Process. If the Component's local bank provides an automated payment fraud prevention process (e.g., positive payee) for payments, the Component may use the electronic signature of one of its fiscal officers for processing checks. Before the payment is finalized by the bank, the Component shall utilize a fraud prevention process to review and approve electronically both check and Automated Clearing House ("ACH") individual payments exceeding \$50,000.
- 6.7 Financial Reports. All Component books, records, ledgers, and accounts shall be kept and maintained in conformity with recommendations of the State Auditor and the State Comptroller of Public Accounts, subject to approval of the Board. All proposed operating budgets and all biennial appropriation requests shall be examined, considered, and approved by the Board in open meetings.
- 6.71 Annual Operating Budget and Budget Summary. The President of each Component shall prepare and submit annually to the Board at its May or August meeting, as specified each year by the Board, a proposed budget for the operation of the Component for the next fiscal period. Copies of all proposed operating budgets shall be available to all members of the Board and the Chancellor at least eight calendar days in advance of such Board meeting. A budget summary is to be prepared and submitted in writing at least eight calendar days in advance of such Board meeting. The proposed operating budget and budget summary shall be in the form and detail recommended by the Chancellor with the approval of the Board, with all income estimated and itemized by fund, project, or department. A true and correct copy of the adopted operating budget of each Component shall be filed with the System Administration as a public document and a conformed copy delivered to the Chancellor and to all appropriate agencies by the President of the Component. Upon adoption of the operating budgets by the Board, all subsequent expenditures shall conform therewith.

Changes in a current operating budget and all transfers of funds between appropriated items shall be subject to Board approval.

- 6.72 Legislative Appropriations Requests. All Components' Legislative Appropriations Requests shall be submitted to the Board for approval prior to the convening of the Legislature in the following January. Such requests shall be prepared by the chief fiscal officer and approved by the President of the Component in accordance with the requirements promulgated by the Legislative Budget Board and the Office of Governor.
- 6.73 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.
- 6.74 Monthly Operating Report. The chief fiscal officer of each Component under the governance of the Board shall submit one copy of the Monthly Operating Report to the System's Vice Chancellor for Finance on or before the end of the following month. When possible, the report may be submitted electronically. The Monthly Operating Report shall show, as of the last day of the preceding month, a summary statement of budget position, general ledger trial balance by fund groups, statement of realization of estimated income, and statement of departmental and other balances (including appropriations and credits, expenditures and debits, unexpended balances, encumbrances, and unencumbered balances).
- 6.75 Sinking Fund Reports. The chief fiscal officer of each Component shall incorporate in the Annual Financial Report the true condition as of the thirty-first day of August of all bonds, interest, and pledged revenue sinking funds maintained under all bond or warrant obligations of the Component. Each Sinking Fund Report shall identify the bond contract and facility to which it pertains, the sinking fund maintained thereunder (including date established and date of scheduled retirement), the depository and account in which the sinking fund is maintained, and the cash balance on hand in the sinking fund and withdrawals therefrom (if any) during the preceding calendar year. Sinking funds shall be maintained by each Component in accordance with the contractual provisions creating them. Withdrawals from sinking funds, other than required bond and interest payments, shall not be authorized by the Board, except in the manner and to the extent provided in the bond or warrant contract establishing it and upon

recommendation of the Local Committee. System-wide issues will be reported by the System Administration beginning with the 1994 Fiscal Year.

6.76 Investment Report. A quarterly investment report will be prepared by each Component as prescribed by The Texas State University System Investment Policy for Operating Funds and Endowment Funds. The report shall be posted on the web page of the reporting Component in accordance with state statute and the State Auditor's and System Administrative Office reporting guidelines. Each Component's quarterly investment report is due in the System Administrative Office not later than the last workday of the month following the end of each quarter. A combined report shall be created for use by the Board and for purposes of conveying the information externally as may be required.

6.8 Purchase of Food, Refreshments, and Awards with Institutional Funds that are not otherwise restricted. The Board of Regents has determined that the expenditure of institutional funds that are not otherwise restricted for the purchase of food, refreshments, and achievement awards assists the Components in the System in carrying out their educational functions, promotes education in the State of Texas, and provides an important public purpose. Accordingly, the Board authorizes each Component to use such funds for the purchase of food, refreshments, and achievement awards in accordance with the following guidelines. The President of each Component is delegated the authority to determine if specific expenditures for the purchase of food, refreshments, and achievement awards, using institutional funds, fall within the following objective guidelines established by the Board, and the Component President is authorized to implement this policy through appropriate directives and delegation.

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

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

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

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

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

- 6.815 The promotion of the exchange of ideas with community leaders regarding the Component role in the community.
- 6.816 The assistance of the Regents, accrediting agencies, officials from other Components, and/or public officials in inspecting and/or reviewing facilities and programs.
- 6.817 The support of the Component's program of continuing education.
- 6.82 Specific Limitations. Specific guidelines and limitations on the expenditures for food, refreshments, and achievement awards from certain types of auxiliary funds are as follows:
 - 6.821 Funds expended for continuing education conferences, seminars, and short courses must have been included in the continuing education registration fees assessed.
 - 6.822 Funds expended which were received from Component concessions, student services fees, student organizations, and other auxiliary funds must have been previously budgeted.
 - 6.823 Other locally generated income and auxiliary funds (not restricted to administrative, education and general, research, plant expansion, loan, endowment, or scholarship programs) may be used to the extent that they have previously been budgeted.
 - 6.824 No funds under the control of intercollegiate athletics may be used to purchase alcoholic beverages.
- 6.9 Facsimile Documents. Facsimiles (fax copies) of various authorizations, requests, invoices, and so forth are acceptable as documentation for financial transactions. Original documentation must be retained by the originating party and remain available for inspection/audit.
- 6.(10) Acceptance of Small Gifts. The Board welcomes contributions, both large and small, in aid of the various missions of the Component (see *Chapter III, Subsection 1.(12)*).
- 6.(11) Establishment of Permanent Endowments. The Board encourages creation of permanent endowments at System Components and authorizes each President to set the monetary levels required to establish such endowments.
- 6.(12) Travel Guidelines.
 - 6.(12)1 In-State Travel. The Component Presidents, or their respective designees, are authorized to approve the in-state travel for personnel within their Components.

- 6.(12)2 Out-of-State Travel. The Component Presidents, or their respective designees, are authorized to approve out-of-state travel for personnel within their Components, provided the travel request is sought and approved by the President or the President's designee in advance of the travel.
- 6.(12)3 Out-of-Country Travel and Reimbursements. All out-of-country official Component travel and reimbursements (excluding trips to Mexico, Canada, and U.S. territories) require advance approval by the Component President, or his or her designee, and shall be reported annually to the Chancellor and Board. Component Presidents' out-of-country travel and reimbursements require pre-approval by the Chancellor; and the Chancellor's out-of-country travel and reimbursements require pre-approval by the Board chair. Travel by and reimbursements for regents and system office employees require advance approval by the Chancellor or his or her designee. Before being authorized to embark on such travel, the regent, employee or student must sign a liability waiver and release of claims in favor of the Component, the Board of Regents and their employees.
- 6.(12)4 Official Business. The allocation of funds for individuals to attend out-of-state meetings shall be restricted to expenditures for official business, and the available funds shall be allocated so as to encourage maximum participation by the faculty and staff.
- 6.(12)5 Reported Travel. Once each year at the fall Board of Regents meetings, each President shall report the total dollars expended for out-of-state and out-of-country travel by his or her Component from all sources for the just concluded Fiscal Year along with the previous four Fiscal Years. The reports shall be included in the Board Agenda.
- 6.(12)6 Exceptions. Any exceptions to the above guidelines shall require prior approval of the Board of Regents.
- 6.(13) Disposal of Property and Equipment. Each Component President may dispose of property or equipment considered surplus because it is obsolete or useless for the Component's needs or purposes. Prior to external disposal in accordance with System and Component regulations, such items may be made available to other system Components.
- 6.(13)1 In accordance with *Texas Government Code, Section 2175.304(c)*, in disposing of such property, preference shall be given to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property in another manner. If more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the Component shall give

preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a taxable wealth per student that entitles the district to an allotment of state funds under *Education Code, Chapter 42, Subchapter F*, or to the assistance organization designated by such a school district.

- 6.(13)2 Materials or equipment that can be used for instructional purposes may be transferred directly to a public school or school district, or an assistance organization designated by the school district, at a price or for other consideration to which the Component and the public school or school district or the assistance organization agree or for no consideration as the Component determines appropriate. Surplus instructional property and equipment must first be advertised through the Texas Higher Education Coordinating Board prior to disposition.
- 6.(13)3 If the Component is unable to dispose of the property as required by *Paragraph 6.(13)1*, the President shall have the authority to dispose of property or equipment with a book value of less than the capitalization value determined by the Comptroller's Office by means of sale on the basis of arm's length negotiation or competitive bid, or by transfer to another state agency or governmental sub-division at a mutually agreed value, or by donation (subject to written approval of the President) to an assistance organization certified by the Texas Facilities Commission.
- 6.(13)4 Sales of property or equipment with a book value equal to or more than the Comptroller's capitalization amount shall be made on a basis of competitive bids.
- 6.(13)5 Sales of property or equipment less than five years old and with a book value of \$10,000 or more shall be approved in advance by the Chairman of the Finance and Audit Committee.
- 6.(13)6 Surplus computer equipment must be offered to the Texas Department of Corrections prior to disposition under *sub-Sections 3, 4, or 5* above.
- 6.(13)7 Exchange and Disposal of Surplus Library Materials. To facilitate sharing of information resources and reduction of costs, Component libraries may exchange surplus library materials by:
 - (1) Offering such materials to local public school or other governmental libraries with preference given to low performing schools per *Texas Government Code, §2175.304*; and/or,

- (2) Bartering with or exchanging materials with other system libraries; and/or,
 - (3) Making such materials available for exchange through TexShare or appropriate national library materials exchange lists, provided no other system library desires the materials; and/or,
 - (4) After thirty (30) days on TexShare or appropriate national library materials exchange lists, notifying "out-of-print" book dealers and negotiating sale or exchange of materials.
- 6.(14) Premiums from Vendors. Any monetary rebate or rebate in the form of a product or products extended by a vendor by virtue of the Component, its departments, employees, or students having directly or indirectly made purchases from the vendor or committing to make future purchases from the vendor is, if not accounted for as a reduction of expense, a gift to the Component and must be acknowledged as such by the Component's development office. Such monetary gifts shall be placed into a general Component development/enrichment fund to be used in the same manner as other gifts to the Component. Arrangements for the acceptance of product rebates or other forms of consideration must be approved by the appropriate Component Vice President or the President. Excluded from these procedures are the traditional complimentary books or materials used to evaluate textbook adoption decisions, and calendars, pens, coffee cups or other materials bearing the name or logo of the vendor which are intended as advertising.
- 6.(15) Indirect Cost Recovery. All grant proceeds shall be used to support and encourage research and grants (sponsored programs). Eligible uses include:
- (a) conducting pre-grant feasibility studies;
 - (b) preparing competitive proposals for sponsored programs;
 - (c) providing carry-over funding for research efforts to provide continuity between externally-funded projects;
 - (d) supporting new researchers, pending external funding;
 - (e) purchasing capital equipment directly related to expanding the research capability of the institution;
 - (f) research or sponsored program administrative costs; and
 - (g) engaging in research programs of critical interest to the general welfare of the citizens of the state of Texas.
- 6.(16) Tax Identification Numbers. Student and other organizations are prohibited from utilizing the Component's federal employer or other tax identification numbers. The only organizations that may utilize such

number(s) are those that derive their existence and their funding solely from the Component. Examples include, but are not limited to, residence hall associations and student governments. To qualify for use of the tax number(s), the expenditures must be made from Component accounts and must have a business purpose related to the mission of the Component.

- 6.(17) Electronic Transactions. The Components of The Texas State University System are authorized to process business transactions through various electronic means. This includes, but is not limited to, direct deposit of wage and salary payments, in-coming and out-going wire transfers, ACH, credit/debit cards, and in-house processing. All electronic transactions must incorporate adequate security precautions and written approvals so as to protect the financial integrity of each Component. Signatory authority and documentation is to be consistent with that required for non-electronic transactions.
- 6.(18) Investment Policy. The Components of The Texas State University System may invest their funds in accordance with the Board approved Investment Policy, which is hereby incorporated into these *Rules and Regulations*.
- 6.(19) Wireless Communication Services and Equipment. Each component shall establish policies regulating employee availability, acquisition, and use of wireless communication services and equipment for official business. A component:
 - (1) May not enter into any such agreement for the sole and personal benefit of any employee;
 - (2) May support an employee's wireless communications service costs for conducting official business by providing a monthly payroll allowance or reimbursing the employee's business-related costs.
 - (3) Must discontinue support if: a) the employee discontinues his or her service plan; b) support exceeds the employee's costs for the plan; or, c) the employee's job duties no longer require wireless communication services; and,
 - (4) Shall inform each affected employee that he or she is solely responsible for any personal federal tax liability incurred as a result of his or her receipt of this benefit.
- 6.(20) Identity Theft Prevention Program ("Red Flags Rule"). Considering the size and complexity of its operations and accounting systems, as well as the nature and scope of its activities, each president shall assure that his or her Component develops an Identity Theft Prevention Program ("Program") that includes reasonable policies and procedures to detect, identify, mitigate, and prevent identity theft.
 - 6.(20)1 Program Administrator. Each Component shall name a Program Administrator to be the primary administrator empowered to

manage and execute all aspects of the Program, including the engagement of other institutional departments and personnel as necessary to detect, identify, mitigate, and prevent identity theft.

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

- (1) Issuance of student identification cards that are part of a national debt card (such as Visa or MasterCard);
- (2) Use of consumer reports or background checks;
- (3) Handling of consumer accounts that involve multiple payments, including but not necessarily limited to the following:
 - (a) The federal Perkins Loan Program;
 - (b) The federal Family Education Loan Program;
 - (c) Institutional loan programs for students, faculty, or staff; or,
 - (d) Institutional tuition (or fee) installment payment plans (Education Code, section 54.007).

7. THE AUDIT FUNCTION.

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

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

- 7.12 Independence and Objectivity of Auditors. Because of the critical nature of the internal audit function to the fiscal, administrative, and operational integrity of the System and its components, the Director of Audits and Analysis and auditors under her or his direct or indirect supervision shall maintain their independence and objectivity of judgment. System and component auditors shall be ineligible to hold any other appointment or title, whether paid or unpaid, with the System or any of its components.
- 7.13 Code of Ethics. In addition to complying with the System Standards of Conduct (see *Chapter VIII*), System and component auditors are also expected to comply with the Code of Ethics outlined in the *International Professional Practices Framework*.
- 7.2 Board, Management and Internal Audit Responsibilities. The Board of Regents is primarily responsible for providing governance, guidance, and oversight of management within the System. Management is responsible for establishing and maintaining adequate internal controls to ensure achievement of System goals and objectives. The internal audit function is designed to provide positive support to the Board, System and Component administrations in the effective discharge of their respective responsibilities.
- 7.3 Reporting Structure. The System Director of Audits and Analysis shall have sole responsibility for all System and Component audit functions and personnel, including, but not limited to, hiring and termination of audit staff, setting of salaries, and otherwise establishing terms and conditions of employment, and establishing the annual budgets and staffing levels for each Component internal audit function. The System Director will timely advise the Chancellor regarding desired audit budget initiatives.
- 7.4 Audit Space. The Chair of the Finance and Audit Committee and the Director of Audits and Analysis will examine annually whether the provision of on-campus office spaces for the audit function creates a perceived conflict of interest or otherwise poses an impediment to the auditors' independence.
- 7.5 Access. The Director and his or her System or Component-housed auditors shall have full, free, and unrestricted access to all activities, records, property, infrastructure, and personnel of System and Component administrations. Any review, whether planned or unplanned, announced or unannounced, may involve the gathering of evidence and testimony from individuals within or outside the System.
- 7.6 Handling of Information Gathered.
- 7.61 Documents. Documents and information obtained during any audit review shall be safeguarded and otherwise handled in a professionally responsible and confidential manner in accordance with Texas Law.

- 7.62 Criminal or Serious Policy Violations. Information obtained during any audit review that may involve criminal or serious policy violations shall be communicated to the Board of Regents, the Chancellor, the component President, and, where appropriate or otherwise required by law, to component and/or outside law enforcement or other oversight agencies.
- 7.7 Nature and Scope of Work. The internal audit activity will evaluate and contribute to the improvement of governance, risk management, and control processes, utilizing a systematic and disciplined approach.
- 7.71 Assurance Services (Audits). Assurance services involve the objective assessment of evidence to provide an independent opinion or conclusion regarding an entity, operation, function, process, system, or other subject matter. The nature and scope of the assurance engagement are determined by the internal auditor. Examples include, but are not limited to:
- (1) Determining the adequacy, efficiency, and effectiveness of System and Component governance, control and risk management processes;
 - (2) Reviewing the reliability and integrity of financial and operating information;
 - (3) Reviewing the effectiveness of processes established to ensure compliance with policies, procedures, and applicable laws and regulations;
 - (4) Evaluating processes related to information systems and data security; the development and deployment of information systems; and the creation/modification of support infrastructures;
 - (5) Reviewing controls designed to safeguard System and Component assets;
 - (6) Evaluating economy and efficiency of resource utilization;
 - (7) Assessing achievement of results and outcomes as defined by established objectives, goals, and performance measures; and
 - (8) Performing follow-up work to ascertain and report on whether management has taken appropriate remedial action on internal and external audit findings or recommendations.
- 7.72 Consulting Services. Consulting services are advisory in nature and are generally performed at the specific request of management. Examples include but are not limited to:

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

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

Fraud review results are not routinely disclosed or discussed with anyone other than those who have a legitimate need to know. In the event that a review substantiates fraudulent activities, the System Director of Audits and Analysis or his/her designee will prepare and distribute a report in accordance with *Paragraph 7.93* of this *Chapter*. The System Director of Audits and Analysis will communicate substantiated fraud committed by System employees to the State Auditor's Office in accordance with *Texas Government Code §321.022*.

7.74 **Emergency Appropriations.** In the event a component receives emergency appropriations from the state, the receipt, disbursement, and reporting of such appropriations will be subject to review by the System Director and campus auditor.

7.75 **Systemwide Compliance Program.** The Systemwide compliance program is conducted under the auspices of the audit function and is designed to promote and encourage, through objective assessments and other activities, behavior and compliance with applicable policies, laws, and rules governing higher education.

7.8 **Audit Risk Assessment and Audit Plan Development.**

- 7.81 Component Audit Risk Assessment and Plans. On an annual basis, each Component internal audit director shall perform a risk assessment to be used in developing a Component Audit Plan for the subsequent fiscal year. The risk assessment process shall include input from Component management and utilize other procedures as may be necessary and reasonable to ensure that risks unique to the Component are considered and evaluated in the planning process. Component Audit Plans shall be submitted to the System Director of Audits and Analysis for input and approval. Risk-based testing of contract administration shall be included in the annual audit plan. An assessment as to whether the institution has adopted the rules and policies required by *section 51.9337* of the *Texas Education Code* shall be performed annually.
- 7.82 System Office Audit Risk Assessment and Plan. The Director shall solicit input from the Finance and Audit Committee, the Chancellor, and vice chancellors regarding the risk assessment to be used in developing an Audit Plan for the System administration. Risk-based testing of contract administration shall be included in the annual audit plan. An assessment as to whether the institution has adopted the rules and policies required by *section 51.9337* of the *Texas Education Code* shall be performed annually.
- 7.83 Consolidation of Audit Plans. The System Office and Component Audit Plans shall be consolidated into a Systemwide Audit Plan, which will be presented by the Director of Audits and Analysis to the Finance and Audit Committee for approval at the meeting to be held prior to the fourth quarter Board of Regents meeting. The Finance and Audit Committee shall include discussion of the status of current and subsequent year Audit Plans and submit its recommendations for approval to the full Board.
- 7.84 Deviations from Audit Plans. Circumstances may require deviations from an Audit Plan. Component-level deviations may be recommended to the Director by the Component internal auditor or initiated by the Director. The Director shall promptly notify the Finance and Audit Committee and the Chancellor of such deviations, which may be approved, in writing, by the Chair of the Committee. Investigations resulting from *EthicsPoint* or other fraud reporting mechanisms are not considered deviations from the Audit Plan.
- 7.9 Audit Reports.
- 7.91 Content. Each internal audit report shall contain, at a minimum.

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

7.92 Management Response.

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

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

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

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

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

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

7.(10) Communications.

7.(10)1Periodic Status Reports. The Component auditors shall forward a summary of audit reports and the status of their respective Audit Plans in a format and time prescribed by the Director for inclusion in the quarterly Board agenda materials.

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

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

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

8. ELECTRONIC FINANCIAL TRANSACTIONS.

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

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

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

- (1) Naming of facilities or erecting of statues or monuments shall be by unanimous consent of the Board members attending at a regular or special called meeting.
- (2) Facilities shall be named or statues or monuments erected only for persons who have made outstanding or meritorious contributions to the Component or the System or who have attained the highest distinction in their respective fields of endeavor.
- (3) Facilities may be named or statues or monuments erected for entities that have supported the Component or the System in an exceptional or noteworthy way.
- (4) When the naming of facilities or the erecting of statues or monuments is contemplated as part of a special private-fund development effort or campaign, the prospective contributor shall be informed that any naming is subject to Chancellor and Board approval. Any brochures or other communications, in

whatever form, that advertise naming opportunities shall clearly state that all such namings are subject to Board approval.

- (5) Naming facilities or erecting statues or monuments in honor of Component or System administrative officials, faculty, staff, or elected or appointed public officials shall normally occur only after the employment or public service has concluded.
- (6) Nothing in this Rule shall be construed to require Board approval of informal or functional names or designations of Facilities that do not contain the name of a person or entity.

9.2 Naming of Academic Programs. The Board of Regents retains exclusive authority for naming academic programs at the Components. Such honorees shall normally have attained national or statewide stature in their fields of endeavor or otherwise significantly contributed to the development of a Component.

9.3 Building Plaques. Building plaques shall be provided on all new buildings, major landscaping projects, and major renovations where the function of the building changes or the building is substantially renovated. Existing building plaques shall remain in the case of renovation projects.

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

10. CONTRACTS, PURCHASES, AND AGREEMENTS.

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

10.2 Authority.

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

and General Counsel shall advise the Board of any contract or agreement that may have adverse legal ramifications.

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

- 10.22 The President of each Component shall be delegated the responsibility and authority to enter into contracts, purchases, and agreements for sums less than \$500,000 whether said amount is income or expenditure, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, and to enter into all grants and agreements funded by private individuals, governmental agencies, and foundations without regard to the amount, unless otherwise limited by the Board. At the request of the Component President, the Vice Chancellor and General Counsel will provide advice and assistance with regard to such contracts, purchases, grants, and agreements. Upon a specific request by a member of the Board, the Chancellor, or the Vice Chancellor and General Counsel, the Component President shall submit designated contracts and agreements to the Chancellor for review by the Vice Chancellor and General Counsel.
 - 10.23 The President may delegate power to contract, purchase, or enter into agreements of less than \$500,000, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, to other employees of the Component. Such delegation must be specific and in writing to be effective. The President will remain responsible for all contracts, purchases, and agreements for sums under \$500,000, and for the proper administration of all grants and agreements funded by private individuals, governmental agencies, and foundations, regardless of delegation of power to contract, purchase, or enter into agreements.
 - 10.24 The President shall not enter into any faculty or personnel contracts or agreements which are not subject to approval of the Board unless the authority for such action has been previously delegated to the President by the Board.
- 10.3 Contract Vendor Employee Background Check Policies. System Components shall engage in due diligence in awarding contracts to vendors of services, who will maintain permanent staffing on the campus.
- 10.31 Due Diligence on Vendors. Before awarding a contract to a vendor of services, who will permanently place employees on

the campus where such employees will be working with or around students, the Component shall:

- (1) During the bidding or negotiation process, notify prospective vendors, in writing, of the requirements of this paragraph;
- (2) Secure credit and criminal background checks on the vendor's officers and managers dealing with or on the campus; and,
- (3) Research prior or pending claims against the vendor (e.g., negligent hiring claims).

10.32 Content of Contracts. All contracts in which the vendor permanently places employees on the campus, working with or around students, shall include the following provisions and requirements:

- (1) A general liability policy, providing primary coverage and naming the Component, System, Regents, and their employees as additional insureds;
- (2) Indemnity and/or hold harmless clauses, protecting the Component, the System, Regents, and their employees from third party claims, caused, in whole or in part, by the actions or omissions of vendor, its employees, or other persons that the vendor causes to be on the campus;
- (3) A representation by the vendor that it has conducted the following background checks on its officers, employees, or other persons it causes to be on the campus:
 - (a) Sex offender and criminal history databases where the above individuals will be placed permanently on the campus, working with or around students;
 - (b) Criminal history and credit history background checks where the above individuals will be handling money, informational technology, or other security-sensitive areas as determined by the president;
- (4) That the president may require the vendor to remove any person from the campus that, in his or her judgment, poses a danger to health or safety;
- (5) An "independent contractor" clause.

10.4 Form and Procedure. All contracts, purchases, and agreements covered by *Subsection 10.21* of this *Chapter* of these *Rules and Regulations* shall be entered into in the official name of the Board after

each instrument is considered and approved in open meeting. Each instrument shall identify the Component on whose behalf it is made and shall be recorded in the minutes of the meeting at which it is approved. The original copy of an executed instrument shall be filed by the Chancellor in the System Administration as a permanent record of the Board. Executed copies of the instrument shall be delivered to the party with whom it is made and to the President of the Component. Additional copies of any contract or agreements may be executed and delivered as the Board may determine.

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

The following is the endorsement form to be used:

[Contractor]

Name, Title, Authority

Date

TEXAS STATE UNIVERSITY SYSTEM

Examined and Recommended:

President

Date

Chancellor

Date

[If applicable:

The Honorable _____
Chair, _____ Committee]

Date

Approved as to legal form:

Vice Chancellor and General Counsel

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

The Honorable
Chairman of the Board

Date

10.5 Contract Reporting

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

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

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

11. COPYRIGHT POLICY.

11.1 Policy Statement and Purpose.

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

the Component and, if necessary, how those ownership rights shall be determined.

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

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

11.2 Ownership of Copyright.

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

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

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

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

11.25 If a work is directed or contracted by the Component on a work for hire basis, then the Component owns the copyright.

11.26 Copyright ownership in works that are created pursuant to sponsored or third-party research funding, including works funded by grants, shall be determined in accordance with the terms of any agreement governing such funding. If any such

agreement is silent as to ownership, then the Component shall own the copyright of such works

11.3 Distribution of Copyright Royalties.

- 11.31 Royalty income received by a Component through the sale, licensing, leasing, or use of copyrightable material in which a Component has a property interest may be shared with the creator(s) and the Component where the material originated. When such sharing occurs, any distribution which grants the creator more than fifty percent (50%) of royalties shall require approval of the Board of Regents. In the event of multiple creators, the proper distribution of the fifty percent (50%) creators' share shall be determined by the creators through a written agreement
- 11.32 In the event that a creator contributes a personal work to a Component, a written agreement accepting such contribution shall be executed. The terms of the agreement shall include a statement governing the division of royalties between the Component and the creator.
- 11.33 In cases of extramural funding, the terms of the funding agreement shall govern the division of any royalties that may result from commercialization of materials resulting therefrom. In the event that the funding agreement vests royalty rights in a Component, and does not provide any royalty share for the creator, the creator shall be entitled to the same proportionate share he or she would have received if the work had not been extramurally funded. Such a royalty payment to the creator, however, may not violate the terms of the funding agreement. Such share shall be a proportion of whatever share is owned by the Component under the terms of the funding agreement and this policy.
- 11.4 Revision of Materials. Materials owned by a Component under the terms of this policy shall not be altered or revised without providing the creator a reasonable opportunity to assume the responsibility for the revision. If the creator declines the opportunity to revise such material, the assignment of responsibility for the revision will be made by the President.
- 11.5 Withdrawal of Materials. Materials owned by a Component shall be withdrawn from use when the Component in consultation with the creator deems such use to be obsolete or inappropriate. No withdrawal or other discontinuance shall take place that would violate the terms of any licensing or other agreement relating to the materials.
- 11.6 Noncompetitive Use. Copyright of courseware developed without specific direction or significant support of the Component shall remain with the employee. No royalty, rent, or other consideration shall be paid to the employee or former employee when that courseware or a modification thereof is used for instruction by the Component. The

employee or former employee shall take no action that limits the Component's right to use the instructional materials and shall provide written notice on the courseware itself indicating the Component's right of use. See *Chapter V, Paragraph 4.76* of these *Rules* for the policy on noncompetitive use of employee-owned courseware.

11.7 Use of Copyrighted Software.

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

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

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

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

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

- (1) A user shall not install software on more than one computer, unless written evidence exists that the Component has purchased the software and the license gives the purchaser the right to install it. Should a user

find such software, the user should immediately uninstall the software, remove the files from the computer, and destroy any media copies.

- (2) Manuals, and other copyrighted materials, shall not be copied without specific, written permission of the publisher.
- (3) Upgrading a software package does not release the software user from the terms of the original agreement, unless the software developer changes the license agreement. The old version of the software may not continue to be used on a different computer or be distributed for use to others.
- (4) When concurrent use is allowed by the license agreement, the number of concurrent users of a local area network (LAN) version of purchased software may not exceed the number of licensed users.

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

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

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

12. PATENT POLICY.

12.1 Purpose. The Components within The Texas State University System are dedicated to instruction, research, and public service. It is the policy of the Board of Regents of the System that each Component carry out its scholarly work in an open and free atmosphere and publish

results obtained therefrom freely. The Board recognizes that patentable inventions and discoveries may arise on occasion in the course of scholarly work conducted by the employees and students of its Component. It is the purpose of this policy to insure that such inventions and discoveries are used and controlled in a fashion that maximizes their benefit to the public, the inventor, and the System.

- 12.2 Applicability. This policy shall apply to all persons employed by a Component of The Texas State University System and to anyone using facilities owned or under the supervision of a Component in connection with the development of a patentable product.
- 12.3 Condition of Employment and Enrollment. The patent policy of the Board of Regents, as amended from time to time, shall be deemed to be a part of the conditions of employment of every employee of each Component, including student employees, and of the conditions of enrollment and attendance by every student at each Component.
- 12.4 Ownership. Except as otherwise described in this policy, every invention or discovery or part thereof that results from research or other activities carried out at a Component, or that is developed with the aid of the Component's facilities, staff, or through funds administered by the Component, shall be the property of the Component.
- 12.5 Inventions Made on Own Time. Inventions or discoveries made by Component employees or students in their personal time and not involving the use of Component facilities are the property of the inventor except in case of conflict with any other applicable agreement.
 - 12.51 For purposes of this policy, an individual's "personal time" shall mean time other than that devoted to normal or assigned functions in teaching, extension, Component service, or direction or conduct of research on Component premises or utilizing "Component facilities".
 - 12.52 The term "Component facilities" shall mean any facility, including equipment and material, available to the inventor as a direct result of the inventor's affiliation with the Component, and which would not be available to a non-Component individual on the same basis.
 - 12.53 Persons who claim that inventions or discoveries are made on personal time and without the use of Component facilities have the responsibility to disclose all such inventions to the Component in accordance with the disclosure procedures applicable to inventions made on Component time or with the use of Component facilities. It shall be the responsibility of the inventor to demonstrate the basis of the inventor's claim that only personal time and no Component facilities were utilized.
 - 12.54 If the inventor so desires, inventions or discoveries made on personal time and without the use of Component facilities may

be assigned to the Component. Under this arrangement, the procedures will be the same as for inventions or discoveries made by Component personnel on Component time or with the use of Component facilities and materials.

- 12.6 Patents Arising From Government Sponsored Research. Patents on inventions or discoveries arising from research financed by federal, state, or local government may be controlled by the terms of the grants and contracts specified by the government agency sponsoring the research, or by applicable law. In some cases, the sponsoring government agency may claim rights to patents resulting from the sponsored research.
 - 12.61 Except as provided by law or by government-supported grants or contracts, or when no patent rights are claimed by the government agency, or when such rights are waived by the government, patents arising from government sponsored research are controlled by this Patent Policy.
 - 12.62 When a patent arising out of research supported under government grants or contracts is owned by a Component that Component will, if requested, agree to a non-exclusive royalty-free license for use of such patent by the sponsoring government agency.
 - 12.63 If such a patent is owned by the sponsoring government agency, the Component shall be free to use the invention so covered for its own scientific and educational purposes without payment of royalty or other charge, consistent with applicable law.
- 12.7 Patents Arising From Research Sponsored by Non-Governmental Entities. Each Component must ensure that its facilities and the results of the work of its employees are applied in a manner which best serves the interests of the public. Likewise, the legitimate interests of a private sponsor who provides financial or other support to research carried out through the Component must be considered.
 - 12.71 Components should normally reserve the right to ownership of patents on inventions or discoveries arising out of research supported in whole or in part by grants or contracts with non-governmental organizations or firms. Contracts or agreements which are entered into between a Component and such organizations or firms should contain clauses setting forth such a reservation unless deviations therefrom are requested by the sponsor and approved by the Component consistent with the public interest.
 - 12.72 In the interest of fair treatment to the non-governmental sponsors of research, upon request special provisions may be negotiated which grant ownership of patents arising out of research sponsored by a non-governmental organization or firm to the sponsor of such research. In such cases, the Component should: (1) retain the right to use the invention or discovery for

its own research, educational, and service purposes without the payment of royalty fees, (2) require the sponsor to use due diligence in the commercial use of the invention, and (3) retain the right to freely publish the results of its research after a reasonable period necessary to protect the rights of the parties and to allow for the filing of a patent application.

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

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

fifty percent (50%) of net royalties shall accrue to the Component responsible for the invention or discovery. Special facts concerning an invention or discovery may warrant a different distribution of royalties.

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

approval by the President of a Component, employees of a Component who conceive, create, discover, invent, or develop inventions or discoveries may hold an equity interest in a business entity that has an agreement with the Component relating to the research, development, licensing or exploration of those discoveries or inventions.

12.(17)3 The Component may negotiate, but shall not be obligated to negotiate, an equity interest on behalf of any employee as a part of an agreement between the Component and a business entity relating to inventions and discoveries conceived, created, discovered, invented, or developed by the employee and owned by the Component.

12.(17)4 Dividend income and income from the sale or disposition of equity interests held by a Component pursuant to agreements relating to inventions and discoveries shall belong to the Component and shall be distributed in accordance with the provisions of this policy. Dividend income and income from the sale or disposition of an equity interest held by a Component employee pursuant to an agreement between the Component and a business entity relating to rights in inventions and discoveries conceived, created, discovered, invented, or developed by such employee shall belong to the employee.

12.(18) Business/Management Participation.

12.(18)1 By Employees. Any Component employee who conceives, creates, discovers, invents, or develops an invention or discovery shall not serve as a member of the board of directors or other governing board, or as an officer or an employee (other than as a consultant in accordance with Component and Regent policies and regulations) of a business entity that has an agreement with the Component relating to the research, development, licensing, or exploitation of that invention or discovery without prior review and approval by the President of the Component.

12.(18)2 For the Component. When requested and authorized by the Board of Regents, an employee may serve on behalf of the Board as a member of the board of directors or other governing board of a business entity that has an agreement with a Component relating to the research, development, licensing, or exploitation of inventions and discoveries.

13. ABANDONED AND UNCLAIMED PERSONAL PROPERTY.

Abandoned and unclaimed personal property discovered on a System Component campus shall be turned over to the campus security or police department for safekeeping and standardized handling. 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 shall be held for a minimum of one hundred and twenty (120) days from the time the campus security or police office acquires the property. 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 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), the item may be sold as part of a normal Component surplus property sale.

14. INDEMNIFICATION OF REGENTS AND EMPLOYEES.

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

15. REPORTING OF WRONGFUL OR FRAUDULENT CONDUCT.

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

16. USE OF AUTHORITY.

Power to Authorize Expenditures Out of System Funds. No expenditure from funds under the control of the Board or Component shall be made, no debt or obligation shall be incurred, and no promise shall be made in the name of the System, any of its Components, or of the Board by any member of the respective faculties or staffs of the System or any of its Components except:

- 16.1 In accordance with general or special budgetary apportionments authorized in advance by the Board and entered into its minutes; or,
- 16.2 In accordance with authority specifically vested by the Board in a committee of the Board; or,
- 16.3 In accordance with authority to act for the Board when it is so specifically vested in the Component President and with the monetary

limitations as set forth by these *Rules and Regulations* or by special action by the Board.

- 16.4 It shall be the duty of the several Component administrative officers to see that all claims for payments of items not authorized as indicated above are refused and returned unpaid.
- 16.5 There shall be no sale to or purchase from the System or its Components by the Component President, unless purchased as surplus property and/or at a duly authorized public auction. This *Subsection* shall not apply to goods and services which the system or its Component universities make available for purchase by faculty and staff or on the open market by the general public.

17. "BEST VALUE" PROCUREMENT.

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

- 17.1 The System and Components may acquire goods and services by the method that provides the "best value" to the institution, including:
 - (1) competitive bidding;
 - (2) competitive sealed proposals;
 - (3) catalogue purchase;
 - (4) group purchasing program; or,
 - (5) an open market contract.
- 17.2 In determining what is "best value" the System and Components shall consider:
 - (1) the purchase price;
 - (2) the reputation of the vendor and of the vendor's goods and services;
 - (3) the quality of the vendor's goods and services;
 - (4) the extent to which the goods or services meet the Component's needs;
 - (5) the vendor's past relationship with the Component and/or the System;

- (6) the impact on the ability of the Component to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;
 - (7) the total long-term cost to the Component of acquiring the vendor's goods or services;
 - (8) the use of material in construction or repair to real property that is not proprietary to a single vendor unless the Component provides written justification in the request for bids for use of the unique material; and,
 - (9) any other relevant factor that a private business would consider in selecting a vendor
- 17.3 The System and each Component shall establish purchasing rules and guidelines based upon the procurement rules established by the Board. All procurements shall be made in accordance with all applicable federal, state and local laws, *Rules and Regulations*, and the Board's "best procurement" *Rules and Regulations*.

18. HISTORICALLY UNDERUTILIZED BUSINESSES.

- 18.1 Purpose. The Texas State University System Board of Regents promotes full and equal opportunity for all businesses to provide the goods and services needed to support the mission, administrative, and logistical operations of system Components. The Board commits its Components to a good faith effort to increase purchases and contract awards with Historically Underutilized Businesses (HUB) firms through race, ethnic, and gender neutral means and consistent with the state's goals for HUB participation and overall social advancement and economic prosperity.
- 18.2 Scope. This policy applies to acquisition of commodities, professional and other services, and construction by the System Administrative Office and Component institutions, including auxiliary enterprises, regardless of funding source (treasury or non-treasury funds).
- 18.3 Incorporation by Reference. The Historically Underutilized Business Program *Rules and Regulations* promulgated and, from time to time, amended by the Texas Procurement and Support Services (TPASS) are adopted into and shall become part of these *Rules and Regulations* as if fully set out herein (see website address – <http://www.window.state.tx.us/procurement/prog/hub>).

19. INFORMATION TECHNOLOGY "IT".

- 19.1 Purpose. The Texas State University System considers information technology critical to fulfillment of its mission and has made significant investments in information technology assets and capabilities. In order

to assure that System and component networks are effectively and properly managed; to protect these assets against unauthorized access, disclosure, modification or destruction; and to assure the security, availability, integrity, utility, authenticity, and confidentiality of information, including server hardware and software, each component institution shall develop and disseminate an institutional policy statements consistent with the policy guidelines as referenced in Section 19.2 (See *Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C (TAC 202)*).

19.2 Policy components. Each component shall adopt an information technology policy addressing the following areas and that are consistent with the associated TSUS "IT" Policy Guidelines:

- (1) *Network Management*, including network purpose; address and device management; oversight roles and responsibilities; usage responsibilities; and, threat and incident response; (See *Appendix TSUS IT Policy Guideline 03-02 Network Management*);
- (2) *Information Security*, including purpose; organization; risk assessment; asset management; human resources security; physical and environmental security; communication and operations management; access control; information systems acquisition, development and maintenance; information security incident management; business continuity management; and legal, regulatory, and contractual compliance; (See *Appendix TSUS IT Policy Guideline 02-02*);
- (3) *Appropriate Use of Information Technology Resources*, including general purpose; individual versus institutional purpose, personal versus official representation; limitations on availability of information technology resources; privacy and confidentiality of electronic documents; TSUS institutional responsibilities; consequences of failure to comply with informational technology policy; (See *Appendix TSUS IT Policy Guideline 01-02*) and,
- (4) *Server Management*, including server purpose and function; server management roles and responsibilities; conformance with server management best practices; and, threat and incident response. (See *TSUS Appendix IT Policy Guideline 04-02*).

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

20. SMOKING AND TOBACCO POLICY.

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

21. INTERCOLLEGIATE ATHLETICS.

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

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

22. SEXUAL MISCONDUCT POLICY.

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

CHAPTER IV. PRESIDENTS OF THE COMPONENTS

1. APPOINTMENT.

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

2. AUTHORITY, DUTIES AND RESPONSIBILITIES.

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

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

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

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

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

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

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

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

appropriate administrator or committee on the employee's or student's case as soon thereafter as is practicable unless otherwise waived by the employee or student.

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

the two, as allowed by statute. The President or a designee, is authorized to transfer funds annually from the endowment account to the scholarship account for the awards prescribed in the statute.

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

3. BENEFITS.

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

4. VACANCIES.

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

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

5. COUNCIL OF PRESIDENTS.

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

6. SUBMISSIONS FOR BOARD APPROVAL.

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

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

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

7. EVALUATION.

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

Chancellor and President being evaluated. This evaluation shall take place before a quorum of the full Board of Regents, and in executive session, unless the subject President requests a public evaluation.

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

8. TERMINATION.

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

CHAPTER V. COMPONENT PERSONNEL

1. COMPONENT EMPLOYEES.

1.1 Definitions.

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

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

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

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

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

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

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

Contracts in excess of the president's authority shall be subject to the Chancellor's review and approval.

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

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

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

2. GENERAL.

2.1 Employment.

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

2.12 Hiring and Promotions.

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

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

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

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

- 2.145 The minimum standards of individual conduct required by the penal statutes of Texas or the United States are both expected and required of every employee of the System and its Components. Any employee who violates the minimum standards of conduct required by any penal statute of Texas or the United States is subject to dismissal as an employee regardless of whether any action is taken against the employee by civil authorities on account of such violation.
- 2.146 If action for dismissal of an employee is taken, the appropriate administrative officer shall proceed with the action in the same manner as would be the case of a violation by an employee of any other provision of these *Rules and Regulations* or a provision of the faculty or staff handbook of the Component.
- 2.15 Grievances. Every employee of each Component, individually or through a representative that does not claim the right to strike, shall be entitled to present grievances to a hearing officer designated by the president concerning such employee's wages, hours of work, or conditions of work. Such grievances shall not involve formal hearings.
- 2.2 Appointment of Relatives (Nepotism Rule).
 - 2.21 Each appointment of an employee at a Component, whether on a full-time or part-time basis, shall be made solely with regard to the special fitness of the appointee subject to applicable statutes and subject also to the provisions of this *Section* of the System's *Rules and Regulations*.
 - 2.22 In accordance with the prohibition of *Government Code, Chapter 573*, no person related to any member of the Board of Regents within the second degree of affinity or within the third degree by consanguinity shall be eligible for appointment to any office, position, employment, or duty with any Component of The Texas State University System, when the salary, fee, or compensation of such appointee is to be paid, either directly or indirectly, out of public funds of any kind.
 - 2.221 *Government Code, Chapter 573* does not prohibit the reappointment or continued employment of any person who shall have been continuously employed in any such office, position, employment, or duty for a period

of one (1) year prior to the appointment of the member of the Board of Regents related to such person within the prohibited degree, nor does it prohibit honorary or non-remunerative positions.

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

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

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

- (a) Such employment causes one relative to have a direct supervisory relationship over the other relative; or
- (b) Such employment causes one relative to have authority over the salary or other terms of employment of the other.

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

2.231 If the appointment, reappointment or continued employment of a person places such person under an administrative supervisor related within the above specified degree, all subsequent actions with regard to reappointment, promotion, or salary shall be the responsibility of the next highest administrative supervisor. It shall also be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually and submit each review for approval or disapproval by

the Component's appropriate vice president in the case of classified employees or the President in the case of faculty or unclassified employees. When appropriate, the next highest administrator may delegate these responsibilities to another administrator who is neither related to the person subject to the personnel actions nor in that person's reporting line.

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

2.3 Retirement and Recognition of Service.

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

2.32 Requirements of the Optional Retirement Program.

- 2.321 Company Qualifications. Each Component will design its specifications for companies to qualify as Optional Retirement Program vendors on that Component's campus. The Board of Regents must approve those specifications. Thereafter, the Component's President (or the President's designee) may authorize any insurance or investment company qualified and admitted to do business in this State to offer an ORP on the Component's campus. Any program offered is subject to compliance with statutory provisions, the prescribed *Rules and Regulations* of the Texas Department of Insurance, the State Securities Board, the Texas Higher Education Coordinating Board, and the requirements of the Board of Regents.
- 2.322 Contributions. Employee and State contribution rates for the Optional Retirement Program and Teacher Retirement System shall comply with law.
- 2.323 Tax Considerations. Whether or not the employer's and/or employee's contributions to the Optional Retirement Program are tax sheltered, the employee's contribution is made on all salary reduction as required by the ORP statute. All contributions shall comply with IRS laws and regulations for accounts authorized under *Section 403(b)* of the *Internal Revenue Code*."
- 2.324 Authorization. The Component President or a representative designated by the President shall be authorized to sign the forms necessary to administer the

Optional Retirement Program and the Teacher Retirement System.

- 2.325 Certification of State Comptroller. Each Component shall be required to certify to the State Comptroller each Fiscal Year an estimate of the amount of funds required for payments of State Matching Contributions for participants in the Optional Retirement Program.
- 2.326 Eligibility to Participate. An employee of a Component of The Texas State University System is eligible for participation in the Optional Retirement Program in accordance with rules adopted by the Texas Higher Education Coordinating Board. An employee who has met the ORP vesting requirement and subsequently transfers to a position which would not otherwise qualify for ORP participation shall remain in ORP except as authorized by TRS rules.
- 2.33 Salary Reduction Plan of the Optional Retirement Program. The Components are authorized to participate in the salary reduction agreement of the Optional Retirement Program as provided by statute. The Component President or a representative designated by the President is authorized to approve the forms required for this salary reduction agreement through those carriers approved by the Component in the implementation of the Optional Retirement Program.
- 2.34 Honorary Titles and Resolutions for Retirees. Faithful and distinguished service by a retiring faculty member or administrator may be recognized by an appropriate resolution of the Board, upon recommendation of the Local Committee.
 - 2.341 Long and distinguished service by a faculty member holding the rank of Professor or Associate Professor may be recognized upon retirement by conferral of the title of Professor Emeritus, Associate Professor Emeritus, Distinguished Professor Emeritus or Distinguished Associate Professor Emeritus as provided by *Section 4.9 of this Chapter*.
 - 2.342 Faithful and distinguished service by the President of a Component may be recognized by the Board upon retirement, or upon returning to full-time teaching if a tenured member of the faculty, by conferral of the honorary title President Emeritus of the Component, without remuneration or authority for this honorary title.
- 2.4 Standards of Conduct. Except as exempted by *Sections 12.(16), 12.(17) and 12.(18) of Chapter III of these Rules and Regulations*, all Component employees shall adhere to the standards of conduct articulated in *Chapter VIII*:

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

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

2.5 Absences.

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

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

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

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

3. ADMINISTRATIVE OFFICERS.

3.1 Employment.

- 3.11 Hiring. The President of each Component shall recommend annually to the Chancellor, before presentation to the Board of Regents, the employment or re-employment of all administrative officers, stating their names and academic credentials, if applicable. Such officers shall not have tenure by virtue of their office and shall serve without fixed term subject to the pleasure of the President. Statutory provisions requiring notification to employees shall be followed.
- 3.12 Salaries. The President shall recommend to the Chancellor, before presentation to the Board, the salary for each administrative officer at a regular Board meeting.
- 3.13 Vacancies. A President may fill any administrative vacancy by an interim appointment subject to Chancellor and Board ratification.

3.2 Terminations.

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

- (2) The president of the Component need not state the reasons for the questioned decision nor offer evidence in support thereof unless the affected administrative officer presents a *prima facie* case in support of such allegations. In such case, the hearing committee shall determine whether the President has no other reason for his decision.
 - (3) The hearing committee will make written findings on the material facts and a recommendation, which findings and recommendation shall be forwarded to the president and to the affected administrative officer. The administrative officer may appeal to the president and ultimately to the Board of Regents in accordance with the terms and procedures specified in *Subsections 4.55 and 4.56* of this *Chapter*.
- 3.22 Tenured Faculty as Administrators. If the administrative officer has tenure at the Component by virtue of holding a past faculty position or otherwise, termination as a member of the tenured faculty shall be only for good cause shown, and the official shall be given a hearing if terminated from tenured faculty status.
- 3.3 Sexual Misconduct. Administrative officers shall comply with the System's "*Sexual Misconduct*" policy found in *Chapter III Paragraph 22* and *Appendix A-6*.

4. FACULTY.

4.1 Employment.

- 4.11 The Board of Regents strongly desires to maintain learned faculties who, by precept and example, will instruct and inspire their students and reflect credit upon the Component. The Board encourages scholarship, creative activity, research, and public service but affirms that the primary goal of each faculty member shall be to attain a greater proficiency in teaching.
- 4.12 Nominations. The President of each Component shall recommend to the Chancellor and the Board the employment or re-employment of faculty members to be awarded term or annual appointments, advising in writing as to the tenure status, proposed academic rank, and highest degree of each nominee.
- 4.13 Appointments. All faculty appointments, including the granting of tenure, are subject to the approval of the Chancellor and the Board. At the earliest practicable Board meeting following the Governor's approval of the State's *General Appropriations Act*, the Board shall appoint the faculty and other teaching personnel to term or annual appointments for a specified period not to exceed one year. The President shall advise each appointee in writing of the provisions and conditions of the appointment. If

a faculty member has already been appointed by the Board for either a fall or spring semester, the contract may be extended for the summer or for additional special assignments during the same Fiscal Year by the President, unless the extension includes a change in academic rank or an increase in the base salary.

- 4.14 Reappointments. Written notice of a decision not to reappoint will be given to a tenure track faculty member not later than March 1st, of the first, or not later than December 15th of the second, academic year of probationary service. After two or more academic years, written notice shall be given not later than August 31st that the subsequent academic year will be the terminal year of appointment. The notice required by this *Section* is not applicable where termination of employment is for good cause under *Subsection 4.5* or for faculty members who are appointed on a term basis.
- 4.141 Reappointment or the award of tenure shall be accomplished only upon the President's written recommendation and the Chancellor's and the Board of Regent's approval. If the faculty member does not receive notice as prescribed in this *Chapter*, it shall be his or her duty to inquire as to the decision of the President, who shall without delay give the required notice to the faculty member. Failure of the Component to comply with the notice provisions of this *Chapter* shall not entitle a faculty member to *de facto* tenure, and these *Rules and Regulations* expressly prohibit the awarding of *de facto* tenure.
- 4.142 Each faculty member shall keep the President or his or her designee notified of the faculty member's current mailing address. Written notices required by *Subsections 4.24* or *4.54* shall be sent by certified mail, return receipt requested. Notice shall be complete when deposited in the United States mail, addressed to the last known address given by the faculty member. The faculty member's failure or refusal to receive the notice is immaterial.
- 4.15 Vacancies. A President may fill, by interim appointment, a faculty vacancy, subject to the Chancellor's and Board of Regent's ratification.
- 4.16 Salary Authority. No faculty member's salary, regardless of the source of funds, shall exceed the Component President's salary as designated by the Legislature in the *General Appropriations Act*, unless the salary is specifically recommended by the Chancellor and approved by the Board of Regents.

4.2 Tenure.

- 4.21 Defined. Tenure denotes an entitlement to continued employment as a member of the faculty at a Component in accordance with the provisions of these *Rules and Regulations*. Tenured faculty can expect those privileges customarily associated with tenure at their Component. Such privileges include a suitable office and workspace, serving as a principal investigator and conducting of research, teaching classes, and participating in faculty governance. However, tenure does not create a property interest in any attributes of the faculty position beyond the annual salary. By way of example only, tenure does not create a property interest in laboratory space, a particular office, the right to teach graduate students, or use of research materials or equipment. Only members of the faculty with the academic title of Professor, Associate Professor, or Assistant Professor may be granted tenure, unless the Component handbook recognizes the rank of Instructor as eligible for tenure. In exceptional cases, tenure may be granted at the time of appointment to any of such academic ranks by the Board of Regents or may be withheld pending satisfactory completion of a probationary period of faculty service. For tenure to be granted at the time of appointment, the President must consult with and submit a written justification to the Chancellor, who shall review all such recommendations with the full Board.
- 4.22 Tenure Track Faculty. Only full-time service in the academic ranks of Professor, Associate Professor, Assistant Professor, and/or Instructor (at Components where such is an academic rank eligible for tenure) shall be counted toward fulfillment of a required probationary period. Periods during which a faculty member is on leave of absence shall not be counted toward fulfillment of a required probationary period. If the Component faculty handbook does not recognize the rank of Instructor as eligible for tenure, then no more than three (3) years service as Instructor shall be so counted.
- 4.23 Prior Service Credit. At the discretion of the Component, up to three (3) years prior service at the other academic Component may be counted toward fulfillment of the required probationary period.
- 4.24 Maximum Probationary Service. The maximum period of probationary faculty service in tenure track status in any academic rank or combination of academic ranks shall not exceed six years of full-time academic service, unless the tenure clock has been tolled as provided in this *subparagraph*. Not later than August 31st of the last academic year of the maximum probationary period in effect at any Component, a tenure track faculty member shall be given written notice that the subsequent academic year will be the terminal year of employment or that, beginning with the subsequent academic year, tenure will be granted. In the event that the employment of a tenure track

faculty member is to be terminated prior to the end of the maximum probationary period, notice shall be given in accordance with *Subparagraph 4.5* below. Faculty members who have not been granted tenure by the Board of Regents shall not be entitled to tenure by virtue of being employed at the Component past the probationary period, i.e., such faculty members do not have *de facto* tenure.

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

4.242 Timing of Request. The request to toll shall, to the extent possible, occur prior to the occurrence of the event(s) stated in *Subparagraph 4.241* and, in any case, within one year of the event(s). Requests made after the Component provides written notice of commencement of the promotion and/or tenure review process will not be honored.

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

4.244 Chief Academic Officer's Obligations. The chief academic officer shall notify the faculty member, the chair/director, and the dean, and submit his or her recommendation to the System vice chancellor for academic affairs (VCAA) for his or her decision. The recommendation shall include the faculty member's date of hire; process used to decide to request extension (such as executive committee approval or department chair recommendation); rationale to exclude the requested period of countable service; other facts or documentation relevant to the case; and the date by which the faculty

member will be reviewed for tenure if the extension is approved.

- 4.245 Two Year Limitation. The total time excluded from countable service under this policy is two years (for example, a faculty member who tolls or excludes one year for childbirth or adoption and one year for dependent care has reach the maximum).
- 4.246 No Property Right Created. The tolling of the tenure clock under this policy lies within the sole discretion of the Component administration, subject to the VCAA's approval, and creates no property right, contractual or other legal entitlement in a member of the faculty. The administration may deny a request when, in its judgment, the needs and best interests of the Component, its academic units, and/or its students so require; provided, that this policy shall not be applied in violation of Component or System non-discrimination policies.
- 4.247 Tenure and Promotion Criteria Unaltered. Chairs/directors, deans, and chief academic officers shall ensure that all faculty members, tenure and promotion or other reviewing committees, and outside letter writers are informed that the criteria for tenure do not change when service has been excluded from a faculty member's probationary period.
- 4.25 Calculating Service. For purposes of calculating the period of probationary service, an "Academic year" shall be the approximate nine-month period from September through May as designated in the common calendar established by the Texas Higher Education Coordinating Board. One year of probationary service is accrued by at least nine months full-time academic service during any academic year, regardless of whether contracted on an annual basis or for a consecutive fall and spring semester. A faculty member shall be considered to be on full-time academic service if in full compliance with Board standards pertaining to minimum faculty workloads at general academic universities. If a faculty member is initially appointed during an academic year, the period of service from the date of appointment until the beginning of the following academic year shall not be counted as academic service toward fulfillment of the maximum probationary period.
- 4.26 Non-tenured Faculty. No non-tenured member of the faculty should expect continued employment beyond the period of current appointment as approved by the Board of Regents. Any commitment to employ a non-tenured member of the faculty beyond the period of current appointment shall have no force and effect until approved by the Board. Non-tenured members of the faculty serve at the pleasure of the Component President

and the Board, subject to the provisions of proper notice as required by these *Rules and Regulations*.

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

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

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

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

4.3 Promotion.

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

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

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

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

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

4.41 Faculty Member Defined. For purposes of this *Paragraph*, "faculty member" means a person employed full-time by a System Component as a member of the faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. It does not include a person who holds faculty rank but spends the majority of his or her time engaged in managerial or supervisory activities, including a chancellor, president, provost, vice president, associate or assistant vice president, dean, associate or assistant dean.

4.42 Grievable Issues. A faculty member may present a grievance, in person, to a System Component's president on an issue related to non-renewal or termination of the faculty member's employment at the end of his or her contract period.

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

- 4.44 Grievance Process. The president shall designate a member of his or her administration as a hearing officer to consider grievances under this *Chapter*.
- 4.441 No later than thirty (30) business days after the grievant learns (or in the exercise of reasonable care should have learned) of the action or condition giving rise to the grievance, he or she shall file the grievance on a form prescribed by the Component, providing supporting documentation, if any.
- 4.442 The hearing officer will meet with the grievant at a mutually convenient time to review any documentation or other evidence that the grievant may present in support of his or her position.
- 4.443 The hearing officer may not recommend changing the administration's action regarding non-renewal or termination of employment unless the faculty member establishes a *prima facie* case—that is, presents evidence sufficient to establish a claim in the absence of rebuttal by the Component—that he or she has been denied a right guaranteed by the constitutions or laws of the United States or of the State of Texas.
- 4.444 If he or she finds that the grievant has established a *prima facie* case, the hearing officer shall determine whether the administration has stated a non-discriminatory reason for its decision and so advise the president.
- 4.445 The president shall make the final decision regarding the grievance.
- 4.45 Not a Due Process Proceeding. A grievance under this *Paragraph* is not a due process hearing, requiring the formalities specified in *Paragraph 4.5* of this *Chapter*.
- 4.46 Component Procedures. A Component may not establish procedures that expand or contract the rights granted or materially alter processes described in this *Paragraph*. To the extent Component procedures conflict with the procedures in this *Paragraph*, the latter shall prevail. Existing Component policies on this subject matter are hereby revoked.
- 4.5 Termination and Due Process Procedures.
- 4.51 Grounds. Termination by a Component of the employment of a tenured faculty member and of all other faculty members before the expiration of the stated period of their appointment, except by resignation or retirement, will be only for good cause shown.

Good cause includes but is not limited to the following:

- (1) Failure to work efficiently or effectively;
- (2) Insubordination;
- (3) Serious professional or personal misconduct, examples of which include:
 - (a) Commission of a misdemeanor involving moral turpitude, or a felony;
 - (b) Failure to secure and maintain Federal, State, or local permits required in the discharge of teaching, research, or other professional duties, including failure to maintain appropriate documentation;
 - (c) Willful destruction of Component property or violent disruption of the orderly operation of the campus;
 - (d) Violation of the System's ethics policy (*Chapter VIII* of these *Rules and Regulations*), including acceptance or solicitation of gifts that might tend to influence the discharge of one's professional responsibilities;
 - (e) Stealing and publishing as one's own the intellectual property of another;
 - (f) Misuse or misappropriation of state property, resources, funds, including funds held by a faculty member as part of official duties;
 - (g) Sexual harassment, as defined by *Section 4.4* of *Chapter VII* of these *Rules and Regulations*; and,
 - (h) Racial harassment as defined by *Section 4.3* of *Chapter VII* of these *Rules and Regulations*.
- (4) Professional incompetence and/or neglect of professional duties;
- (5) Mental or physical disablement of a continuing nature adversely affecting to a material and substantial degree of the performance of duties or the meeting of responsibilities to the institution, or to students and associates;
- (6) Illegal use of drugs, narcotics, or controlled substances. A faculty member who, by a preponderance of the evidence, under these *Rules and Regulations*, is found to

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

- (7) Intentionally or knowingly violating any Board or administrative order, rule, or regulation, including the provisions of *Chapter V, Section 2.144* of these *Rules and Regulations*. The employee is presumed to have knowledge of such Board or administrative order, rule, or regulation that is published in these *Rules and Regulations* or is a published policy of the Component.

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

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

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

- (1) The hearing tribunal shall not include any accuser of the faculty member. The faculty member may challenge the alleged lack of fairness or objectivity of any tribunal member, provided such challenge is made prior to the submission of any evidence to the tribunal. The faculty member shall have no right to disqualify such member

from serving on the tribunal. Each such challenged member shall determine whether he or she can serve with fairness and objectivity in the matter. In the event the challenged member chooses not to serve, the President shall appoint a substitute.

- (2) The faculty member shall have a right to attend the hearing; confront and cross-examine adverse witnesses; present relevant evidence on his or her own behalf; testify or choose not to testify; and, be assisted or represented by counsel. The hearing shall be closed although the faculty member may request that it be open to the public. Notwithstanding a faculty member's request, the tribunal may close all or a portion of a hearing to deliberate or if it appears likely that privacy interests of others are relevant and could be affected by an open hearing.
 - (3) The Component, through a representative and/or through counsel, shall have the right to attend proceedings; present witnesses and evidence against the faculty member; and, cross-examine the faculty member (if the faculty member testifies) and his or her witnesses.
 - (4) The hearing tribunal, by a majority of the total membership, shall make written findings on the material facts and a recommendation of the continuance or termination of the faculty member's tenure as well as any supplementary suggestions it may have concerning the case. The original of such findings, the recommendation, any supplementary suggestions, and the record of the hearing shall be delivered to the President and a copy thereof sent to the faculty member. Any minority findings, recommendations, or suggestions shall be distributed in the same manner.
 - (5) A stenographic or electronic record of the such record shall be made accessible to the faculty member.
- 4.55 Review by President. The President shall review the record, plus any additional written briefs the parties wish to submit, and render a decision, stating his or her reasons therefore in writing and communicating the same to the faculty member. The President may recommit the matter to the same tribunal to hear additional evidence and/or to reconsider its findings, recommendations, or suggestions, if any. The original findings, recommendations, and suggestions of the hearing tribunal, a transcript of the hearing, any briefs submitted, and the decisions, recommendations, findings, and suggestions of the President shall be delivered to the Board.
- 4.56 Appeal to the Board. Upon written request by the faculty member, received in the System Administrative Office within

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

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

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

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

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

- (1) Whenever possible, faculty reduction will be accomplished through attrition;
- (2) Within a designated program, the termination of the employment of a faculty member with tenure may not be recommended in favor of retaining a faculty member without tenure unless:

- (a) The removal of a non-tenured faculty member would eliminate an essential part of a program or render a program dysfunctional; or,
 - (b) The removal of a non-tenured faculty member who is deemed to be of equal or greater merit than a tenured faculty member would jeopardize the advances achieved by the Component under its diversity program.
- 4.63 A faculty member recommended for termination under the provisions of *Section 4.6* should be given the opportunity for appointment in a related area provided: (a) the faculty member is qualified professionally to teach in such area or is willing to undergo the appropriate professional retraining that will qualify him or her to do so; and (b) a position is available.
- 4.64 A faculty member whose position has been terminated will be given first consideration for rehiring, should the position be re-established within a three-year period.
- 4.65 The President of each Component shall develop and publish in the Component's faculty handbook the Component's policy regarding termination of employment under *Section 4.5*, subject to the reviews and approvals specified in these *Rules and Regulations*.
- 4.7 Rights and Responsibilities as a Teacher and as a Citizen.
 - 4.71 Classroom. The faculty member is entitled to freedom in the classroom in discussing the faculty member's subject but should be judicious in the use of controversial material in the classroom and should introduce such material only as it has clear relationship to the subject field.
 - 4.72 Research and Publication. The faculty member is entitled to freedom in research and in the publication of the results in accordance with responsible academic and professional practices.
 - 4.73 Licenses and Permits. The faculty member shall be responsible for securing and maintaining any and all federal, state, and local licenses and permits required for his or her classroom, research, or other professional activities.
 - 4.74 Speaking as a Citizen. The faculty member is a citizen, a member of a learned profession, and an employee of an educational component supported by the State. When the faculty member speaks or writes as a citizen, the faculty member should be free from component censorship or discipline; but, the faculty member's special position in the community imposes special obligations. As a person of learning and a faculty member of a state funded educational component, the faculty

member should remember that the public may judge his or her profession and component by his or her utterance. Hence, the faculty member should at all times be accurate, exercise appropriate restraint, and should show respect for the opinions of others.

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

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

4.8 **Terms and Conditions of Employment.**

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

4.82 **Absences.** The following regulations, pertaining to faculty absences, authorized and unauthorized, are established for each Component and have been filed with the Texas Higher Education Coordinating Board as required by the *Texas Education Code, Section 51.108*. Each Component President is delegated authority to promulgate policies to implement the provisions of this *Subsection*, including the reporting of faculty

absences and the granting of such sick leave, emergency leave, and/or other leave as may be authorized by statute or the *General Appropriations Act*. Component policies shall make provisions for the following:

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

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

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

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

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

employment outside the Component because such does not directly benefit the Component as indicated herein.

- 4.832 Conflict of interest must be avoided in all instances of outside employment. Conflict of interest means any outside activity which intrudes upon the faculty member's responsibility to the Component. See *Subsection 2.4* of this *Chapter* and *Chapter VIII (Ethics Code)*.
- 4.833 No member of the faculty engaged in outside remunerative activities shall use in connection therewith the official stationery, supplies, equipment, personnel services, or other resources of the System or any of its Component universities. Nor shall such member of the faculty accept pay from private persons or corporations for tests, essays, chemical analysis, computer programming, bacteriological examinations, or other work of a routine character which involves the use of property owned by the System or its Components.
- 4.834 Every member of the faculty who gives professional opinions must protect the System and its Components against the use of such opinions for advertising purposes. That is, when work is done in a private capacity, the faculty member must make it clear to the employer that such work is unofficial and that, absent the President's prior approval, the name of the System and its Components are not in any way to be connected with the faculty member's name. Exceptions may be made for the name of the author attached to books, pamphlets, and articles in periodicals, and the identification of an individual in publications of corporations or companies related to service as a member of an advisory council, committee, or board of directors.
- 4.835 A faculty member (as defined in *Section 1.11* of this *Chapter*) may not engage in any outside work or receive compensation from an outside source that creates a conflict of interest with the faculty member's duties at the Component. A conflict of interest includes the actions prohibited in *Section 3.2* of *Chapter VIII* of these rules. The faculty member shall notify the President or his/her designee of such activity.
- 4.836 Reporting Requirements. Any faculty member who seeks to engage in remunerative employment or consulting outside of his or her primary employment relationship with the Component, shall notify and obtain written permission from the head of his or her department before beginning such outside employment or consulting. If his or her department head determines that the employment or consulting serves a public

purpose and does not unreasonably interfere or conflict with the faculty member's obligations or duties to the Component, the department head may authorize the employment or consulting.

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

4.841 Generally, the individual faculty member or the academic department should have wide discretion in the choice of materials to be used in the courses offered by the department with the approval by the chairman or head of the department. Although the authorship of books, outlines, manuals, and similar materials by members of the faculty should be encouraged, the prescribed use of these for students is a responsibility that goes beyond that of the individual author. Where practicable and equitable, the charge for outlines, syllabi, and similar materials prescribed for the use of students should be borne by the instructional department concerned. Whenever a charge is authorized for such copied materials, the prices should be as low as possible, consistent with the payment of a fair and reasonable royalty to the author or authors. This charge must be considered in conjunction with the 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 EMPLOYEES (EXCLUDING ADMINISTRATIVE OFFICERS) AND ALL CLASSIFIED EMPLOYEES.

5.1 Employment.

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

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

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

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

5.114 Each Component may require a pre-employment, post-offer physical examination of applicants to be employed in regular positions if the physical examination is required of all applicants for a particular job position. Examinations for those applicants whose duties will require the handling of food will be administered in accordance with the *Americans with Disabilities Act* and the regulations adopted pursuant to the Act. Each Component may use the results of physical examinations to make job decisions in compliance with the Act and its regulations. The physical examinations may be made at the health center of the Component at which the applicant will be employed. If such center does not exist, the physical examination will be performed by

qualified medical personnel approved by the Component. The expense of the examination will be paid by the Component. Reports of the physical examinations shall be retained as confidential medical records and treated in accordance with the Act and its regulations.

- 5.12 Salaries. The salary of each employee covered by *Subsection 5.11* of this *Chapter* shall be set by the President of the Component, subject to confirmation by the Chancellor and the Board of Regents and in accordance with the approved budgets.
- 5.2 Terminations. The President of each Component shall have the authority to terminate at any time the employment of any employee covered by *Subsection 5.11* of this *Chapter* subject to review by the Chancellor and the Board of Regents.
- 5.3 Absences. The President of each Component shall adopt policies and guidelines covering the authorized absences for all personnel covered by *Section 5* of this *Chapter*. Such policies and guidelines shall be in accordance with the provisions of current statutes and these *Rules and Regulations* (see *Subsection 2.51* of this *Chapter*).
- 5.4 Outside Employment. The provisions and conditions for outside employment by all classified and unclassified staff employees, including administrative officers, shall be the same as those established for faculty members under *Subsection 4.83* of this *Chapter*.
- 5.5 Acceptance of Money from Students. Administrative and staff employees shall not, without previous and special written approval of the Component administration, collect from students any fees or charges to be expended for Component purposes. Certain positions, such as cashiers and similar positions, may have this approval as part of their job descriptions. Acceptance of funds by Component employees, in any case, shall be only via official Component receipt mechanisms as approved by the Component's chief fiscal officer.
- 5.6 Sexual Misconduct. Unclassified employees and all classified employees shall comply with the System's "*Sexual Misconduct*" policy found in *Chapter III Paragraph 22* and *Appendix A-6*.

6. EMPLOYEE TRAINING.

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

- 6.1 Seminars and Workshops.

- 6.11 Employees may take time off from regularly assigned duties to participate in seminars, workshops or similar training events of limited duration if the employee's supervisor determines that the seminar, workshop, or similar training events will enhance the employee's job performance.
- 6.12 Subject to availability, funds may be expended for employee participation in seminars, workshops or similar training events of limited duration if the following conditions are met:
 - 6.121 The employee's supervisor has determined that the seminar, workshop, or similar event will enhance the employee's job performance;
 - 6.122 Reimbursable expenses incurred (i.e., attendance charges, tuition course-related materials, and travel expenses) are determined to be cost-effective;
 - 6.123 Travel expenses will be reimbursed if the necessity of travel is justified (e.g., the training is not available through a local source);
 - 6.124 The travel request was approved by the employee's supervisor in advance of the training.
- 6.13 Travel expense reimbursement for seminars, workshops and similar training events must meet all applicable policies, rules and statutory provisions regarding travel by State employees.
- 6.2 Continuing Professional Education (CPE). Funds may be expended for continuing professional education required to maintain a professional license or certification for those positions which require such licenses or certificates and for positions in which licensure or certification is desirable. Employees in such positions may have time off from regularly assigned duties to satisfy CPE requirements. Expenditures for the training are subject to availability of funds.
- 6.3 College Courses. Subject to availability of funding, employees may be reimbursed for certain college courses if the following conditions are met.
 - 6.31 The employee's supervisor has determined that the course will enhance the employee's job performance.
 - 6.32 The course is taken in accordance with the Component's written policies and appropriate written approval is obtained prior to enrolling in the course.
- 6.4 Training Subject to *Subchapter D, Chapter 656, Title 6, Texas Government Code* (Restrictions on Certain Training).
 - 6.41 "Training" means instruction, teaching, or other education received by a state employee that is not normally received by

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

- 6.42 If an employee receives training, as defined in *subsection 6.41* of this *Section* that is paid for by a Component, and during the training period the employee does not perform the employee's regular duties for three or more months as a result of the training, then the employee must agree in writing before the training begins to:
- 6.421 Work for the Component following the training for at least one month for each month of the training period; or
 - 6.422 Reimburse the agency for all the costs associated with the training that were paid during the training period, including any amounts of the employee's salary that were paid and that were not accounted for as paid vacation or compensatory leave.
- 6.43 An employee may make a written request to the President of his or her Component to waive the requirements in *subsection 6.42* of this *Section* and release an employee from the obligation to meet those requirements. Each President may authorize such a waiver if he or she finds that such action is in the best interest of the agency or is warranted because of an extreme personal hardship suffered by the employee.
- 6.44 If an employee does not provide the services required in *subsection 6.42* of this *Section*, provides those services for less than the required term, or fails to make any required payments and is not released from the obligation, the employee is liable to the Component for the obligated amount and reasonable expenses incurred in obtaining payment, including reasonable attorney's fees and other collection costs.

CHAPTER VI. STUDENT SERVICES AND ACTIVITIES

1. GENERAL PROVISIONS.

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

2. ADMISSION STANDARDS AND REQUIREMENTS.

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

3. TUITION AND FEES.

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

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

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

4. STUDENT GRANTS AND LOANS.

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

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

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

4.2 Approval of Guidelines. The guidelines for the award of grants shall be submitted to the Coordinating Board for review and approval before any grants are made through this program.

4.3 Criteria for Awarding Grants.

4.31 Enrollment. Grants are to be made only to students who actually enroll in the term or terms for which the grant is awarded.

4.32 Need. Grants shall be based upon financial need of the applicant and may be used to aid students who may have demonstrable financial need but are ineligible for other aid programs.

4.33 Needs Analysis Procedures. Financial needs of students are to be determined by use of accepted needs analysis procedures, generally in use in other "needs based" financial assistance programs although the Component, in its discretion, may consider factors not covered by the "needs based" financial assistance programs. In such case, the Component must state in writing the reasons for its decision.

4.34 Separation of Funds. Funds set aside from resident student tuition charges may be used only for grants to resident students. Funds set aside from nonresident student tuition charges may be used only for grants to nonresident students. After the end of the sixth class week of each semester, a Component may transfer any excess funds set aside from tuition paid by resident or nonresident students to the fund set aside for grants awarded to the other class of students. Priority for awarding grants from any excess funds set aside from tuition paid by resident students shall be given to resident students.

4.35 Transfer of Funds. Any or all of the funds set aside for making Texas Public Educational Grants may be transferred to the Coordinating Board, to be used for matching federal or other grant funds for awarding to students at each Component, provided such amounts can be equally matched by funds held by the Coordinating Board and further provided unencumbered funds transferred are returned upon request of the Component President.

4.36 Full Use of Funds. At the end of a Fiscal Year, if the total amount of unencumbered funds that have been set aside under this program by a Component, together with the total amount of

unencumbered funds transferred by the Component to the Texas Higher Education Coordinating Board exceeds 150 percent of the amount of funds set aside by the Component in the fiscal year, and the Component shall transfer the excess amount to the Coordinating Board for the purpose of awarding scholarships as provided by law to students at other universities.

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

4.4 Criteria for Awarding Loans.

- 4.41 Eligibility. Loans are to be made only to students accepted for enrollment as regularly admitted students and/or enrolled in good standing and maintaining satisfactory progress in a program leading toward a degree. Students paying tuition on a basis other than semester credit hours have the same eligibility criteria and loan terms as students paying tuition on the basis of semester credit hour loans. Students in default on other student loans and other financial obligations are ineligible, and students on disciplinary probation may be ineligible.
- 4.42 Need. Borrowers must evidence a need for the loan by submitting a loan application stating the purpose and amount of the loan requested and the method of repayment.
- 4.43 Emergency Loans. Eligible student borrowers shall be assisted in obtaining emergency loans based on the order in which their applications are received.
- 4.44 Maximum Loan Amount. The maximum loan amount per student for each semester shall not exceed the tuition, fees, and room and board charges assessed for the semester in which the student is enrolling. The Component may deduct the student's unpaid indebtedness, penalties, and late charges from the loan proceeds and apply them to this indebtedness. Loans may be made in amounts needed to make payments on an installment plan for tuition and fees, as authorized under *Section 54.007 of the Education Code*.
- 4.45 Promissory Note. Each loan must be evidenced by a promissory note which must be executed prior to the disbursement of funds. A Component may require a borrower to secure a cosigner, who evidences' ability and willingness to repay in the event the borrower defaults.
- 4.46 Interest. A Component may charge interest on these loans at an annual rate not to exceed 5 percent during the initial term of the loan. Additional charges may be assessed under *Section 54.504 of the Education Code* for late penalties and collection costs associated with collecting delinquent loans. All interest-bearing promissory notes must be executed by all students receiving

loans through or from the Component. Appropriate truth-in-lending statements shall be included in the promissory note.

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

5. STUDENT CONDUCT AND DISCIPLINE.

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

heed an official summons to the office of a Component official within the designated time;

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

that is flammable or capable of causing damage to persons or property by fire or explosion;

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

I.D. card; and/or any falsification, misrepresentation or other misuse of the student I.D. card.

- (25) Any attempt to commit these prohibited acts.
- (26) Sexual Misconduct (*Chapter III Paragraph 22 and Appendix A-6*).

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

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

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

- 5.32 "Plagiarism" means the appropriation and the unacknowledged incorporation of another's work or idea into one's own work offered for credit.
- 5.33 "Collusion" means the unauthorized collaboration with another person in preparing work offered for credit.
- 5.34 "Abuse of resource materials" means the mutilation, destruction concealment, theft or alteration of materials provided to assist students in the mastery of course materials.
- 5.35 "Academic work" means the preparation of an essay, dissertation, thesis, report, problem, assignment, or other project that the student submits as a course requirement or for a grade.
- 5.36 Disciplinary Procedures for Academic Dishonesty.

- (1) Academic Process. All academic dishonesty cases may be first considered and reviewed by the faculty member. If the faculty member believes that an academic penalty is necessary, he/she may assign a penalty but must notify the student of his/her right to appeal to the department chair, the dean and, eventually, to the Vice President for Academic Affairs (whose decision shall be final) before imposition of the penalty. At each step in the process, the student shall be entitled to written notice of the offense and/or of the administrative decision, an opportunity to respond, and an impartial disposition as to the merits of his/her case. After completion of the academic process, the academic officer making final disposition of the case may refer the matter to the Chief Student Affairs Officer for any additional discipline that may be appropriate.
- (2) Disciplinary Process. In the case of flagrant or repeated violations, the Chief Student Affairs Officer may take such additional disciplinary action. No disciplinary action shall become effective against the student until the student has received procedural due process under *Subsection 5.6* and following except as provided under *Subsection 5.15*.
- (3) Honor Code. Notwithstanding *subsection (1)* above, if a Component has adopted an Honor Code which includes an Honor Council that makes decisions on appeals of penalty grades issued by a faculty member and disciplinary action on cases of flagrant or repeated violations, the hearings which consider disciplinary action must afford the students procedural due process under *Subsection 5.6*. Appeals of academic decisions rendered by an Honor Council shall be heard by the Vice President for Academic Affairs and appeals of

disciplinary decisions rendered by an Honor Council shall be heard by the Chief Student Affairs Officer. In the event of conflicts, these *Rules and Regulations* shall govern.

5.37 "Falsification of Data" means the representation, claim, or use of research, data, statistics, records, files, results, or information that is falsified, fabricated, fraudulently altered, or otherwise misappropriated or misrepresented.

5.4 Campus Disruptive Activities. Pursuant to *Education Code, Subsection 51.935* (Disruptive Activities), the Components shall adhere to the following *Rules and Regulations*:

5.41 No person or group of persons acting in concert may intentionally engage in disruptive activity or disrupt a lawful assembly on a Component campus. Disruptive activity means:

- (1) Obstructing or restraining the passage of persons to the campus or an area of the campus or to an exit, entrance, or hallway of any building without the authorization of the administration of the Component;
- (2) Seizing control of an area of a campus or any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity; or
- (3) Disrupting and/or preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the Component administration. A lawful assembly is disrupted when a person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or a reasonable fear of force or violence.

5.42 Any person who is convicted the third time of violating this statute shall not thereafter be eligible to attend any school, college, or university receiving funds from the State of Texas for a period of two years from such third conviction.

5.43 Nothing herein shall be construed to infringe upon any right of free speech or expression guaranteed by the Constitution of the United States or the State of Texas.

5.5 Suspended, Expelled, and Dismissed Student Restriction. No student who has been suspended, expelled, or dismissed for disciplinary reasons from a Component of the System shall, during the applicable period of discipline, be eligible to enroll at any other System Component. The registrar of a Component is authorized to make an appropriate notation on the student's transcript to accomplish this objective and to remove the notation when the student's disciplinary record had been cleared.

- 5.6 Procedure for Administration of Discipline. The Chief Student Affairs Officer shall have primary authority and responsibility for the administration of student discipline at the Component and for investigating allegations that a student has violated System and/or Component *Rules and Regulations*, or specific orders and instructions issued by an administrative official of the Component.
- 5.61 The Chief Student Affairs Officer or his/her appointee hereto referred to as officer, will investigate the alleged violations. During the investigation, if the student is available, the officer will give the student an opportunity to explain the incident. If the officer concludes that the student has violated a System or Component policy, the officer will determine (but not assess) an appropriate disciplinary penalty.
- (1) The officer will discuss his or her findings and his or her determination of an appropriate penalty with the student if the student is available and will give the student an opportunity either to accept or reject the officer's decision.
 - (2) If the student accepts the officer's decision, the student will so indicate in writing and waive his or her right to a hearing. The officer may then assess the disciplinary penalty.
 - (3) If the student does not accept the officer's decision or does not waive his or her right to a hearing, a disciplinary hearing will be scheduled in accordance with *Subsections 5.7 and 5.(10)*.
- 5.62 If the student does not execute a written waiver of the hearing process, then the officer shall prepare a written statement of charges and of the evidence supporting such charges, including a list of witnesses and a brief summary of the testimony to be given by each, and shall send a notification of such charges and statement to the accused student by certified mail, return receipt requested, addressed to the address appearing in the Registrar's records, or shall hand deliver said document with the student signing a receipt.
- 5.7 Student Disciplinary Hearings. In those cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by a fair and impartial person or committee, hereinafter called the hearing officer or hearing committee, selected in accordance with procedures adopted by the Component. Except in those cases where immediate interim disciplinary action has been taken under authority of *Subsection 5.(14)*, the accused student shall be given at least five (5) class days written notice by the Chief Student Affairs Officer, or a designated appointee, of the date, time, and place for such hearings and the name or names of the hearing officer or hearing committee. Hearings held under *Subsection 5.(14)* will be held under the same procedures set forth below, but will be held as soon as practicable within twelve (12) class days after the

disciplinary action has been taken unless otherwise agreed to by the student.

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

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

- (3) Cancellation of residence hall or apartment contract;
- (4) Disciplinary probation imposed for a definite period of time which stipulates that future violations may result in disciplinary suspension;
- (5) Ineligibility for election to student office for a specified period of time;
- (6) Removal from student or organization office for a specified period of time;
- (7) Prohibition from representing the Component in any special honorary role;
- (8) Withholding of official transcript or degree;
- (9) Bar against readmission;
- (10) Restitution whether monetary or by specific duties or reimbursement for damage to or misappropriation of Component, student, or employee property;
- (11) Denial or non-recognition of a degree;
- (12) Suspension of rights and privileges for a specific period of time, including access to electronic network facilities and participation in athletic, extracurricular, or other student activities;
- (13) Withdrawing from a course with a grade of *W*, *F*, or *WF*;
- (14) Failing or reduction of a grade in test or course, and/or retaking of test or course, and/or performing additional academic work not required of other students in the course;
- (15) Suspension from the Component for a specified period of time. During suspension, a student shall not attend classes or participate in any Component campus activities;
- (16) Loss of or ineligibility for student grant or loan;
- (17) Expulsion from the Component. A student who is expelled from the Component is not eligible for readmission to the Component;
- (18) Dismissal from the Component. A student, who is dismissed, is separated from the Component for an indefinite period of time;
- (19) Recording sanctions in *Subsections 5.9(9), (11), (13), (14), (15), (17), and (18)* may be made on a student's permanent transcript. The Component may maintain confidential records of all other sanctions and may consider any prior sanction

received by a student in assessing a subsequent sanction. The Component shall develop a procedure for expunging those records not transcribed on a student's permanent transcript within a reasonable time not to exceed five (5) years after the student ceases to be enrolled;

- (20) A student who, by a preponderance of the evidence, under these *Rules and Regulations*, is found to have illegally possessed, used, sold or distributed any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus, shall be subject to discipline, ranging from mandatory, university or college approved counseling to expulsion. Mitigating or aggravating factors in assessing the proper level of discipline shall include, but not necessarily be limited to, the student's motive for engaging in the behavior; disciplinary history; effect of the behavior on safety and security of the university or college community; and the likelihood that the behavior will recur. A student who has been suspended, dismissed, probated or expelled from any system Component shall be ineligible to enroll at any other system Component during the applicable period of discipline. The registrar of each Component is authorized to make an appropriate notation on the student's transcript to accomplish this objective and to remove the notation when the student's disciplinary record has been cleared. A second infraction for a drug-related offense shall result in permanent expulsion from the Component and from all other institutions in The Texas State University System.

- 5.(10) Appeal. Neither party may appeal if the hearing officer or hearing committee determines that the allegations against the accused student are true but the only punishment assessed is verbal or written warning. In those cases, the determination of the hearing officer or hearing committee is final. However, in all other cases, either party may appeal to the Chief Student Affairs Officer. If the hearing officer has been an appointee designated by the chief student affairs officer or if the determination has been made by a hearing committee, the appeal will be made to the Chief Student Affairs Officer or designated appointee. If the Chief Student Affairs Officer has served as the hearing officer, the appeal will be made to the vice President in charge of student affairs. Written notice of appeal must be received by the appeal officer within five (5) business days after the decision. An appeal is not simply a rehearing of the original case. An appeal must be based on: 1) whether or not a fair hearing was afforded. A fair hearing includes notice of the alleged misconduct, and an opportunity to present evidence; 2) whether or not the sanctions levied were appropriate to the offense; 3) whether or not the finding was supported by the evidence; and/or 4) whether or not new evidence is introduced that was not available at the time of the hearing. Both parties, at the discretion of the appeal officer, may submit oral or written arguments, to support their positions. In order for the appeal to be considered, the appealing party must submit all necessary documentation, including written arguments, when appropriate, to the appeal officer within five (5) business days after giving notice of appeal. The appeal officer may

approve, reject, modify the decision, or remand the matter to the original hearing officer or hearing committee for reconsideration. The appeal officer shall respond to the appeal within ten (10) business days after all the documentation was received and all testimony was heard, or he or she may postpone a decision for good cause.

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

6. STUDENT ORGANIZATIONS.

- 6.1 Definition of Composition and Authority. An organization in which active membership is limited to students (recognizing that faculty and staff may also be members) of a Component may become a registered student organization at that Component by complying with the registration procedures established by the Component. Neither the organization nor its representatives may suggest that either is acting with authority or as an agent of the Component.
- 6.2 Faculty and Staff Advisors. Each registered student organization shall have a faculty or staff advisor, whose name shall be provided to the

Component administration as a part of the student organization registration procedures. The organization shall immediately report in writing any change in its advisor. Advisors to registered student organizations that do not have their accounts and financial records kept by the Component shall not have control of the funds and financial records of the student organization. Such control includes, but is not limited to, receipting of funds, check signing authority, authorization of expenditures, and preparing bank reconciliations. Advisors may not expend their personal funds on behalf of a student organization and request reimbursement.

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

advisor of the organization and the designated officer of the organization must authorize any expenditures from the organization's account. All university funds (such as those generated by student service fees) expended for the benefit of student organizations must be expended from budgeted Component accounts.

- 6.44 All Component-provided funds of registered student organizations are subject to audit by the Component. Failure to maintain adequate records may be considered in determining whether a student organization may maintain its registered status.
- 6.45 Student organizations, their officers, and sponsors are responsible for assuring that they comply with all applicable Texas State University System, State, and Federal *Rules and Regulations*, including tax code compliance.
- 6.46 Each Component may develop applicable policies and procedures to promote fiscal integrity and accountability for student organizations.

7. PARTICIPATION IN STUDENT GOVERNMENT.

- 7.1 Student Government. The student governments currently authorized at the Components of the System are hereby approved. Student government has no existence separate and apart from the Component, and student government shall have only such jurisdiction and exercise only such powers as the Board may now, or hereafter, delegate to it through the Component President.
 - 7.11 Constitutions and Bylaws Approved. The constitutions and bylaws of the several student governments in force at the date of adoption of these *Rules and Regulations* are hereby approved to the extent that they are not in conflict with such *Rules and Regulations*.
 - 7.12 Mode of Amending Constitutions and Bylaws. An amendment to the constitution or bylaws of a student government may be adopted by an association in accordance with its constitution and bylaws, but the change shall not become effective until transmitted to and acted upon by the Chief Student Affairs Officer and approved by the Component President.
 - 7.13 Amendment or Repeal by the Board of Regents. The Board shall amend or repeal any portion of the constitution and bylaws of a student government when, in the judgment of the Board, the interests of the particular Component shall require it.
 - 7.14 Amendment or Repeal by the President. The President shall have the power to amend or repeal any provision in the constitution or bylaws of the student government, when in the

President's judgment, the interests of the Component require it. The action by the President shall be subject to review *Subsection 7.13*, above.

- 7.15 Persons Compensated by Student Government. All persons employed on salary or compensated for personal services in any manner by or under the direct supervision of the student government shall have the approval of the Chief Student Affairs Officer and shall be subject to prior approval by the President or a designated appointee both as to salary and as to qualifications. This authority shall not be exercised in a manner that would infringe upon the constitutionally protected rights of students.
- 7.16 Annual Financial Reports. The Chief Student Affairs Officer shall require the officially recognized student government to make available, on an annual basis, a complete financial report to the Component business officer, as well as such special reports as may be called for by such business officer. A duplicate copy of each report shall be filed with the Chief Student Affairs Officer.
- 7.2 Rights and Obligations of Student Government. The student government on each campus shall be a recognized forum of student opinion.
 - 7.21 When a student government takes a position on issues directly related to a Component and its operations, it shall forward its recommendations to the Chief Student Affairs Officer and the President. This *Subsection* shall not prohibit the student government from free expression of its position.
 - 7.22 When a student government takes a position on non-Component issues, it shall make clear the fact that it does not speak for the Component.
 - 7.23 A student government may conduct polls, initiate petitions, and/or establish forums for debate or discussion; and, said action shall be regulated only as to time, place, and manner but shall be subject to *Chapter VII, Subparagraph 3.3*.
 - 7.24 Officers of a student government may so identify themselves when they express their personal views, but they shall then make it clear that they are not speaking for the Component or for the student body; and, they shall make it clear they are not speaking for the student government unless the legislative body of that government has authorized the statement in advance.
- 7.3 Stipends. A Component may authorize the student government to grant fair and reasonable stipends to elected student body officers provided such stipends are paid from student fees and are first authorized by a one time referendum vote of the student body. Thereafter, stipends are subject to approval by authorized student governments. The granting by student governments of such stipends shall not establish an

employer/employee relationship with the Component, and the subject student officers shall not receive employee benefits from the Component. The provisions of *Section 7.15* above shall apply to the setting of the compensation of student body officers.

- 7.4 President's Authority. The Component President has authority over all its activities, policies, contractual agreements, and financial matters of student government, provided said authority does not infringe on the free exercise of the constitutional rights of the students or the student government.

8. USE OF THE STUDENT CENTER.

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

9. STUDENT DEBTS.

- 9.1 Debts of Students or Organizations. Neither the System nor any Component is responsible for debts contracted by individual students or by student organizations. All students and student organizations are expected to conduct themselves honorably in all commercial transactions. Neither the System nor any Component will assume the role of a collection agency except for monies owed to the System or one of its Components; nor, will the System or any of its Components adjudicate disputes between students and creditors over the existence or the amounts of debts, except with the prior approval of the President of the Components or a designated appointee in those cases where the interests of the Component may be a factor.
- 9.2 Students' Financial Obligations. Students are expected to meet their financial obligations to the Component within the designated time allowed. Registration fees are payable at the time of registration, and students are not entitled to enter class or laboratory until their fees and deposits have been paid. Other charges and financial obligations are due at registration or within ten days after a bill is rendered by the Component or according to the special payment instructions that may be printed on the bill.
- 9.3 Penalties for Failure to Pay. Failure to pay in the allotted time the amount owed to the Component for tuition, fees, charges, or any other financial obligations may result in any or all of the following:
- (1) Dismissal from the Component or other disciplinary actions;
 - (2) Withholding of future registration privileges;
 - (3) Withholding the issuance of grades or an official certified transcript;

- (4) Withholding the conferring of a degree;
- (5) Bar against readmission for the student;
- (6) Assessment of late fees and/or reinstatement fees.

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

10. CORRECT ADDRESS.

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

11. STUDENT IDENTIFICATION CARDS.

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

- 11.1 The student must present his or her I.D. when seeking access to or use of Component facilities or amenities or when otherwise requested by a Component official.
- 11.2 Any falsification, misrepresentation or other misuse of the student I.D. card is prohibited and shall be punishable under *Paragraph 5.2* of this *Chapter* and/or the Component code of student discipline.
- 11.3 Student I.D. Cards are nontransferable, that is, they may not be loaned, borrowed, or used by another person for identification on or off campus or for any of the purposes stated in this *Paragraph*. A student shall immediately report a lost or stolen I.D. card to the administrative official or office responsible for issuing the I.D. card and have the card replaced immediately.

12. STUDENT PARKING AND TRAFFIC.

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

13. REGENTS' SCHOLAR AWARD.

- 13.1 Purpose. The honorary title, Regents' Scholar, recognizes students who achieve excellence in academic and co-curricular endeavors at Component institutions.
- 13.2 Process. Not later than August 31 of each year, the president of each Component may nominate to the Chancellor one outstanding student. Upon the recommendation of the Chancellor, the Board of Regents may bestow each year the title of "Regents' Scholar" upon a select student or students who have demonstrated the following:
- (1) Outstanding academic achievement and scholarship in his/her studies;
 - (2) Strong commitment to and leadership in co-curricular activities; and,
 - (3) Notable contributions to the Component institution and community.

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

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

14. FOREIGN TRAVEL FOR EDUCATIONAL PURPOSES.

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

CHAPTER VII. GENERAL PROVISIONS FOR CAMPUS ACTIVITIES

1. SOLICITATION.

“Solicitation” in these *Rules and Regulations* means: (1) the sale or offer for sale of any property, goods, products or services, or (2) the receipt of or request for any gift or contribution. Solicitation on the campus of any Component is prohibited, except for the following activities:

- 1.1 The sale or offer for sale through vending machines operated by the Component or its subcontractor of: (1) any newspaper, magazine, or other publication in an area designated by the President or his/her designee; (2) food, drink and other items.
- 1.2 The sale or offer for sale of any Component publication, book, or other material used in the academic work of the Component by the Component or its subcontractor in an area designated by the President or a designee.
- 1.3 The operation by the Component or its subcontractor of: (1) a bookstore, specialty store, laundry, Component dining service, or other service maintained for the convenience of the Component's students, faculty, or staff; or (2) food, and drinks, souvenirs, and programs at athletic contests or other events sponsored or authorized by the Component.
- 1.4 The advertisement of any activity, item, or product sponsored or authorized by the Component and approved by the President or his/her designee; advertisements appearing in any publication or sent through the United States or private postal service.
- 1.5 The collection of tuition, charges and fees under *Section 1.4 of Chapter III*.
- 1.6 The collection by registered student, faculty, or staff organizations: (1) of membership fees or dues; or (2) of fees or contributions for the exhibition of movies or other programs, including fine arts and athletic events sponsored by the Component or by such organizations.
- 1.7 Presidential-approved participation in: (1) nondiscriminatory activities on behalf of charitable organizations; or (2) events sponsored by a registered student, faculty, or staff organization or the Component that are authorized and scheduled in accordance with the facilities-use regulations of the Component. All signs, tickets, and literature advertising the event must identify the sponsoring organization. The Component may require that members of the sponsoring organization solicit directly and may prevent organizations from using nonmembers to fund-raise, or solicit for the organization.

- 1.8 Activities of agents of companies authorized by the Component to provide instruments, equipment, supplies, health insurance, optional retirement programs, tax-sheltered annuities, or other services to the Component or its employees.
- 1.9 Persons engaged in the activities listed in *Sections 1.1 - 1.8* above are responsible for assuring that they maintain the portions of the campus and building they use in a clean, orderly and appealing in appearance and for assuring that their use:
- (1) preserves an academic atmosphere and does not disrupt classes, Component programs, or other activities;
 - (2) maintains security and safety for persons and property, does not unreasonably expose persons on campus to crime; and avoids unlawful activities;
 - (3) protects the privacy of students, faculty, and staff, and protects them from deception, fraud and similar commercial exploitation;
 - (4) permits the free flow of pedestrian and vehicular traffic;
 - (5) preserves the beauty of the Component's campus, buildings, and facilities, and avoids unnecessary wear and tear on buildings, grounds, or facilities;
 - (6) protects students, faculty, and staff from deception, fraud, and commercial exploitation; and
1. (10) The President may prohibit persons or organizations from soliciting on campus if they fail to follow these rules. He or she may require that the student government and each registered student organization file a sworn statement disclosing: (1) the sources and amounts of money received from solicitation during the preceding or current semester or summer session, and (2) the payees, their Personal Identification Numbers (P.I.N.) or social security numbers, and amounts of expenditures of funds received from solicitations. Any student government or registered student organization failing to comply with the request of the President shall be prohibited from solicitation on the campus until such person organization comes into compliance.

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

2. USE OF SYSTEM FACILITIES.

- 2.1 By Component Organizations. Registered student, faculty, and/or staff organizations may use the Component's buildings and grounds in compliance with reasonable and nondiscriminatory *Rules and Regulations* approved by the Component President or a designee. Extracurricular use by students, faculty, or staff shall comply with local, State, and Federal law, System and Component regulations. Such activities shall not disrupt or disturb academic or other Component processes nor result in damage to or defacement of property. Registered student, faculty, or staff organizations may not enter into joint sponsorship of any on-campus project or program which involves financial commitments or the scheduling or use of facilities with non-students without prior written approval of the Component President or a designee.
- 2.2 By Outside Groups. Use of grounds and physical facilities of a System Component, especially auditoriums, gymnasiums, and large rooms, by outside individuals, groups, or associations (outside groups) shall be subject to the following rules as well as policies approved by the President or a designee:
 - 2.21 Unrestricted use by outside groups of any Component facilities and grounds is not permitted. Whenever groups share in the use of Component buildings, it must be upon the invitation of the Component and under its joint sponsorship, and with the further understanding that all the conditions governing such sponsorship are to be set by the Component.
 - 2.22 The Component will not enter into joint sponsorship of any project or program that is to result in private gain for the cooperating individuals, group, or associations, unless the President or a designee has reviewed the project or program and has determined that such joint sponsorship serves a public purpose and adequate contractual or other controls ensure its realization as required by *Article 3, Section 51, of the Texas Constitution*.
 - 2.23 The Component will not enter into joint sponsorship of any program or activity in which the educational implications or benefits are not self-evident and which does not directly supplement the educational purposes of the System. The Component, when entering into joint sponsorship of any program or activity, reserves the right to approve advertising as well as news releases.
 - 2.24 Established as a public body without regard to political affiliation or religious faith, a Component cannot be a joint sponsor with any non-campus organization for political or sectarian gatherings. However, the appearance by or on behalf of a candidate for public office may be authorized under conditions prescribed by the Board in *Section 4 of this Chapter*.

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

3. SPEECH AND ASSEMBLY.

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

Subsection does not apply to classes, seminars, symposia, and conferences intended for the use and benefit of students, faculty, staff, and invited guests. No person may obstruct or lessen in any way the opportunity for the audience to see and hear the speaker. The number of students, faculty, staff, and guests may be limited to prevent a hazard to the safety of the audience.

3.24 Off-campus speakers who have not been sponsored or invited by a registered student, faculty, or staff organization or by the Component administration shall be prohibited from speaking to groups in campus facilities and buildings unless the speaker is speaking to an off-campus organization that has been authorized to meet on the campus.

3.25 With the prior written approval of the Component President, the Component may, at its sole discretion, lease or rent space in the student center or other appropriate buildings or grounds for political rallies and meetings provided that space is made available to legitimate political candidates in a nondiscriminatory fashion and the rent for such space is based on a fair market value.

3.3 Time, Place and Manner Restrictions. While freedom of speech and assembly is encouraged, the law recognizes that there is no absolute right to assembly or to make or hear a speech at any time or place regardless of the circumstances, content of speech, purpose of assembly, or probable consequences of such meeting or speech. The issuance of invitations to outside speakers shall be limited as follows:

3.31 A request to invite an outside speaker will be considered by the Component only when made by a registered student, faculty, or staff organization. No invitation shall be issued to an outside speaker without prior written concurrence of the Component President or a designee for scheduling of speaker dates and assignment of campus facilities.

3.32 Any speaker request shall be made in writing to the President or a designee by an officer of a registered student, faculty, or staff organization, or by an administrative officer of the Component, desiring to sponsor the proposed speaker not later than six (6) business days prior to the date of the proposed speaking engagement. This request shall contain the name of the sponsoring organization; the proposed date, time, and location of the meeting; the expected size of the audience; and the topic of speech. Any request not acted upon by the Component President or a designee within five (5) business days after submission shall be deemed granted.

3.33 A request made by a registered organization may be denied only if the Component President, or the authorized designee, determines, after proper inquiry, that the proposed speech will constitute a clear and present danger to the Component's orderly operation as defined in *Subsection 3.5*.

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

to authorize students, faculty, staff, and their registered Component organizations to petition, distribute publications, post signs, set up booths and/or peacefully demonstrate on the Component campus. Such regulation shall prohibit any activity that would interfere with academic or Component programs.

- 3.61 No group or person, whether or not a student or employee, shall publicly display, distribute, or disseminate on the Component campus any petition, handbill, or piece of literature, work, or material that is obscene, vulgar, or libelous, or that advocates the deliberate violation of any federal, state, or local law (see *Subsection 3.62*). Literature may not be distributed where the manner or form of said distribution constitutes disorderly conduct, disrupts classroom discussion, impedes the maintenance of public order, or constitutes a danger to the person distributing or disseminating the material or to any group or individual.
- 3.62 For the purposes of *Subsection 3.5*, advocacy means addressing the group for imminent action and steeling, bolstering, or bracing it to such action as opposed to the abstract espousal of the moral propriety of a course of action.
- 3.63 Any group or person, whether or not a student or employee, demonstrating on campus shall adhere to the provisions of *Education Code, Section 51.935*, as cited in *Chapter VI, Subsection 5.4*, of these *Rules and Regulations*.
- 3.7 **Disruptive Activities.** Disruptive activities are prohibited on a Component campus. See *Education Code, Section 51.935* and *Chapter VI, Subsection 5.4*. The President shall promptly utilize all lawful measures to halt and eliminate any and all such disruptive activities and shall immediately notify the Chancellor and the Chairman of the Board of Regents.

4. HEALTH AND SAFETY.

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

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

- 4.41 "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic career; 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual; 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive employment or academic environment.
- 4.42 In determining whether alleged conduct constitutes sexual harassment, the System or Component shall construe any act or omission within the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. Each determination shall be made from the facts on a case-by-case basis.
- 4.43 The System and each Component may not dismiss a complaint once registered with an appropriate authority until the case has been resolved by the System or Component. However, the System and each Component may take appropriate disciplinary action for any sexual harassment occurring in the employment or academic environment even in the absence of an individual complaint. Disciplinary action may consist of action up to and including termination of employment or, in the case of students, expulsion from a Component or from the System.
- 4.44 Each Component shall, on an annual basis, send an email to each student, professor, employee, administrator/staff member, containing the full content of the sexual and racial harassment policies along with procedures to address such situations.
- 4.45 Each Component shall adopt policy statements and procedures prohibiting sexual harassment and requiring prompt and appropriate corrective action for a violation of this policy and the relevant federal and State laws on sexual harassment.
- 4.46 To the fullest extent practicable, the System and Components shall keep complaints of sexual harassment and the terms of their resolution confidential.
- 4.47 If disciplinary action is imposed on an individual for engaging in sexual harassment, the individual may invoke the applicable due process or appeal procedures of the System and Components.

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

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

management programs, or Component sponsored or approved events);

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

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

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

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

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

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

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

2. BOARD EXPENSES AND ALLOWANCES.

2.1 Transportation, Meals, and Lodging.

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

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

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

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

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

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

3. CONFLICTS OF INTEREST.

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

percent of the corporation's outstanding capital stock, the contract may be executed so long as it is an affiliation agreement, license (including a license of intellectual property), or sponsored research agreement, or it is awarded by competitive bidding or competitive sealed proposals. An interest owned by the Regent's spouse is considered to be a "beneficial interest." The affected Regent must disclose such interest in a public meeting of the Board of Regents and shall not vote on the contract or transaction.

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

4. CODE OF ETHICS.

- 4.1 **Prohibited Actions of Regents.** A Member of the Board of Regents shall not:
 - (1) Accept or solicit any gift, favor, or service that might reasonably tend to influence the Regent in the discharge of official duties or that the Regent knows or should know is being offered with the intent to influence the Regent's official conduct;

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

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

- (1) Accept or solicit any gift, favor or service that might reasonably tend to influence the employee in the discharge of official duties;
- (2) Use an official position to secure special privileges or exemptions for the employee or others, except as may be otherwise authorized by law;
- (3) Accept employment or engage in any business or professional activity which might reasonably be expected to require or induce the employee to disclose confidential information

acquired by reason of such employee's official position or impair the employee's independence of judgment in the performance of public duties;

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

5. BENEFITS, GIFTS AND HONORARIA.

- 5.1 Definitions. A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a Regent or an employee has a direct and substantial interest.
- 5.2 Bribery. A Regent or an employee shall not solicit, offer, or accept any benefit in exchange for his or her decision, opinion, recommendation, vote, or other exercise of official power or discretion.
- 5.3 Prohibited Benefits. A Regent or an employee shall not solicit, accept, or agree to accept any benefit from any person the Regent or employee knows is interested in or is likely to become interested in any contract, purchase, payment, claim, or transaction involving the Regent's or employee's discretion. This prohibition does not apply to (1) gifts or other benefits conferred on account of kinship or a personal,

professional, or business relationship independent of a Regent's or employee's status, respectively, as a member of the Board or as an employee; (2) a fee prescribed by law to be received by a Regent or employee or any other benefit to which he or she is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a member of the Board or an employee of the System or a component; (3) a gift, award, or memento that is received from a lobbyist who is required to make reports under Government Code, Chapter 305 and, (4) items having a value of less than \$50, not including cash or negotiable instruments. A Regent or an employee who receives an unsolicited benefit that he or she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

- 5.4 Food, Lodging, Transportation, and Entertainment Received as a Guest. A Regent or employee may accept food, lodging, transportation, or entertainment from persons or entities he or she knows or reasonably should know are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the Board's discretion only if the Regent or employee is a "guest" as defined by Texas law. A Regent or an employee is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the Regent or employee. Regents, the Chancellor and the presidents of components are required to report any such benefits valued at over \$250 on their annual disclosure statements filed with the Texas Ethics Commission.
- 5.5 Gifts or Benefits From Friends, Relatives, and Associates. Regents and employees may accept gifts or benefits from personal friends, relatives, or business associates with whom they have a relationship independent of their official status, so long as the benefit is not offered in exchange for official action or decision.
- 5.6 Awards. Regents and employees may accept plaques and similar recognition awards.
- 5.7 Honoraria. Regents and employees may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide but for their official position or duties. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking engagement at a conference or similar event, provided the Regent's or employee's participation is more than merely perfunctory. Meals provided as a part of the event or reimbursement for actual expenses for meals may also be accepted.

6. POLITICAL ACTIVITIES.

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

federal constitutions, except as limited by valid state laws. System and component employees shall be allowed sufficient time off to vote in public elections without a deduction from pay or from accrued leave time.

- 6.9 Political Campaign Events on System Property. The Chief Executive Officers of the components of The Texas State University System shall be responsible for promulgating rules for the regulation of political campaign meetings or speeches and other activities relating to political campaigns on property under their control. Such regulations shall be implemented by the Chancellor after approval by the Board of Regents.
- 6.10 Employees as Candidates and Officeholders. System and component employees may run for election and serve as members of the governing bodies of school districts, cities, towns, or other local governmental districts. No campaign activities may be conducted during official business hours unless the employee has requested and received permission to use leave time for such purpose. Any employee elected to such a position may not receive any salary for serving as a member of such governing bodies.
- 6.11 Political Contributions from Employees. System and component employees may make personal contributions to candidates for office and political organizations, with the exception that no state employee may contribute personal services, money, or goods of value to a candidate campaigning for speaker of the Texas House of Representatives.

7. USE OF AUTHORITY.

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

8. DUAL OFFICE HOLDING.

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

9. TRAINING.

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

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

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

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

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

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

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

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

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

- (1) Promptly disclose the same to the president through his/her supervisors, providing the specifics of the conflict, including but not limited to, disclosure of the name(s) of the person(s) or entity(ies) involved; the exact nature of the relationship; and such other information or documents as president may require;
- (2) Discontinue work on the procurement or contract management in question and recuse him/herself from involvement in the same; and
- (3) Expect that his/her supervisors will deny physical or electronic access to files and documents related to the procurement.

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

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

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

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

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

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

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

11.2 Definitions. In this Paragraph:

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

12. DISCLOSURE OF INTERESTED PARTIES CONTRACTING WITH SYSTEM COMPONENTS.

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

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

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

CHAPTER IX. PRIVATE SUPPORT ORGANIZATIONS

1. GENERAL.

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

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

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

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

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

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

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

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

5. CONTRACTS WITH PRIVATE SUPPORT ORGANIZATIONS.

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

CHAPTER X. ENACTMENT AND AMENDMENT

1. REPEAL OF EXISTING RULES AND EFFECTIVE DATE.

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

2. APPLICATION OF RULES.

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

3. OFFICIAL COPY.

3.1 The official copy of the System's *Rules and Regulations* shall be maintained on file in the System Administration.

3.2 Copies of these *Rules and Regulations* shall be furnished to members of the Board, the Presidents of the Component, and such other persons and offices as the Board shall designate.

4. AMENDMENT.

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

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

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

5. INVALIDITY OF CONFLICTING RULES AND PROCEDURES.

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

6. MANDATORY PERIODIC REVIEW OF RULES.

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