

PUBLIC INFORMATION ACT: ACCESS

Public Information

“Public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the Board or for the Board and to which the Board has a right of access. *Gov't Code 552.002(a)*

Availability

Public information is available, at a minimum, to the public during the College's normal business hours. *Gov't Code 552.021*

Information That Must Be Disclosed

The following categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 522 or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by the Board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the College.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of the Board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.
6. A description of the College's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which the College's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.

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10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by the Board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the College's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law.
16. Information that is also contained in a public court record.
17. A settlement agreement to which the Board is a party.

Gov't Code 552.022

Investment Information

Certain College investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.022*

Personal Information

Each College employee, other than a peace officer or security officer, and Board member and each former employee and Board member shall choose whether to allow public access to College-held information relating to the person's home address, home telephone number, emergency contact information, or social security number, or any other information that reveals whether the person has family members.

Employees and Board members shall state their choice to the College's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the College ends. If an employee or Board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or Board member may make a written request at any time to the personnel officer to open or close the information. A written request made after the 14 days does not apply to an open records request made before the option was exercised. *Gov't Code 552.024; Tex. Att'y Gen. ORD-530 (1989)*

Peace Officers / Security Officers

Employed By the College District

College-held information relating to the home address, home telephone number, emergency contact information, or social security number of employees who are peace officers or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals whether the officers have family members, is excepted from disclosure regardless of whether the of-

Officers choose to restrict public access to the information under Government Code 552.024. *Gov't Code 552.117*

All Officers

College-held information relating to the home address, home telephone number, emergency contact information, social security number, or any information that reveals whether an officer has family members, of any peace officer, security officer, or other person listed at Government Code 552.1175 is confidential by law if the officer chooses to restrict public access and notifies the College on a form provided by the College, accompanied by evidence of the officer's status. *Gov't Code 552.1175*

Notice to Requestor

If an employee or Board member has opted to restrict public access to his or her personal information, the College may redact the personal information from any information the College discloses without the necessity of requesting a decision from the attorney general. The College may also redact information that must be withheld under Government Code 552.1175 without requesting an attorney general decision. *Gov't Code 552.024(c), (f)*

If the College redacts information under either of these provisions, the College shall provide the information required by Government Code 552.024(c-2) and 552.1175(h) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.024(c-2), (h)*

Credit Card, Debit Card, Charge Card, and Access Device Numbers

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for the College is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

18. Obtain money, goods, services, or another thing of value; or
19. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

The College may redact credit card, debit card, charge card, or access device numbers from any information the College discloses without the necessity of requesting a decision from the attorney general. The College shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.136*

E-Mail Addresses

Confidential

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the College is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

Exceptions

This confidentiality does not apply to an e-mail address:

1. Provided to the College by a person who has a contractual relationship with the College or by the contractor's agent;
2. Provided to the College by a vendor who seeks to contract with the College or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the College in the course of negotiating the terms of a contract or potential contract;
4. Provided to the College on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to the College for the purpose of receiving orders or decisions from a governmental body, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

The College may also disclose an e-mail address for any reason to another governmental body or to a federal agency. *Gov't Code 552.137, 2001.003(2)*

Participant in Address Confidentiality Program

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

Victims of Certain Crimes

A College employee who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B may elect whether to allow public access to information held by the College that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the College, be signed by the employee, and be filed with the College before the third anniversary of the latest to occur of one of the following:

6. The date the crime was committed;

7. The date employment begins; or
8. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee. *Gov't Code 552.132*

Certain Products, Devices, and Processes

In order to protect the actual or potential value, the following information is confidential and is not subject to disclosure:

1. All information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information (including computer programs) developed in whole or in part at the College, regardless of whether patentable or capable of being registered under copyright or trademark laws, that have a potential for being sold, traded, or licensed for a fee.
2. Any information relating to a product, device, or process, the application or use of such product, device, or process, and any technological and scientific information (including computer programs) that is the proprietary information of a person, partnership, corporation, or federal agency that has been disclosed to the College solely for the purposes of a written research contract or grant that contains a provision prohibiting the College from disclosing such proprietary information to third persons or parties.

Education Code 51.914(a)

Research

Information maintained by or for the College that would reveal the College's plans or negotiations for commercialization or a proposed research agreement, contract, or grant, or that consists of unpublished research or data that may be commercialized, is not subject to the Public Information Act (PIA), unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant. *Education Code 51.914(b)*

Research and Development Facility

The plans, specifications, blueprints, and designs, including related proprietary information, of a scientific research and development facility that is jointly financed by the federal government and a local government or state agency, including an institution of higher education, is confidential and is not subject to disclosure if the facility is designed and built for the purposes of promoting scientific research and development and increasing the economic development and diversification of this state. *Education Code 51.914(a)*

Compliance Investigations

The following are confidential, unless the individual consents to disclosure:

1. Information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and
2. Information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

Information is excepted from disclosure if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

Exception

Information made confidential or excepted from public disclosure by this section may be made available to the following on request in compliance with applicable law and procedure:

3. A law enforcement agency or prosecutor;
4. A governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or
5. An officer or employee of the College who is responsible under College policy for a compliance program investigation or for reviewing a compliance program investigation.

A disclosure to an individual listed above is not a voluntary disclosure for purposes of Government Code 552.007. *Education Code 51.971(c)-(g)*

Safety and Security Audit

Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure.

Multi-hazard Emergency Operations Plan Exception

A document relating to the College's multi-hazard emergency operations plan is subject to disclosure if the document enables a person to:

1. Verify that the College has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the College to respond to an emergency, including the Texas Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the College's plan was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the plan addresses the four phases of emergency management under Education Code 37.108(a);
4. Verify that College employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus in the College has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. Verify that the College has completed a safety and security audit under Education Code 37.108(b) and determine the date the audit was conducted, the person conducting the audit, and the date the College presented the results of the audit to the Board; and
7. Verify that the College has addressed any recommendations by the Board for improvement of the plan and determine the College's progress within the last 12 months.

Education Code 37.108(c-1)-(c-2)

Emergency Alert System

The personal identifying information obtained from an individual for the purpose of the emergency alert system of the College, including an e-mail address or telephone number, is confidential and not subject to disclosure. *Education Code 51.217(g), .218(e)*

Information Excepted From Public Disclosure

The Board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the College. This paragraph does not limit the authority of the College to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Categories of information that are excepted from disclosure to the public include:

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8. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
9. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
10. Information in the custody of the College that relates to an employee or officer of the College if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.151*
11. Information relating to litigation of a civil or criminal nature to which the College is, or may be, a party or to which an officer or employee of the College, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the College's public information officer receives the request. *Gov't Code 552.103*
12. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*
13. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
14. Drafts and working papers involved in the preparation of proposed legislation. *Gov't Code 552.106*
15. Information the College's attorney is prohibited from disclosing because of a duty to the College under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*
16. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
 - a. Information that deals with detection, investigation, or prosecution of crime; and
 - b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.*Gov't Code 552.108*

17. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov't Code 552.109*
18. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
19. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. *Gov't Code 552.110(b)*
20. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the College. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policy-making)*
21. An audit working paper of an audit of the College auditor. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*
22. Student records, except to College personnel, the student, or the student's parents, guardian, or spouse. The College is not required to release student records, except in conformity with FERPA. *Gov't Code 552.114, 552.026*
23. Information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the person has family members:
 - a. A current or former College employee or Board member, except as provided by Section 552.024; or
 - b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

Gov't Code 552.117

24. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:
 - a. The officer is under indictment or charged with an offense by information;
 - b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
 - c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent. *Gov't Code 552.119*

25. Test items developed by a state-funded educational institution. *Gov't Code 552.122*

26. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov't Code 551.104(c)*
27. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
 - a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
 - b. To a person with a special right of access under Government Code 552.023; or
 - c. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov't Code 552.124

28. The name of an applicant for College President, and other information that would tend to identify the applicant, except the Board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.123*
29. Motor vehicle record information that relates to:
 - a. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
 - b. A motor vehicle title or registration issued by an agency of this state or another state or country; or
 - c. A personal identification document issued by an agency of this state, or another state or country, or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), the College may redact motor vehicle or driver license information under this provision from any information the College discloses without the necessity of requesting a decision from the attorney general. The College shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.130*

30. Information in a commercial book or publication purchased or acquired by the College for research purposes, if the book or publication is commercially available to the public. The College is not required to make copies of commercially available information, but the College shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the College. *Gov't Code 552.027*

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31. Information that relates to economic development negotiations involving the Board and a business prospect that the Board seeks to have locate, stay, or expand in or near the College, if that information relates to:
- a. A trade secret of the business prospect; or
 - b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Gov't Code 552.131(a)

32. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by the Board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

- a. By the Board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the College or a reduction in revenue received by the College from any source.

Gov't Code 552.131(b)–(c)

33. Information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. The following information is confidential:

- a. A computer network vulnerability report;
- b. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, system interface, or software of the College or of a contractor of the College is vulnerable to unauthorized access or harm, including an assessment of the extent to which the College's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure or inappropriate use; and
- c. A photocopy or other copy of an identification badge issued to an official or employee of the College.

The College may disclose the information to a bidder if the College determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007 (requiring disclosure to any person). *Gov't Code 552.139*

34. A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the College on or after September 1, 2003. The record is confidential for the 75 years following the date it

comes into the possession of the College in accordance with Government Code Section 552.140. A College that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

35. The social security number of a living person. The social security number is not confidential, however. The College may redact the social security number of a living person from any information the College discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*
36. Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system. This provision applies to records that are in the custody of the College acting in cooperation with or on behalf of the retirement system. *Gov't Code 552.0038*
37. The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to a College or to another person with the intent that the money or property be transferred to a College. This provision does not except from required disclosure other information relating to the described gifts, grants, and donations, including the amount or value of an individual gift, grant, or donation. *Gov't Code 552.1235*