

**NONDISCRIMINATION  
— IN GENERAL**

The School shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics, or on any other basis prohibited by law:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older); or
5. Disability
6. Genetic Information (see DAB).

Additionally, the School does not discriminate against an employee or applicant who acts to oppose such discrimination or participates in the investigation of a complaint related to a discriminatory employment practice. Employment decisions will be made on the basis of each applicant's job qualifications, experience, and abilities.

U.S. Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 through 29 U.S.C. § 634  
U.S. Americans with Disabilities Act of 1990 - Titles I & II, 42 U.S.C. § 12111 - 12165  
U.S. Civil Rights Act of 1964 - Title VII, Public Law 88-352, 78 Stat. 241 U.S. Civil Rights Act of 1991, 42 U.S.C. § 1981a, Public Law § 102 - 166 U.S. Equal Pay Act of 1963, 29 U.S.C. § 206  
U.S. Genetic Information Nondiscrimination Act of 2008, Public Law 110-233, 122 Stat. 881  
Texas Administrative Code, Title 40, Part 20, Texas Workforce Commission, § 819, Subchapters A-F  
Texas Labor Code, §§ 21.001-21.556, Employment Discrimination Texas Labor Code, §§ 22.001-22.004, Employment Discrimination for Participating in Emergency Evacuation

**DISPARATE  
TREATMENT**

As proscribed in Title VII, the School will not engage in employment practices that are overtly discriminatory (disparate treatment), as well as those that are fair in form but discriminatory in practice (disparate impact).

*29 CFR 1607.11*

**BANKRUPTCY  
DISCRIMINATION**

The School shall not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under federal bankruptcy laws or a person with whom a bankrupt or debtor has been associated, solely because the bankrupt or debtor is or has been a debtor under federal bankruptcy laws; was insolvent before the commencement of a bankruptcy case or during the case but before the debtor was granted or denied a discharge; or has not paid a debt that is dischargeable in the bankruptcy case or that was discharged under the bankruptcy laws.

*11 U.S.C. 525(a)*

**JOB QUALIFICATION**

The School may take employment actions based on religion, sex, national origin, or age in those certain instances where a need for a bona fide occupational qualification exists.

*42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f), Tex. Labor Code 21.119*

**EMPLOYMENT  
POSTINGS**

The School shall not print or publish any notice or advertisement relating to employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, national origin or genetic information, unless the characteristic is a bona fide occupational qualification.

*42 U.S.C. 2000e-3(b); Tex. Labor Code 21.059*

**HARASSMENT OF  
EMPLOYEES**

The School has an affirmative duty to maintain a working environment free of harassment on the basis of a protected characteristic. [See DIA]

Any employee found guilty of harassment on the basis of a protected characteristic shall be subject to discipline or termination.

*42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11*

**RETALIATION**

The School shall not retaliate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices; participated in the investigation of any complaint related to an unlawful, discriminatory employment practice,

EMPLOYMENT OBJECTIVES  
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or filed a charge of discrimination or complained about discrimination on the job.

Employees who feel that they have been subjected to retaliation or harassment are encouraged to report such incidents to their supervisor, Division Director or Human Resources. If an employee is not comfortable speaking with their Supervisor, Division Director, or Human Resources, that employee is encouraged to report to the Superintendent.

An employee who retaliates against another employee (who reported a violation in good faith) is subject to discipline up to and including termination of employment.

*29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Tex. Labor Code 21.055; Tex. Government Code, § 554.002*

NOTICES

The School shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws.

*29 U.S.C. 627; 42 U.S.C. 2000e-10*

SECTION 504 NOTICE

The School shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability.

The notice shall state:

1. That the School does not discriminate in employment in its programs and activities; and
2. The identity of the School's 504 coordinator.

Methods of notification may include:

- a) Posting of notices;
- b) Publication in newspapers and magazines;
- c) Placing notices in School publications; and
- d) Distributing memoranda or other written communications.

If the School publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its nondiscrimination policy.

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*34 CFR 104.8*

AGE  
DISCRIMINATION

The School may apply different standards of compensation, terms, conditions, or privileges of employment under:

- 1) A bona fide seniority system, merit system or employee benefit plan; or
- 2) A system that measures earnings by quantity or quality of production.

However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age.

*29 U.S.C. 623(f); Tex. Labor Code 21.102*

SEX  
DISCRIMINATION  
GENDER  
STEREOTYPES

The School shall not discriminate against employees by assuming or insisting that they match the stereotype associated with their group.

PREGNANCY

The School shall not discriminate on the basis of sex, including discrimination on the basis of pregnancy, childbirth, or related medical conditions. The School shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs.

*42 U.S.C. 2000e(k); 29 C.F.R. 1604.10; Tex. Labor Code 21.106*

EQUAL PAY

The School shall not pay an employee at a rate less than the rate it pays employees of the opposite sex for equal work on jobs where the performance requires equal skill, effort, or responsibility and under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

*29 U.S.C. 206(d) (Equal Pay Act); 34 CFR 106.54 (Title IX)*

GENETIC  
INFORMATION  
DISCRIMINATION

The School shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment. Notwithstanding the foregoing, a cause of action for disparate impact is not available under

Genetic Information Nondiscrimination Act (GINA).

*42 U.S.C. 2000ff-1(a); 29 CFR 1635.4*

RELIGIOUS  
DISCRIMINATION

The School shall not discriminate on the basis of religion. This includes all aspects of religious observances and practice, as well as religious belief. Where necessary, the School will demonstrate that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the School's business. "Undue hardship" means more than a *de minimus* (minimal) cost.

*42 U.S.C. 2000e(j); 29 CFR 1605.2; Tex. Labor Code 21.108*

The School shall not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

*Tex. Civ. Prac. & Rem. Code 110.003*

No School official authorized to hire employees shall directly or indirectly ask about, orally or in writing, the religion or religious affiliation of anyone applying for employment. A violation of this provision is a Class B misdemeanor. A person who violates this provision is subject to civil penalties.

*Tex. Education Code 22.901*

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DISABILITY  
DISCRIMINATION

The School shall not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment.

*42 U.S.C. 12112(b); 29 CFR 1630.9; 29 U.S.C. 794; 34 CFR 104.11; 28 CFR 35.107, 35.140; Tex. Labor Code 21.051*

In addition, the School shall make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted by the IDEA.

*34 CFR 300.177(b)*

DISCRIMINATION  
BASED ON LACK OF  
DISABILITY

The Americans with Disabilities Act (ADA) and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability.

*42 U.S.C. 12201(g); 29 CFR 1630.4(b); Tex. Labor Code 21.005(c)*

DEFINITIONS

Disability” means:

1. An actual disability: a physical or mental impairment that substantially limits one or more of an individual's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

'REGARDED AS'  
HAVING AN  
IMPAIRMENT

An individual meets the requirement of being “regarded as” having an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

TRANSITORY AND  
MINOR

The “regarded as” prong of the definition does not apply to impairments that are transitory or minor. A transitory

	<p>impairment is one with an actual or expected duration of six months or less. The “transitory” exception does not apply to the “actual disability” or “record of disability” prongs of the definition.</p>
<p>MITIGATING MEASURES</p>	<p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.</p> <p><a href="#"><u>42 U.S.C. 12102(2); 29 CFR 1630.2(g)–(l); 28 CFR 35.104; 34 CFR 104.3(j), (l); Tex. Labor Code 21.002(6)</u></a></p>
<p>OTHER DEFINITIONS</p>	<p>“Physical or mental impairment” means:</p>
<p>‘PHYSICAL OR MENTAL IMPAIRMENT</p>	<ol style="list-style-type: none"><li>1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or</li><li>2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.</li></ol> <p><a href="#"><u>29 C.F.R. 1630.3(h)</u></a></p>
<p>MAJOR LIFE ACTIVITIES</p>	<p>“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.</p> <p>“Major life activities” also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardio-vascular, endocrine, hemic, lymphatic, musculoskeletal, and repro- ductile functions. The operation of a major bodily function includes the operation of an individual organ within the body system.</p> <p><a href="#"><u>42 U.S.C. 12102(2); 29 C.F.R. 1630.3(i); Tex. Labor Code 21.002</u></a></p>

QUALIFIED  
INDIVIDUAL

“Qualified individual with a disability” means an individual with a disability who, satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires.

Consideration shall be given to the School’s judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job’s essential functions.

[42 U.S.C. 12111\(8\); 29 CFR 1630.2\(m\)\(n\); 34 CFR 104.3 \(l\); Tex.](#)

[Labor Code 21.105](#)

REASONABLE  
ACCOMMODATION

The school shall provide reasonable accommodation, absent undue hardship, for employees and applicants that:

- Meet the definition of disability under the “actual disability” or “record of disability” prongs; and
- Are able to perform the essential duties of a job, with or without a reasonable accommodation.

The School is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong.

“Reasonable accommodation” includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
2. Job restructuring to change marginal duties of the position;
3. Modified work schedules;
4. Reassignment to a vacant position if the employee satisfies the job requirements for education, competencies (knowledge, skills, abilities and other attributes) licenses and any other job-related qualification for the job;
5. Acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

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Employees who are able to work while waiting for a reasonable accommodation must do so to the best of their ability. If an employee is unable to work or unable to perform the essential duties of their job, they may take available paid leave. If they exhaust paid leave before an accommodation is made they may request an unpaid leave of absence until the accommodation process is concluded.

The school is not required to make an accommodation for an employee or applicant who is not otherwise qualified for a position.

*42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b))*

UNDUE HARDSHIP

“Undue hardship” means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the School, and other factors set out in law.

*42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c)*

DISCRIMINATION  
BASED ON  
RELATIONSHIP

The School shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association.

*42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8; 34 C.F.R. 104.11*

USE OF ILLEGAL  
DRUGS AND  
ALCOHOL

The term “qualified individual with a disability” does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the School acts on the basis of such use.

*29 CFR 1630.3(a)*

DRUG TESTING

The School shall conduct drug testing of employees and applicants for the illegal use of drugs and may make employment decisions based on the results of those drug tests.

ALCOHOL USE

The term “qualified individual with a disability” does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

*42 U.S.C. 12114(a); 28 CFR 35.104; 29 U.S.C. 705(20)(C);  
Tex.  
Labor Code 21.105*

QUALIFICATION  
STANDARDS

The School shall not use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the School, is shown to be job related for the position in question and is consistent with business necessity.

*29 C.F.R. 1630.10(a)*

DIRECT THREAT  
TO HEALTH OR  
SAFETY

The School may, as a qualification standard, require that an individual not pose a direct threat to the health or safety of other individuals in the workplace.

“Direct threat” means a significant risk to the health or safety of the individual or others that can’t be eliminated by reasonable accommodation.

*42 U.S.C. 12111(3); 29 C.F.R. 1630.2®; Labor Code  
21.002(s)(B)*

VISION  
STANDARDS  
AND TESTS

The school shall not use qualification standards, employment tests or other selection criteria based on an individual’s uncorrected vision unless it is shown to be job-related for the position in question and consistent with business necessity.

*42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b); Labor Code 21.115(b)*

COMMUNICABLE  
DISEASES

The School may refuse to assign or continue to assign an individual to a position involving food handling if the individual has an infectious or communicable disease that can be transmitted to others through the handling of food.

*42 U.S.C. 12113(e); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e);  
Labor Code 21.002(6)(B)*

SERVICE ANIMALS

The School shall comply with the reasonable accommodation requirements of those laws with respect to service animals. The School may ask an individual with a disability to remove a service animal from the premises if:

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EQUAL EMPLOYMENT OPPORTUNITY

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(1) The animal is out of control and the animal's handler does not take effective action to control it; or

(2) The animal is not housebroken.

***Animal properly excluded.*** If the School properly excludes a service animal under §35.136(b), it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

**Animal under handler's control.** A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

**Care or supervision of animal.** The School is not responsible for the care or supervision of a service animal.

28 C.F.R. 35.136, 140

MILITARY SERVICE

The School shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. The School shall not take adverse employment action or discriminate against any person who acts to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA).

[38 U.S.C. 4311](#)

GRIEVANCE  
POLICIES SECTION  
504

The School shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. (See DGBA)

34 CFR 104.7(b), 104.11

TITLE IX

The School shall adopt and publish grievance

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procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX.

34 CFR 106.8(b)

COMPLIANCE  
COORDINATOR

The School shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The School shall notify all employees of the name, office address, and telephone number of the employee(s) so designated.

*34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b)*

TITLE IX  
COORDINATOR

The School designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended as they relate to employment issues:

Name: Human Resources Director  
Address: 1102 South Congress Avenue, Austin, Texas 78704  
Office Phone: 512.462.5321

ADA  
COORDINATOR

The School designates the following person to coordinate efforts to comply with the Americans with Disabilities Act:

Name: Human Resources Director  
Address: 1102 South Congress Avenue, Austin, Texas 78704  
Office Phone: 512.462.5321

SECTION 504  
COORDINATOR

The School designates the following person to coordinate efforts to comply with non-student related provisions of Section 504 of the Vocational Rehabilitation Act of 1973:

Name: Human Resources Director  
Address: 1102 South Congress Avenue, Austin, Texas 78704  
Office Phone: 512.462.5321

Adopted: 05.16.2008  
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