

No. 20-804

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IN THE  
**Supreme Court of the United States**

HOUSTON COMMUNITY COLLEGE SYSTEM,  
*Petitioner,*

v.

DAVID BUREN WILSON,  
*Respondent.*

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On Writ of Certiorari  
to the United States Court of Appeals  
for the Fifth Circuit

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**JOINT APPENDIX**

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Petition for Writ of Certiorari Filed: December 11, 2020  
Certiorari Granted: April 26, 2021

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

*David Buren Wilson v. Houston Community  
College System et al.*

Case No. 4:18-cv-00744

**RELEVANT DOCKET ENTRIES**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/08/2018	1	NOTICE OF REMOVAL from 270th JDC Harris County, case number 2017-67357 * * * *
04/24/2018	8	ORDER denying 2 Motion to Remand, 5 Response to Plaintiff's Motion to Remand.(Signed by Judge Kenneth M Hoyt) Parties notified.(jdav, 4) (Entered: 04/24/2018)
06/14/2018	12	Second AMENDED COMPLAINT against Houston Community College System filed by David Buren Wilson. (Attachments: # 1 Exhibit)(Gross, Keith) (Entered: 06/14/2018)
03/22/2019	55	MEMORANDUM OPINION AND ORDER granting 17 MOTION to Dismiss. The plaintiffs suit must be dismissed for lack of subject matter jurisdiction.(Signed by Judge Kenneth M Hoyt) Parties

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plaintiff, David Buren Wilson,  
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22, 2019.(Signed by Judge  
Kenneth M Hoyt) Parties  
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22211191), filed. (Gross, Keith)  
(Entered: 04/10/2019)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

*David Buren Wilson v. Houston Community  
College System,*  
Case No. 19-20237

**RELEVANT DOCKET ENTRIES**

<b>Date Filed</b>	<b>Docket Text</b>
04/11/2019	CIVIL RIGHTS CASE docketed. NOA filed by Appellant Mr. David Buren Wilson [19-20237] (AS)
02/06/2020	ORAL ARGUMENT HEARD before Judges Davis, Smith, Stewart. Arguing Person Information Updated for: Keith Alexander Gross arguing for Appellant David Buren Wilson; Arguing Person Information Updated for: Richard Alan Morris arguing for Appellee Houston Community College System [19-20237] (PFT)
04/07/2020	PUBLISHED OPINION FILED. [19-20237] (CBW)
04/07/2020	JUDGMENT ENTERED AND FILED. Costs Taxed Against: appellee. [19-20237] (CBW)
04/17/2020	COURT ORDER granting Motion to extend the time to file a petition for rehearing filed by Appellee Houston Community College System to and

including May 5, 2020. until  
05/05/2020 Case Management  
deadline satisfied.. Mandate issue  
date updated to 05/06/2020 [19-  
20237] (SDH)

05/05/2020 PETITION for rehearing en banc.  
[9307347-2] Number of Copies: 0.  
Mandate issue date canceled. Date of  
Service: 05/05/2020. [19-20237]  
REVIEWED AND/OR EDITED  
\* \* \* \*

07/15/2020 COURT ORDER denying Petition for  
rehearing en banc filed by Appellee  
Houston Community College System  
With Poll.; denying for rehearing  
[9356484-1] Mandate issue date is  
07/23/2020 [19-20237] (PAC)

07/23/2020 MANDATE ISSUED. Mandate issue  
date satisfied. [19-20237] (MRW)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
[Date Filed: June 14, 2018]

TRUSTEE, DAVID B. WILSON,	§
Plaintiff,	§ C.A. NO.
v.	§ 4:18 CV-00744
HOUSTON COMMUNITY	§
COLLEGE SYSTEMS,	§
Defendant.	§

**SECOND AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, COMPLAINANT David B. Wilson and files this, his Second Amended Complaint and respectfully shows:

**I. Parties**

1. **PLAINTIFF, DAVID B. WILSON** is a natural person and Trustee for Houston Community College Systems. Service may be affected through the undersigned attorney.
2. **DEFENDANT, HOUSTON COMMUNITY COLLEGE SYSTEMS** is a political subdivision of the State of Texas. Houston Community College Systems has made a general appearance, therefore personal service is not necessary.

**III. [sic] Venue and Jurisdiction**

3. Venue and Jurisdiction is proper in Harris County, Texas.

#### IV. Facts

4. Houston Community College Systems (herein after HCC) is a political subdivision of the State of Texas that is managed, controlled, and otherwise operated by a Board of Trustees consisting of nine trustees. Houston Community College Systems Trustee is an elected position where each Trustee was elected to represent the interest of the people of a specific district. Trustee Wilson was elected to office in November 2013. Each Trustee is considered to be a political figure for purposes of the First Amendment Right of Free Speech.
5. On or about January 2010 HCC's Board of Trustees adopted the Board of Trustees Bylaws. The Bylaws codified certain duties, rules, and regulations governing HCC's Trustees. Article "A" identifies the Board of Trustees serve as fiduciaries to HCC and require each Trustee act for the benefit of the College. The code of conduct requires each Trustee to, among other things:
  - a. act at all times for the general public good;
  - b. Keep well-informed on Board related issues...; [sic]
  - c. Encourage and engage in open and honest discussion in making decisions, to respect differences of opinion, and to keep an open mind until each Trustee has had an opportunity to address the Board;
  - d. Respect the Board's collective decision-making process, and to accurately report and explain Board votes and policies;

- e. Interact with Trustees....in [sic] a manner that creates and sustains mutual respect.
6. On multiple occasions Trustee Wilson discovered that other HCC Trustees, acting in their official capacity, were not acting in the best interest of HCC and violating HCC's own Bylaws. Trustee Wilson raised the following matters with HCC Trustees:
  - a. that HCC had continued to fund a college campus, outside the United States in the country of Qatar using local tax payer money;
  - b. that HCC was attempting to acquire property outside the tax paying district to build another campus;
  - c. that HCC violated its Bylaws by permitting another Trustee to participate in a regularly scheduled meeting via Skype and allowing said Trustee to vote in violation of Article (G)(5). Article (G)(5) requires Trustees to be present in order to vote. Wilson filed suit and sought declaratory judgment on the issue;
  - d. that he was wrongfully excluded from an executive session, and therefore his district had no representation;
  - e. that another Trustee did not reside in the district which elected her to office;
  - f. that HCC failed to investigate and identify the names of third party vendors that may have illegally given money to convicted Trustee Christopher Oliver;

- g. that HCC failed to comply with its Bylaws and timely distribute agenda packets prior to conducting a meeting;
  - h. that HCC failed to investigate and enforce Bylaws concerning communications with vendors during blackout periods; and
  - i. that HCC wrongfully withheld the affidavits of graduation from more than 30 nursing students.
- 7. After Trustee Wilson raised the above matters, HCC refused to take corrective measures, refused to take timely corrective measures, or otherwise give credence to his concerns. For example, Trustee Wilson believed it to be an unfair burden on the tax payers to fund a campus outside the tax paying district. When HCC continued to fund the campus in the country of Qatar, Trustee Wilson spoke out. When HCC considered building another campus outside the tax paying district, Wilson spoke out. Trustee Wilson, acting in the best interests of HCC and representing his constituents, publicly took a stance against funding such campuses. After Wilson went public via “robo” calls, HCC officials then took corrective measures.
- 8. In 2016, HCC wrongfully withheld affidavits of graduation from approximately 30 nursing students that had complied with all graduation requirements. At the time, HCC’s nursing program was on academic probation from the State Board of Nursing and was in danger of having its nursing program revoked. To maintain its accreditation, and comply with probation requirements, HCC needed to have 80 percent of its graduates pass the state licensing examine. HCC then

withheld the affidavits of graduation from the less promising graduates to ensure an 80 percent passage rate. Trustee Wilson was outraged by HCC's conduct and brought the matter to the public's attention. Shortly thereafter, the nursing students filed suit and the matter was expeditiously resolved when HCC tendered the affidavits of graduation. Trustee Wilson was instrumental in ensuring that HCC complied with its agreement with its students.

9. In 2017, Trustee Wilson objected to Trustee, Vice Chair, Carolyn Evans-Shabazz voting at the regularly scheduled agenda meeting when she was not physically present. Trustee Wilson alleged HCC Bylaws prohibited voting via teleconference. The trustees disregarded Wilson's objection and permitted Trustee Carolyn Evans-Shabazz to vote. HCC Officials disregarded its own Bylaws. Thereafter, Wilson filed suit seeking to enforce the Bylaws and sought declaratory judgment on the matter. Only after Trustee Wilson filed suit did HCC amend its bylaws.
10. After Wilson filed suit in the above referenced matter, HCC excluded Trustee Wilson from an executive session where, on reasonable belief, the Board deliberated whether to amend the Bylaws and permit absentee voting. Wilson filed suit to determine the parties' rights and obligations with respect to excluding Trustees from executive sessions. Since the date Trustee Wilson filed suit, he has not been wrongfully excluded from executive sessions. After filing suit, HCC then amended its Bylaws.
11. In 2017 Trustee Wilson complained that Trustee Adriana Tamez did not reside within the district in which she was elected. Trustee Wilson had a duty to

report the matter to the Board. On reasonable belief, HCC refused to investigate the matter on grounds of insufficient evidence. Therefore, Wilson retained persons to investigate the matter to obtain more conclusive proof. The matter still remains unresolved.

12. On January 18, 2018, Trustees, **EVA LOREDO, CAROLYN EVANS-SHABAZZ, ADRIANA TAMEZ, NEETA SANE and ZEPH CAPO** of HCC convened in a regularly scheduled session and under color of law, voted to censure Trustee Wilson for the above referenced conduct. HCC censured Trustee Wilson's for the following conduct:

- a. initiating "robo" calls regarding other board members, conducting an interview with a local news station regarding his criticisms of other Trustees;
- b. publishing information on a website created by Wilson that purported exposed unethical or illegal conduct of various Trustees;
- c. hiring a private investigator to determine the residency of Trustee Tamez on grounds that she did not reside in the district for which she holds office;
- d. for bringing a lawsuit against HCC after Wilson exposed HCC for violating its own Bylaws;
- e. for bringing a second lawsuit after HCC banned Wilson from participating in executive session where the Trustees would deliberate whether to amend its Bylaws regarding participating and voting via teleconference;

- f. for establishing a website that referenced HCC's name;
  - g. hiring a private investigator to investigate HCC without HCC's consent; and
  - h. repeatedly acted in a manner not consistent with the best interests of the College or the Board, and in violation of the Bylaws;
13. HCC contended that Trustee Wilson's conduct violated HCC's Bylaws and Code of Conduct in that Trustees have a duty to (1) show respect for the Board's collective decision-making process, (2) engage in open and honest discussions in making Board decisions, (3) respect the difference of opinions among the other Trustees, (4) interact with fellow Board members in a way that creates and sustains mutual respect and (5) act in HCC's best interest. Trustee Wilson contends he was always acting in the best interest of HCC and his constituents.
14. HCC and Trustees, **EVA LOREDO, CAROLYN EVANS-SHABAZZ, ADRIANA TAMEZ, NEETA SANE and ZEPH CAPO** adopted a resolution that censured Trustee Wilson. The resolution held that Trustee Wilson violated the above provisions in its Bylaws and Code of Conduct. The resolution declared Trustee Wilson ineligible for election to Board Officer positions for the 2018 calendar year and ineligible for reimbursement for any College-related travel, any request for access to the funds in his Board account for community affairs. Further, the resolution directed Wilson to cease and desist from similar conduct or face further disciplinary action. Accordingly, Trustee

Wilson remains exposed to further harm from HCC for exercising his First Amendment rights.

15. HCC, under color of law, treats Trustee Wilson different than other Trustees similarly situated flowing from the exercise of his First Amendment Right of free speech, access to the court, and freedom of association.
16. HCC, under color of law, interpreted its Bylaws and Code of Conduct, as applied to Trustee Wilson in a manner overly broad and violated Trustee Wilson's First Amendment Right of free speech, access to the court, and freedom of association.
17. Notwithstanding, HCC's violations of Trustee Wilson's rights under federal law, HCC violated Trustee Wilson's Due Course of Law rights under the Texas Constitution which, on reasonable belief, is broader than the United State's Constitution.

#### **V. Adoption by Reference**

18. Trustee Wilson hereby adopts by reference Exhibit No. 1, Resolution of Censure into each part of Plaintiff's Complaint.

#### **VI. Causes of Action**

##### **Cause of Action No. 1:**

19. Trustee, David B. Wilson, hereby sues HCC for declaratory judgment and injunctive relief under 42 U.S.C. § 1983, the First and Fourteenth Amendments of the United State's Constitution in accordance with the allegations above. Trustee Wilson requests the Court determine the parties rights and responsibilities under HCC's Bylaws in light of his First Amendment

right of free speech, declare HCC's Board of Bylaws; Article A, Section 4 overly broad and unconstitutional as applied to him.

20. Trustee Wilson maintained a First Amendment right of free speech to (1) conduct "robo" calls; (2) interview with local news stations; and (3) publish information on his website. The Court should review his conduct under a strict scrutiny standard. Trustee Wilson contends the above rules of conduct have a chilling effect on the First Amendment that the Court should declare such rules unconstitutional, as applied to Trustee Wilson and enjoin their enforcement.
21. Trustee Wilson contends this action is capable of repetition, but evading review due to the fact that the Trustees are elected for limited time periods.

**Cause of Action No. 2:**

22. Trustee, David Wilson hereby sues HCC for declaratory judgment under Texas State law in accordance with the allegations above. Trustee Wilson requests the Court determine the parties' rights and responsibilities under HCC's Bylaws. Trustee Wilson contends his conduct was authorized (1) under the HCC's Bylaws imposing a duty to act in the best interest of HCC; and (2) in light of his right of free speech under the Texas Constitution. Trustee Wilson's right of free speech under the Texas Constitution is broader than the First Amendment.

**Cause of Action No. 3:**

23. Trustee, David Wilson hereby sues HCC for declaratory judgment and injunctive relief under 42 U.S.C. § 1983, the First and Fourteenth Amendments

of the United States Constitution in accordance with the allegations above. Trustee Wilson requests the Court determine the parties' rights and responsibilities under HCC's Bylaws in light of his First Amendment right of access to the courts, declare HCC's Board of Bylaws; Article A, Section 4 overly broad and unconstitutional as applied to him.

24. Trustee Wilson maintained a First Amendment right of access to the court to redress injuries and clarify his rights, duties and obligations under HCC's Bylaws. The Court should review his conduct under a strict scrutiny standard. Trustee Wilson contends the HCC's Bylaws are overly broad and has a chilling effect on his right of access to the Court, and such rule should be declared unconstitutional, as applied to Trustee Wilson and enjoin the enforcement of such rules.
25. Alternatively, if relief is not available under the United States Constitution, then Trustee Wilson seeks declaratory and injunctive relief under the Texas Constitution and the Declaratory Judgment Act.
26. Trustee Wilson contends this action is capable of repetition, but evading review due to the fact the Trustees are elected for limited time periods.

**Cause of Action No. 4:**

27. Trustee David B. Wilson hereby sues HCC for declaratory judgment and injunctive relief under 42 U.S.C. § 1983, the First and Fourteenth Amendments of the United States Constitution in accordance with the allegations above. Trustee Wilson requests the Court determine the parties' rights and responsibilities under HCC's Bylaws in light of his First Amendment right of freedom of association,

declare HCC's Board of Bylaws; Article A, Section 4 overly broad and unconstitutional as applied to him.

28. Trustee Wilson maintained a First Amendment right of access to the court to redress injuries and clarify his rights, duties and obligations under HCC's Bylaws. The Court should review his conduct under a strict scrutiny standard. Trustee Wilson contends the HCC's Bylaws are overly broad and has a chilling effect on his right of access to the Court, and such rules should be declared unconstitutional, as applied to Trustee Wilson and enjoin the enforcement of such rules.
29. Alternatively, if relief is not available under the United States Constitution, then Trustee Wilson seeks declaratory and injunctive relief under the Texas Constitution and the Declaratory Judgment Act.
30. Trustee Wilson contends this action is capable of repetition, but evading review due to the fact that the Trustees are elected for limited time periods.

**Cause of Action No. 5:**

31. HCC violated Trustee Wilson's rights under 42 U.S.C. § 1983 for its' violations of First Amendment rights, as articulated above under the equal protection clause. HCC treats Trustee Wilson differently than other trustees situated on grounds that he exercised his First Amendment rights. Treating Trustee Wilson differently because he exercised his First Amendment right violates the Equal Protection Clause of the United State's Constitution.

**VIII. [sic] Conditions Precedent**

32. Trustee Wilson has either exhausted his state law remedies, or state law remedies are insufficient to



*BYLAWS OF THE BOARD OF TRUSTEES OF THE  
HOUSTON COMMUNITY COLLEGE\**

**Adopted January 1, 2010**

**Amended June 29, 2010**

**Amended September 23, 2010**

**Amended December 2, 2010**

**Amended November 17, 2011**

**Amended December 15, 2011**

**Amended June 21, 2012**

**Amended June 24, 2014**

**Amended November 18, 2014**

**Amended February 27, 2015**

**Amended April 16, 2015**

**Amended January 21, 2016**

**Amended February 25, 2016**

**Amended April 21, 2016**

**Amended June 16, 2016**

**Amended October 20, 2016**

**Amended June 15, 2017**

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\* A partial copy of this June 15, 2017, version of the HCC bylaws is attached as Exhibit 2 to Wilson's response to HCC's motion to dismiss in the district court, ECF No. 21 (filed Aug. 12, 2018).

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**EXHIBITS**

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**Preface**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. The Board of Trustees (“Board”) of Houston Community College (“HCC” or “College”) derives its authority from the community it serves. The Board shall govern the College through the administration (“Staff”), in accordance with state law, avoiding actions and situations detrimental to the College, and promoting educational opportunity for the benefit of the entire community.

2. The Bylaws of the Board are written by the Board for the purposes of internal management of the Board, the Board Office and all Board activities. Any policy, procedure or regulation in these Bylaws found in conflict with a state or federal law, rule, or regulation shall be null and void to the extent of the conflict. Amendments to the Bylaws can be made only by a majority vote of all the members of the Board.

**Mission**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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Houston Community College is an open-admission, public institution of higher education offering a high-quality, affordable education for academic advancement, workforce training, economic development, career development, and lifelong learning to prepare individuals in our diverse communities for life and work in a global and technological society.

**Article A: Ethics**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **PURPOSE.** As Trustees for HCC, Board members serve as fiduciaries pursuant but not limited to state and federal trust law, and therefore, must act solely and exclusively for the benefit of the College. High ethical standards are critical to fulfilling these responsibilities. The laws and statutes enacted by the Legislature to govern the conduct of public officials are considered by the Board to be the minimum standards. These legal provisions governing ethical and professional standards of conduct and disclosure are provided in the following Texas statutes and should be consulted for specific information should the need arise:

- a. Education Code;
- b. Penal Code -- Chapters 36 (Bribery), 37 (Perjury) and 39 (Abuse of Office);
- c. Government Code -- Chapters 552 (Public Information), 553 (Public Disclosure), 554 (Reporting); and 571-573 (Ethics, Conflicts of Interest and Nepotism);
- d. Texas Labor Code Chapter 21 (Equal Employment); and
- e. Local Government Code -- Chapters 171 (Conflicts of Interest) and 176 (Conflicts Disclosure Statements).

2. **DISTRIBUTION POLICY.** Copies of the Board Bylaws will be distributed to each Trustee and Senior Staff. These Bylaws will also be posted on the HCC website.

3. **APPLICABILITY.** The Board chooses to establish a higher standard of conduct and ethical behavior to govern HCC than Texas law requires, and hereby defines a Standard of Conduct and Performance and Code of Ethics for Trustees and Senior Staff. Senior Staff is defined as:

- a. Any member of the Chancellor's Advisory Council;
- b. HCC employees classified as E-10 and above;
- c. All procurement and purchasing personnel;
- d. Any employee who participates on an evaluation or selection committee for any HCC solicitation for goods or services; and
- e. Any employee who participates in the evaluation of goods or services provided by a vendor or contractor.

This ethics policy is to be read in conjunction with the ethics portion of the Board's governance policies.

4. **CODE OF CONDUCT.** The Board adopts the following Code of Conduct for Trustees and Senior Staff:

- a. Identify and disclose any actual or potential conflict of interest, and to act at all times for the general public good, regardless of personal relationships or business interests. Although Texas law allows the election of a trustee who

has a spousal or other familial relation with an employee of the College, neither a trustee nor the employee related to him or her may take advantage of the relationship to obtain favorable consideration, to influence operational matters, or to gain access to information not available under the Texas Public Information Act.

- b. Keep well-informed on Board-related issues, and attend and participate actively in meetings of the Board and its committees.
- c. Encourage and engage in open and honest discussion in making Board decisions, to respect differences of opinion, and to keep an open mind until each Trustee has had an opportunity to address the Board.
- d. Respect the Board's collective decision-making process, and to accurately report and explain Board votes and policies.
- e. Act on behalf of the Board only with the official authorization of a majority of the total membership of the Board.
- f. Respect the authority and responsibilities of College employees and external contractors, empowering them to work without interference.
- g. Maintain the confidentiality of privileged information, as outlined in the Texas Public Information Act and the Texas Open Meetings Act.

- h. Refrain from any attempt to influence any operational decision, including but not limited to individual admissions, personnel, or purchasing decisions, except when the decision is an agenda topic at an official Board meeting. Specifically, Board members may not have any communications about a grievance with any person who has a grievance pending.
- i. Resist any attempt at undue influence from political, religious or other external bodies and protect the institution from such influence. Board members and Senior Staff must also report attempts of such improper external influence to the appropriate legal counsel.
- j. Exercise a “refer” approach to the Chancellor only with respect to communications from potential vendors and subcontractors about College business outside the prohibited communications period.
- k. Board members are prohibited from suggesting or recommending subcontractors to vendors at any time, regardless of when the communication occurs.
- l. Request only authorized, legitimate reimbursement of College-related expenses.
- m. Interact with Trustees, employees, students, and other citizens in a manner that creates and sustains mutual respect.
- n. Complete the annual Conflict of Interest Certification at Exhibit A.

**5. PROHIBITED COMMUNICATIONS / POLITICAL CONTRIBUTIONS.**

- a. Except as provided below, political contributions and the following communications, whether written, oral, electronic, or otherwise, regarding a particular invitation for bid (“IFB”), request for proposal (“RFP”), request for qualification (“RFQ”), employment application or other solicitation are prohibited:
- 1) Communications between a potential vendor, subcontractor, service provider, bidder, broker, offeror, lobbyist or consultant and any Trustee, Senior Staff, or any member of a selection or evaluation committee;
  - 2) Communications between any Trustee or Senior Staff and any member of a selection or evaluation committee;
  - 3) Communications between any Trustee and administrator or employee regarding the subject matter of the proposed contract; and
  - 4) Potential vendors, subcontractors, service providers, bidders, brokers, officers, lobbyists or consultants shall not make a political contribution to a Trustee or candidate during the prohibited period.
- b. The communications/political contributions prohibition period shall begin on the date that the IFB, RFQ, RFP or other solicitation is issued, published or posted. The HCC

Executive Director of Purchasing will email notification of the beginning and ending of the prohibited communications period to each Trustee and Senior Staff Member. The communications / political contribution prohibition shall terminate thirty days after the contract is executed by the Chancellor or his or her designee or when a determination is made that the contract will not be awarded.

- c. The communications prohibition shall not apply to the following:
  - 1) Official communications between a potential vendor or subcontractor and appropriate staff or administration at a duly noticed pre-bid or pre-proposal conference.
  - 2) Communications with Senior Staff whose official job duties may require communication regarding the specific bid, request for proposal, request for qualifications, employment application or solicitation under consideration, including pre-bid or pre-proposal communications.
  - 3) Any communications allowed by the HCC Procurement Manual.
  - 4) Nothing contained herein shall prohibit any person or entity from publicly addressing the Board during any duly-noticed public meeting, in accordance with applicable Board policies, regarding action on the contract.

- d. For purposes of this section, the term “Candidate” shall include an individual who is running for election to a position on the HCC Board and who meets the criteria set forth in Section 251.001(1) of the Texas Election Code.
- e. Each potential vendor, subcontractor, service provider, bidder, broker, officer, lobbyist or consultant responding to a IFB, RFP, RFQ, employment application or other solicitation, shall include a complete list of Contractors in its response to the solicitation. For purposes of this section, the term “Contractors” shall include any member of the potential vendor’s board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of 10% or more, and any subcontractor listed in a bid or contract.
- f. The Executive Director of Purchasing shall provide the office of Board Services information on the “Contractors” identified under subsection (e) above within five (5) business days of the date the response to the solicitation is received.
- g. The Board Services Office shall maintain a list of all individuals identified pursuant to subsection (e) above and shall submit a copy of the list to each Trustee and Candidate five (5) business days after receiving the information described in this section from the Executive Director of Purchasing. The list shall include:
  - 1) The name of the Contractors;

- 2) The date of the initial posting of the IFB, RFP, RFQ, employment application or other solicitation; and
  - 3) The end date of the prohibited period.
- h. The Executive Director of Purchasing shall include in the solicitation documents a statement disclosing the requirements of this policy. The statement shall be conspicuously written in a separate section of the solicitation.
  - i. Any contribution given or received in violation of this section shall be returned no later than the last day of the reporting period in which the contribution is received.
  - j. The Executive Director of Purchasing shall publish to the Board an annual procurement list that shows all annual contracts, contracts that renew or expire during that calendar year, and any anticipated contracts for goods and services and the anticipated month the procurement will be published. This list will be published to the Board no later than February 1<sup>st</sup> of each calendar year.
6. **LIMITS ON REPAYMENT OF PERSONAL LOANS.**

A Trustee or Candidate cannot be reimbursed or repaid from campaign contributions for any personal loan made to the Trustee or Candidate's campaign in excess of \$5,000.00. Loans made in excess of this amount shall be deemed a contribution to the campaign and may not be repaid to the Trustee or Candidate. This provision shall not alter, remove, or affect any reporting requirements under the laws of

the State of Texas or these bylaws. The repayment limits shall apply to personal loans incurred after the adoption of this provision.

For purposed of this Section, the term “Candidate” shall include an individual who is running for election to a position on the HCC Board that is up for election and who meets the criteria set forth in Section 251.001(1) of the Texas Election Code.

**7. PROHIBITED BENEFITS.** For the protection of the integrity of the College, Trustees and Senior Staff shall not:

- a. Accept or solicit any gift, favor or service that might tend to influence him/her in the performance of official duties or that might be offered with the intent to influence his/her official conduct.
- b. Accept employment or engage in a business that would require the release or use of information obtained in the performance of official duties.
- c. Trustees and Senior staff will comply with the HCC Governance policies and Texas law requiring the filing of a Conflicts Disclosure Statement or a conflict of interest affidavit under the appropriate circumstances, and no later than August 31st of each academic year will sign a Conflict of Interest Certification and submit it to the Board Services Office.

**8. POLITICAL ACTIVITIES.** A member of the Board, as well as the Board as a whole, shall not expend or authorize the expenditure of any statutorily restricted funds for the purpose of influencing the

outcome of any election, or the passage or defeat of any legislative measure. However, it is permissible for the Board to use or authorize the use of funds to provide information and education regarding certain matters.

**9. CAMPAIGN FINANCE REPORTS.** Campaign Finance Reports for Board members will be maintained by the Office of General Counsel as follows:

- a. Current Board members will post all Campaign Finance Reports on the College District website.
- b. The College District will maintain former Board member Campaign Finance Reports in accordance with the College District document retention policy and applicable laws.

**10. MISUSE OF OFFICIAL INFORMATION.** A member of the Board shall not use the office of Trustee to obtain or use official information in any unlawful way.

**11. MECHANISMS FOR ENFORCEMENT.** The mechanisms for enforcement of the Code of Ethics are:

- a. Board members must report an alleged violation of this Ethics Code to Board Counsel and Senior Staff must report such communications to the General Counsel. All reports must be in writing using the form at Exhibit B.
- b. Any person may allege, in writing, using the form at Exhibit B, noncompliance with this Ethics Code to the Board Chair (or the Vice-Chair if the Chair is the target of the

allegation) or to the Chancellor if it involves a member of the senior staff.

- c. The Board shall be advised when any allegation of a violation of this Code of Ethics is made.
- d. The Chair, Vice-Chair or Chancellor, as appropriate, will undertake a process to resolve the complaint.
- e. The Chair may initiate an independent investigation of a written complaint after receiving approval from a majority of the Board. Upon approval, the chair shall consult with Board Counsel, then name an independent third party to investigate the complaint within the parameters set by the Board. Further, the chair shall provide regular updates to the Board through the named investigator.
- f. If the Board finds a violation of this Ethics Code, it can reprimand or censure the Board member, the only sanctions available under Texas law.
- g. If the Chancellor finds a violation of this Ethics Code by a member of Senior staff, the Chancellor shall take appropriate action under the HCC human resources policies.
- h. After an evidentiary hearing, a majority vote of the total membership of the Board may disqualify a vendor or subcontractor from participation in any solicitation or contract for up to one (1) year for violating this Ethics Code.

**Article B: Powers of the Board**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **AUTHORITY.** Board members are fiduciaries and shall discharge their duties for the exclusive interest of the College. The Board as a body has final authority to establish the policies that govern the College within the limits imposed by Texas law. Individual Board members shall have no authority over the College, its property, or its employees; however, each Board member does have the right to seek information from the College without specific Board authorization, following prescribed procedures and proper purpose. A Board member may act on behalf of the Board only with the official authorization of a majority of the total membership of the Board. Without such express authorization, no Board member may commit the Board on any issue. Specific powers of the Board include, but are not limited to, the following:

- a. Govern and oversee the management of the College.
- b. Delegate to the Chancellor the responsibility for all administrative functions.
- c. Adopt and periodically review policies for the College and such rules, regulations, and bylaws as the Board deems advisable.
- d. Establish goals consistent with the College's role and mission.

- e. Levy and collect taxes and issue bonds, time warrants and certificates of indebtedness.
- f. Provide for assessing and collecting of taxes.
- g. Adopt a budget and file a copy of the annual operating budget and subsequent amendments with the appropriate state agency.
- h. Have the accounts audited in accordance with the approved financial reporting system.
- i. Submit the required annual report to the Governor, Comptroller, State Treasurer, State Auditor, and Legislative Budget Board.
- j. Accept on behalf of the College bequests and donations or other monies.
- k. Establish an endowment fund outside the state treasury in a depository selected by the Board.
- l. Pledge funds from tuition, grants, donations, and income for the payment of issued revenue bonds.
- m. Select a depository for College funds.
- n. Order elections as required by law.
- o. Exercise the power of eminent domain to acquire property.
- p. Appoint the chancellor, evaluate the chancellor, and assist the chancellor in the achievement of performance goals.
- q. Appoint or employ agents, employees, and officials as deemed necessary or advisable to

carry out any power, duty, or function of the Board; and, upon the chancellor's recommendation, employ faculty and other employees of the College.

- r. Proceed by and through resolutions or orders adopted or passed by the Board.
- s. Be authorized to fix and collect rentals, rates, charges, or fees from students and others for the occupancy, use or availability of all or any of its property, buildings, structures, activities, operations or facilities in such amounts and in such manner as may be determined by the Board.
- t. Acquire and hold real and personal property and hold title to all property of the College.
- u. Execute, perform and make payments under contracts, which may include leases, leases with option(s) to purchase, or installment purchase, with any person for the use, acquisition, or purchase of any personal property, or the financing thereof.
- v. Employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property.
- w. Form a non-member, non-stock, non-profit public facility corporation(s) for the purpose of issuing bonds.
- x. Oversee the investment of College funds and retain a financial advisor.
- y. Build facilities.

- z. Retain legal counsel and an auditor.
- aa. Select, replace, dismiss and evaluate the internal auditor in consultation with the Chancellor and the Audit Committee.
- bb. Order police protection for the College.
- cc. Contract with vendors, except to the extent it has delegated these powers to the Chancellor.
- dd. Require regular reports from the College Foundation.
- ee. Ensure that its formal position on matters of importance to the College is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board.
- ff. Set admission standards.
- gg. Sue and be sued.

## **2. DELEGATION OF AUTHORITY IN EMERGENCY**

In a crisis situation, the Board temporarily delegates authority to the Chancellor to make critical decisions affecting the College and to protect the welfare and safety of students and employees. The Chancellor is authorized to sign and implement contracts and agreements in an emergency situation or crisis. Emergency decisions require that the Board subsequently declare a state of emergency and ratify any contract exceeding the Chancellor's contracting authority.

In the event of a catastrophe, emergency, or natural disaster affecting the College, contracting for the

replacement, construction, or repair of College equipment or facilities is authorized if emergency replacement, construction, or repair is necessary for the health and safety of College students and staff. Tex Educ. Code Ann. §44.0312 (Vernon 2009).

**3. POLICY DIRECTION.** The Board shall formulate, amend, update, adopt and publish official policies for the College. All policies of the College are subject to relevant laws, rules, regulations, and executive orders of the federal government and the government of the State of Texas. Any policy, procedure or regulation found in conflict with a state or federal law, rule, or regulation shall be void to the extent of the conflict. Noncompliance with College policies by employees may be considered grounds for disciplinary action, up to and including dismissal.

**4. BOARD LEADERSHIP.** The Board shall provide the College with strong leadership for meeting the increasing need for higher education throughout the communities it serves. In this capacity, the Board shall:

- a. Create and maintain a spirit of cooperation with the Chancellor.
- b. Preserve the institutional independence of the College and defend its right to manage its own affairs through its chosen administrators and employees.
- c. Enhance the public image of the College.
- d. Nurture the institution so that it achieves its full potential.

- e. Establish goals for the College, consistent with its role and mission.
- f. Take clear positions before the Texas Higher Education Coordinating Board and Texas Legislature on all matters regarding the College.
- g. Share its philosophy with the students, employees, and general public through regular participation at graduation and other ceremonies.
- h. Promote unity within the College at every opportunity, creating a family atmosphere.
- i. Promote pride and dignity amongst employees of the College by recognizing outstanding achievement.
- j. Protect the assets of the College to insure fiscal stability.
- k. Always act solely and exclusively for the benefit of the College.
- l. Always act as a positive advocate for HCC and if desired, for community college systems generally through service with ACCT or other community college Trustee organizations.

**Article C: Elections**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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The Board shall consist of nine members elected from single-member districts, who shall serve without salary. The Board shall call an election of a Trustee or appoint a successor Trustee when a vacancy exists on the Board. Upon election, Trustees shall be presented with an official Certificate of Election and an appropriate emblem of office during a Board ceremony. College monies shall not be spent on individual campaigns. Trustees are elected to serve terms of six years, and can be removed from office only as allowed by law. The terms of three members will expire on the last day of December of each odd-numbered year, as follows:

Districts I, II, and VII — 1989 and every 6 years thereafter

Districts III, VI and VIII — 1991 and every 6 years thereafter

Districts IV, V and IX — 1993 and every 6 years thereafter

*[Section 130.088 of the Texas Education Code.]*

*(See Election Procedures in the HCC POLICIES MANUAL.)*

**Article D: Officers of the Board**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **ELECTION.** Officers of the Board shall be elected by a majority of the total membership of the Board in January, or at any time thereafter, in order to fill a vacancy. They shall be elected for a one-year term and may succeed themselves. Officers shall be the Chair, the Vice-Chair and the Secretary. Officers may be changed or removed at any time by a majority of the total membership of the Board. If a majority vote is not obtained in the first vote, the Trustee receiving the lowest number of votes will be dropped and another vote will be taken as to the remaining nominees. This process will continue until one nominee receives at least five (5) votes.

2. **CHAIR.** Duties of the Chair shall be to:

- a. Preside over meetings of the Board pursuant to Robert's Rules of Order.
- b. Appoint all committees and designated alternates.
- c. Serve as ex-officio voting member of all Board committees.
- d. Call special meetings of the Board.
- e. Perform duties and functions prescribed by the Board.

- f. Call and provide proper notice for a meeting of the Board to adopt a budget for the succeeding fiscal year.
- g. Sign all legal documents, including contracts, warrants, vouchers and reports, as required by state or federal law, or a current edition of Board policy.
- h. Decide all questions of order in accordance with Robert's Rules of Order, Newly Revised, as modified by Board policy and/or laws. However, said rules may be suspended by a two-thirds vote of the Board's total membership.
- i. Promote Board unity and share all information with other Board members in a timely fashion.

Should a vacancy be declared in the Board Chair position, the Board shall elect a permanent replacement to fill the remainder of the term.

3. **VICE CHAIR.** Duties of the Vice Chair shall be to:
- a. Act in the capacity and perform the duties of the Chair in the event of the absence, death, resignation, disability, or disqualification of the Chair, and shall continue to serve in an interim capacity only.
  - b. Become Chair only upon being elected to the position.
  - c. Perform other duties as prescribed by the Board.

- d. Sign, or attest to, all legal documents, in the absence of the secretary, as required by state or federal policy.
  - e. Promote Board unity and share all information with other Board members in a timely fashion.
4. **SECRETARY.** Duties of the Secretary shall be to:
- a. Keep records of all important transactions and file budgets, forms, and reports at the proper times and in the proper offices, as required by law.
  - b. Sign, or attest to, all legal documents, as required by state or federal law or Board policy.
  - c. Promote Board unity and share all information with other Board members in a timely fashion.

**Article E: Personnel Appointed By and Reporting  
Directly to the Board**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **APPOINTMENTS.** All appointments by the Board shall be made in accordance with Board policy and state law.

2. **CHANCELLOR.** The Chancellor shall be the chief executive officer of the College and as such, shall recommend the organizational plan for the College as well as candidates for administrative and faculty positions within the College. The contract for this position shall have a limit of four years. The Board shall evaluate the Chancellor on an annual basis. The Chancellor has a fiduciary duty to the College, including, but not limited to, the duty to:

- a. Developing a qualified administrative organization and providing the College with academic and fund-raising leadership.
- b. Preparing the annual budget and submitting it to the Board for approval.
- c. Establishing administrative relationships among members of the College community.
- d. Preparing and approving the curriculum.
- e. Appointing campus committees, as needed. The Chancellor will review all appointed committees with the Board prior to establishment, and will provide the Board

with a semi-annual report of the membership of each committee

- f. Preparing the agenda for Board meetings in coordination with the Board Chair and making regular reports to the Board regarding the status of the College.
- g. Promoting College political effectiveness at the state and local levels.
- h. Supervising the development and implementation of a system to evaluate faculty and staff.
- i. Assisting the Board in policy development, its yearly self-assessment, and meeting its own training requirements.
- j. Forging a relationship of mutual respect with each Trustee.
- k. Understanding each district of the College and its educational needs.
- l. Enforcing fiduciary and academic accountability of the College to the general public.
- m. Promoting College unity at all levels, emphasizing equality, diversity, and respect for all individuals.
- n. Interpreting the College to the community.
- o. Providing the Trustees with important information in a timely manner before all others and having background information and research compiled on issues of particular

importance to the Board, with sufficient time for study by Trustees before a vote.

- p. Serving as the official spokesperson for the College.
- q. Maintaining open channels of communication throughout the College.
- r. Handling employee disciplinary issues, including termination when appropriate.
- s. In the event of a catastrophe, emergency, or natural disaster affecting the College, contracting for the replacement, construction, or repair of College equipment or facilities if emergency replacement, construction, or repair is necessary for the health and safety of College students and staff.
- t. Enhancing the image and well-being of the College.

### 3. **EXTERNAL AUDITOR AND INTERNAL AUDITOR.**

**External Auditor.** The External Auditor shall be an independent and objective party to provide advice to the Board. The External Auditor shall be approved by the Board, and shall report directly to the Board, with access to the Chancellor. The Board will periodically evaluate the performance of the External Auditor and may dismiss or assign a new External Auditor at any time with or without cause. All engagement letters with the External Auditor shall be signed by the Board Chair. The Board shall select an auditing firm for a designated period, not to exceed five (5) years, and shall rotate External Auditors every five (5) years.

- a. An auditing firm selected by the Board as External Auditor is not eligible to submit a proposal immediately following any period during which it was engaged by the Board as External Auditor. The selected External Auditor may not serve simultaneously as the Internal Auditor.
- b. The Board shall outline its expectations regarding the annual financial statement audit and performance audit, if requested, and as may be directed by the Board. The Board also may arrange for self-requested audits to perform specific audit services. The External Auditor shall evaluate all financial operations of the College and prepare reports to the Board. Among the duties of the External Auditor are:
  - 1) to perform audit activities necessary to assure that College resources are being properly managed and accounted for, that the College has effective and adequate internal controls, and that internal operating colleges are reliable.
  - 2) to assure that the College is complying with approved policies and statutory requirements.
  - 3) to develop an annual audit plan for the College's financial audit which shall be presented to the Chancellor and the Audit Committee of the Board.
  - 4) to meet with the Board as requested and to report the results of the audit to the Board.

The External Auditor is prohibited from providing non-audit services to HCC.

**Internal Auditor.** The Internal Auditor shall report administratively to the Chancellor, and shall report functionally to the Board Audit Committee. The Internal Auditor shall be selected by the Board from candidates approved and provided by the Chancellor. The Chancellor shall recommend three (3) names to the Board as the finalists, each with a minimum of 10 years of experience as a full-time Auditor. The Internal Auditor shall be evaluated by the Chancellor after consultation with the Audit Committee and may only be dismissed by the Chancellor after obtaining approval of the Board. Duties of the Internal Auditor are to:

- a. Coordinate audit efforts with those of the External Auditor.
- b. Perform all duties in accordance with the Standards for the Professional Practice of Internal Auditing, the Code of Ethics, the Statements on Internal Auditing Standards, and the Statement of Responsibilities of Internal Auditing, each as established by the Institute of Internal Auditors.
- c. Meet regularly with the Board and the Audit Committee to review audits performed, audits in progress, and future audits.
- d. Conduct independent, protective and constructive audits so as to review effectiveness of controls, financial records, and operations.

- e. Analyze data obtained for evidence of deficiencies in controls, duplication of effort, or lack of compliance with College policies and procedures.
- f. Prepare reports and make recommendations on findings to the Chancellor and the Board.
- g. Provide audit education and Internal Control training.
- h. Offer advisory services, Control Self-Assessment (CSA) services, and workshops.

4. **BOARD COUNSEL AND GENERAL COUNSEL.**

**Board Counsel.** The Board Counsel shall provide legal advice to the Board. The Board Counsel shall be approved by a majority vote of the Board, shall report directly to the Board (with access to the Chancellor), and may be dismissed or reassigned by the Board without cause. The Board Counsel shall represent the College in all assigned legal matters. The Board Counsel shall attend all Board and Board committee meetings. Duties of the Board Counsel include:

- a. Provide advice and counsel to the Board.
- b. Maintain the Board bylaws and certain Board policies and procedures, and recommend amendments, as needed.
- c. Handle assigned legal matters for or on behalf of the College, such as preparation of legal opinions as requested by the Board or the Chancellor.

- d. Render legal services in connection with assigned legal matters.
- e. Perform any other legal services as may be required by the Board or requested by the Chancellor.

All matters assigned to Board Counsel shall be assigned in accordance with the Guidelines. Any reports required under these guidelines will be submitted to the Board Governance Committee.

Upon recommendation of the Chancellor, or on its own motion, the Board may employ other outside counsel to address legal matters in special situations. The outside counsel shall report directly to the Board, with access to the Chancellor. All Board retention of counsel shall be subject to approval of the Board. If the Board Chair is required to retain legal services prior to obtaining approval of the Board, such retention must be approved by the Board at the next meeting.

**General Counsel.** The General Counsel shall provide legal advice to the Chancellor. The General Counsel shall be appointed by the Board, upon recommendation of the Chancellor, and shall report directly to the Chancellor, with access to the Board. The General Counsel shall attend all Board and Board committee meetings. Duties of the General Counsel include:

- a. Provide legal advice and counsel to the Chancellor, administration and faculty.
- b. Maintain the College's policies and recommend amendments, as needed.

- c. Handle routine legal matters for or on behalf of the College.
- d. Perform other legal services as may be required by the Board or assigned by the Chancellor.

5. **FINANCIAL ADVISOR.** The Financial Advisor shall be approved by the Board, and shall report directly to the Board, with indirect reporting to the Chancellor or designees. The Board may periodically evaluate the performance of the Financial Advisor as needed, and may dismiss or assign a new Financial Advisor at any time without cause. All engagements or agreements with the Financial Advisor shall be signed by the Board Chair. The Chancellor may periodically engage other project-oriented financial consultants as needed. The Financial Advisor shall offer guidance to the Board in all financial matters. Duties of the Financial Advisor include:

- a. Evaluating College indebtedness.
- b. Evaluating acquisition strategies.
- c. Evaluating long and short term financial planning.
- d. Advise regarding current conditions in relevant debt market and analyze financing alternatives.

The Board shall select the Financial Advisor for a designated period, not to exceed five (5) years, and shall rotate Financial Advisors every five (5) years.

**Article F: Committees**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **GENERAL.** The Board may establish such standing and special/ad hoc committees as it deems necessary for the welfare of the College. Appointed committees will have three members. Committees of the whole are comprised of the entire membership of the Board. Special/ad hoc committees may be created for matters not assigned to standing committees in these bylaws. Appointed, committees of the whole and special/ad hoc committees have the same level of authority and are working committees that make non-binding recommendations to the Board. The Board chair shall designate the chair and members of each committee and the Chancellor will assign staff with experience and expertise in the particular area to support the work of all committees. A committee shall be limited to actions delegated to that committee by the Board.

**2. APPOINTED COMMITTEES**

**Appointments.** Except where the Board elects to have a committee organized as a committee of the whole, the Board Chair shall appoint Board members to each committee. Appointed committees will have three Board members, including the committee chair, except that the Board Chair will appoint one alternate member to each committee. Alternate committee members may vote, or make or second motions if any member of the committee is absent. In case a Board

member should become unable to continue serving on an appointed committee, or the Board determines that a committee member should be removed, the Board Chair will appoint a replacement within thirty (30) days.

**Meetings.** Committee meetings shall be called by the committee chair and duly posted, convened and conducted in accordance with the Texas Open Meetings Act. Any Board member may attend and participate in discussion at any such committee meetings. Committees will meet no more than once monthly without prior approval from the Board Chair.

**Attendance.** A quorum shall be declared as soon as a majority of the committee members are in attendance at the appointed committee meeting. For the purposes of a quorum, alternate committee members are considered only if committee members are not present.

**Voting in Appointed Committees.** A majority vote of a quorum of a committee is required for a committee recommendation from an appointed committee to be presented to the full Board for consideration. A committee recommendation, however, does not constitute a final Board action and, therefore, does not bind the Board. A committee recommendation from an appointed committee will be presented as a report at the committee of the whole meeting, and with the approval of both the chair of the appointed committee and the Board Chair, will be listed on the agenda for the next regular Board meeting under the consent agenda.

### 3. COMMITTEE OF THE WHOLE MEETINGS

**Meetings.** The Board Chair shall convene any committee of the whole meeting. Once the meeting has opened, the chair of each committee shall officiate over his/her committee proceedings until concluded. All meetings shall be duly posted, convened and conducted in compliance with the Texas Open Meetings Act. The chair of each appointed committee shall give a report of his/her committee's actions and recommendations at the committee of the whole meeting. Unless otherwise posted, committee of the whole meetings will be held on the second Thursday of the month.

**Attendance.** A quorum shall be declared when at least five members of a committee of the whole are present.

**Voting in a Committee of the Whole.** A vote of at least five members of a committee of the whole is required for a committee recommendation to be presented for consideration at a regular Board meeting. A committee recommendation, however, does not constitute a final Board action and, therefore, does not bind the Board. A recommendation from a committee of the whole will be listed on the agenda for the next regular Board meeting under the consent agenda.

### 4. STANDING COMMITTEES

#### Committees of the Whole

- a. **Finance and Facilities.** The finance and facilities committee shall oversee the budget, the College capital improvement and maintenance plan, and master planning. The finance and facilities committee shall also

evaluate the performance of all financial advisors.

### **Appointed Committees**

- a. **Academic / Workforce Affairs.** The academic/workforce affairs committee shall consider all issues affecting academic policies, workforce progress, programmatic changes, new certificates and technology issues. The Chancellor shall provide an annual report on the alignment of the college's academic / workforce programming with State of Texas performance indicators and employment trends within the Gulf Coast area.
- b. **Student Success/Services.** The student success/services committee shall consider all issues affecting student success, student services, athletic programs, diversity, financial aid, Veterans affairs and Minority Male initiatives.
- c. **Board Governance.** The board governance committee shall consider all issues affecting Board activities, Board training, Board outreach, human resources, and updates to all Board policies and bylaws. The board governance committee shall also monitor ongoing assignments given by the Board to the Administration and receive periodic updates on their progress. On a semi-annual basis, the board governance committee shall also receive and review reports from the Board Services Office regarding all Board expenditures and

will make a report at the committee of the whole meeting.

- c. **Audit.** The audit committee assists the Board in fulfilling its audit oversight responsibilities of the institution. The committee will also receive periodic compliance reporting and approve the annual audit plan for recommendation to the Board. See Article E, Section 3 for additional responsibilities of the audit committee.
- d. **External Relations.** The external relations committee shall consider all issues regarding legislative matters, economic development and small business.
- f. **Strategic Planning.** The strategic planning committee shall assist the Board in its fiduciary responsibilities for establishing HCC's mission, vision and strategic direction by helping the administration identify critical issues facing HCC, assisting in the analysis of alternate strategic options and ensuring that the administration has established an effective strategic planning process.
- g. **Board/Chancellor Evaluation Committee.** The board/chancellor evaluation committee shall plan for and oversee the timeline and process for the annual evaluation of the Chancellor in accordance with the Chancellor's contract and the annual self-evaluation of the Board. The committee shall also review and recommend to the Board for approval the annual goals and objectives of the Chancellor.

The committee shall also facilitate the annual self-evaluation of the Board pursuant to industry standards and the criteria set forth in Article H, Section 6 of the Board bylaws.

**5. SPECIAL/AD HOC COMMITTEES.** Special/ad hoc committees may be created as needed by the Board Chair for matters not assigned to standing committees in these bylaws. At the discretion of the Board Chair, a special/ad hoc committee may be organized as an appointed committee or as a committee of the whole. No special/ad hoc committee can exist for longer than one year unless reestablished, and may be terminated by the Board Chair upon completion of its mission.

**6. APPOINTMENTS TO OUTSIDE ENTITIES.** The Board Chair shall appoint, on an annual basis, Board members as liaisons to boards of directors or advisory boards of outside entities, such as, for example, the HCC Foundation.

**7. COMMUNITY ADVISORY COMMITTEES.** Community advisory committees are appointed by the Board for the purpose of improving the College and may be dissolved by Board resolution upon completion of their task. Committee members shall be selected to represent a variety of ethnic groups and organizations and to provide the College with advice on programs, facilities, student retention, recruitment and fundraising. Recommendations from these committees shall be forwarded to the Chancellor for consideration and future action.

**Article G: General Board Meetings**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **OPEN MEETINGS.** The Board shall hold regular meetings for purposes of handling College business. All meetings shall be held in compliance with the Texas Open Meetings Act. Citizens are welcome to attend meetings of the Board. Trustees shall adhere to the Board Code of Conduct and promote Board Leadership at all times.

2. **DEFINITIONS.**

A “meeting” occurs when:

- a. A quorum of members of the Board deliberate with each other or with any other person; and
- b. Such quorum discusses, considers, or takes formal action on public business or public policy that the Board supervises or controls.

“Deliberation” means an exchange, verbal, electronic or otherwise, between a quorum of Board members (or between them and any other person) concerning any issue within the jurisdiction of the Board or any public business.

No deliberation that affects public business is allowed to take place in any setting other than a duly posted meeting of a quorum of Board members.

3. **TIME AND LOCATION.** Unless otherwise provided, the regular meeting of the Board shall be held on the third Thursday of each month at the HCC

Building, 3100 Main Street. Such meetings may be recessed from day to day until the completion of business. The time for special and emergency meetings of the Board shall be as stipulated in the notice for the meeting.

4. **NOTICE.** Written notice of all meetings shall be posted at the central administration building and the website by the Board Services Office. Furthermore, notice shall be furnished for posting to the Harris County Clerk, the Fort Bend County Clerk, and upon request, to the media. Notice of all meetings shall provide for the possibility of a closed or executive session during an open meeting, as provided by law.

5. **VOTING.** Each Trustee's vote, or failure to vote, shall be recorded by name. Only Trustees present in person may vote. Absent Trustees may listen to the proceedings by electronic media, but may not vote on the proceedings. No proxy votes shall be allowed. Other than situations in which a two-thirds vote is required, a majority vote of the total membership of the Board will be required in order for the Board to act.

6. **ORDER OF BUSINESS.** The Board Chair and the Chancellor shall decide the order of business for meetings. (See HCC POLICY MANUAL)

7. **AGENDA.** At the direction of the Board chair, the Chancellor shall prepare and present an agenda at least 7 calendar days prior to the regular Board meeting, having followed the agenda preparation process established by the Board. An item shall be added to the agenda by the written request of three (3) Trustees submitted to the Chancellor or Board Chair at least seven (7) days prior to the meeting.

Either the Board Chair or the Chancellor, at his or her discretion, may pull any item noticed for discussion and/or action from the agenda without further action by the Board unless that item has been added by the written request of three (3) Trustees, in accordance with the procedures outlined above.

Copies of the electronic agenda and related materials shall be delivered to Board members by Board Services. Paper copies of the agenda and related materials shall be delivered to Board members upon a written request submitted to Board Services.

**8. RULES OF ORDER.** Robert's Rules of Order (most current edition) shall constitute the rules of procedure applicable to all meetings of the Board, when not in conflict with any provisions of law or these bylaws. The Board may suspend the rules, as needed, by a two-thirds vote of the composition of the full Board.

**9. MINUTES AND RECORDINGS.** The Board shall prepare and keep minutes and/or make a tape recording of each open meeting. The minutes and tapes are public records and shall be available for public inspection and copying upon request to the Board office. Any person in attendance can make an audio or video recording of any or all of an open meeting, subject to reasonable rules adopted by the Board to maintain order.

**10. SPECIAL MEETINGS.** Special meetings of the Board may be called by either the Chair at his/her own discretion, or by the independent requests of three (3) Trustees who must call for the meeting in writing,

specifying the date, time, place, and purpose of the meeting. Special meetings must be duly posted.

**11. CLOSED MEETINGS/EXECUTIVE SESSION.** Trustees, employees and agents of the College shall not divulge to any person the substance of matters discussed at any closed meeting, except as otherwise required or allowed by law. Closed meetings shall be held as allowed by law to have discussions and deliberations of College matters that cannot be made public. A further objective would be to protect the attorney-client privilege recognized by law.

**12. PROHIBITIONS.** No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act. No Board member shall knowingly close or aid in closing a regular meeting to the public (except as permitted under the Open Meetings Act). No Board member shall participate in a closed meeting that is not permitted under the Open Meetings Act.

**13. CITIZEN PARTICIPATION.** The Board shall provide opportunities at its meetings for citizens to address the Board, but shall impose reasonable restraints on the number, length, and frequency of presentations, so long as it does not unfairly discriminate among views seeking expression.

**14. DISRUPTION.** It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the meeting by physical action or verbal utterance. The Board may immediately remove from the meeting any person causing a substantial disruption.

**15. SOCIAL FUNCTIONS AND RELATED EVENTS.** The Board may congregate for social functions, such as meals or festivities, but shall refrain from discussing issues under consideration by the Board for a Board vote. Trustees may gather in a quorum at a social function unrelated to the public business of the College, or at a regional, state or national convention or workshop, if formal action is not taken. Such gatherings are not “meetings” under the law and no public notice is required to attend such gatherings. (Tex. Govt. Code 551.001)

**Article H: Board Operations**

Responsible Board Committee: Board Governance

Responsible Department/Group: Board of Trustees

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1. **EVALUATION.** The Board shall, on a regular basis, evaluate the efficiency and effectiveness of Board operations for the benefit of the College. With the assistance of the Chancellor's staff, operations shall be continuously streamlined and modernized for the efficient dispensation of College business. The community image of the College and the Board shall be periodically assessed for possible changes in Board operations.

2. **EFFICIENCY.** For maximum efficiency, the following rules of operation shall be followed:

**Board Meetings.**

- a. All Board meetings shall begin promptly.
- b. Transportation to all meetings shall be provided Trustees when necessary.
- c. Meetings shall be held during hours appropriate for maximum Board involvement and public participation.
- d. Board members shall strive to limit themselves to no more than two minutes of speaking time on an issue.

**Board Agenda.**

- a. Trustees shall receive a final copy of the agenda no later than five calendar days prior to the meeting.

- b. The agenda must be officially posted 72 hours prior to the meeting. For an emergency meeting, the agenda must be posted 2 hours in advance. Emergency postings must be approved by Board Counsel or the General Counsel.
- c. A new item may be placed on the agenda by three (3) Trustees, submitted in writing, up to seven (7) days prior to the regular Board meeting.
- d. Supplementary (or explanatory) information should be sent to Trustees well in advance of the general meeting.
- e. Trustees shall be provided with all necessary background information on any issue being considered for a vote, no later than five days prior to said vote.
- f. Agenda items shall have policy referral numbers for easy reference by Trustees.
- g. Fiscal impact for agenda items shall be clearly provided for each agenda item.

**Consent Agenda.** In an effort to streamline the regular agenda to allow Trustees to focus on critical issues, committee recommendations and routine agenda items shall be placed on the consent agenda.

3. **EXPENDITURES.** The Board shall have complete control of all Board accounts, and uses of the accounts must promote the College, develop the Board, or both.

Only Trustees in good standing are eligible to travel at College expense or have access to community funds, as

discussed below. A Trustee in good standing is not indebted to nor owes the College money for any reason.

**Travel.** Trustees may attend conventions, conferences, workshops, and other events approved by the Board. See the Board Travel Reimbursement Policy for a list of approved Conferences. Conferences not listed in the Board Travel Reimbursement Policy require prior Board approval for reimbursement of related expenses. Trustees must be in good standing to travel at College expense.

**Board Account for Community Affairs.** At the beginning of each fiscal year, a Board Account for Community Affairs (“BACA”) will be established for Trustees to fund activities related to their duties and responsibilities as Board members. Each Trustee will be limited to Five Thousand Dollars (\$5,000.00) per fiscal year, and the funds must be used in such a way as not to violate the gift of public funds doctrine. This doctrine, under Texas law, prevents political subdivisions from using public money or granting something of value for a private purpose. Trustees must be in good standing to access BACA funds.

- a. Trustees may use funds from the BACA for a community activity related to their duties and responsibilities as Trustees if and only if all of the following requirements are met:
  - 1) The activity serves a public purpose;
  - 2) The College receives adequate value or benefit in return; and
  - 3) Sufficient controls are in place to ensure the public purpose is met.

“Public purpose” is defined as an activity that adds value to or benefits the College as a whole by supporting the educational functions and mission of the College.

- b. Trustees may use funds from the BACA to sponsor community functions such as awards banquets, charitable events, and similar events and activities. Examples of proper educational public purposes are:
  - 1) Solicitation of donations for College educational programs;
  - 2) Enhancement of the reputation of the College in the community;
  - 3) Support of activities that increase the morale of employees and/or students;
  - 4) Support of events that enhance enrollment of students or recruitment of faculty, administration or staff; or
  - 5) Support of events that enhance the academic advancement, workforce training, or career development of HCC students.
- c. Trustees will adhere to the following guidelines as controls to ensure that a proper educational purpose is served:
  - 1) Trustees must complete the BACA Fund Request Form at Exhibit C at least seven (7) days prior to the event;
  - 2) The Board Chair or the Chair of the Board Governance Committee will review the

form for completeness and to ensure the public purpose requirements of 8.3.3(a) above are met, and will promptly notify the Trustee of his or her decision. Neither the Board Chair nor the Chair of the Board Governance Committee may approve their own request;

- 3) The amount requested must be the exact amount of the cost of the event or activity;
  - 4) The Board Services Office shall NOT process a requisition for a requested BACA expenditure without a completed BACA Fund Request form signed by the Board Chair or the Board Governance Committee Chair. No requisitions will be processed if the requesting Trustee's BACA account has insufficient funds for the requested expenditure; and
  - 5) The Board Services Office will email each Trustee the balance in their BACA account on a monthly basis. The Board Governance Committee will make a semi-annual report at the committee of the whole meeting, indicating the amount, the activity and the requesting Trustee for each BACA expenditure. An annual report will be made at the end of each fiscal year.
- d. Trustees may not use proceeds from the BACA for the following:
- 1) Events underwritten by or supporting religiously-affiliated organizations;

- 2) Personal or individual purposes, such as election campaign activities;
- 3) To support economic development or promote local businesses in a Trustee's district; or
- 4) Any other activity that supports an organization, public or private, or
- 5) That does not meet the requirements of 8.3.3(a) above.

**4. PUBLIC STATEMENTS AND THE MEDIA.** The Board shall be encouraged to speak with one voice, through the Chair (or in the Chair's absence, the Vice Chair), regarding College matters before the press. If a Board member is contacted by the news media, that member will notify Board Services within 24 hours of the contact. Board Services will notify all Board members via e-mail.

**5. TRAINING.** The Board recognizes its responsibility to be actively and continuously engaged in developing individual Board member's skills and knowledge by keeping them abreast of new developments in fiduciary, governance, and ethics laws, norms and best practices. The Board shall, therefore, have an orientation and development process in place. Board members may also attend regional, state, or national conventions, conferences, and workshops, and will be reimbursed for reasonable travel expenses for attendance at such as provided in the Board Travel Reimbursement Policy and these Bylaws. On an annual basis, Board Counsel will review all policies that address Board operations and will carry out (with assistance from General Counsel

as needed), any necessary training for the Trustees and Staff, as follows:

- a. General Requirement. Each Trustee shall participate in the HCC Annual Trustee Orientation program, a training session of at least four hours conducted by Board counsel and other independent professionals, as needed. The program will consist of at least one hour of ethics training and one hour of finance training. Board members who do not complete this annual training by March of each year shall be ineligible to serve as a Board officer or as Chair of a committee until the training is completed.
- b. Mandatory Open Government Training. Each Trustee shall, pursuant to Texas law, complete two hours of open government training, one hour each on open meetings and the public information act. This training must be completed within 90 days of being sworn in to serve. The Office of the Attorney General provides free online or video training to satisfy this requirement.
- c. Mandatory Training with Texas Higher Education Coordinating Board. Within the first two years of service, each Trustee shall, pursuant to Texas law, complete a training program established by the Texas Higher Education Coordinating Board pursuant to Section 61.084 of the Texas Education Code. Board members taking office on or after January 1, 2016, must complete this training within the first year of service. The minutes of

the last regular meeting of the calendar year must reflect whether each required member completed the training. Training via electronic means is also acceptable.

- d. **Mandatory Investment Training.** Within six months after taking office or assuming duties, each Trustee shall, pursuant to the Public Funds Investment Act (Texas Government Code, Chapter 2256), complete at least one training session relating to the Trustee's investment responsibilities, including training in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Chapter 2256 of the Texas Government Code.

**6. SELF-ASSESSMENT OF THE BOARD.** The Board shall evaluate its own performance and shall establish its goals on a yearly basis. The self-assessment of the Board shall consist of:

- a. Review of the Board Bylaws.
- b. An assessment of Board expenditures and savings for the year.
- c. An estimation of Board budgetary needs for the following year.
- d. An evaluation of Board accomplishments in setting policy, uniting the community in and out of the College, managing debt, and improving the College.
- e. An assessment of Board Governance and Operations.

- f. An assessment of the Board Office functions (Board office staff shall be evaluated by the Chancellor).

## **7. REQUESTS FOR INFORMATION**

The College is committed to assuring open and public access to all information of the College to the extent permitted by law. Board members seeking information from the College administration will submit a written request to the Board Chair for review. The Board Chair will review each request for information submitted by a Trustee, and if appropriate, will forward to the administration for handling. If the Chair determines that the request is unduly burdensome or is not reasonably related to official Trustee issues, the Board Chair shall instruct the Trustee submitting the request to narrow the scope of the request. The Trustee shall resubmit the narrowed request to the Board Chair for review.

## **8. REQUESTS FOR DOCUMENTS**

The College is committed to assuring open and public access to all records of the college to the extent permitted by law.

Board members seeking access to official College District records will complete the form at Exhibit D pursuant to the instructions on the form.

The Board Chair will review each request for documents submitted by a Trustee, and if the Chair determines that the request is unduly burdensome or is not reasonably related to official Trustee issues, the Board Chair shall instruct the Trustee submitting the request to submit an Open Records request in accordance with the provisions of the Texas Public

Information Act and any existing HCC Open Records policy. In addition, the Trustee shall be solely responsible for any fees and costs associated with the request. The Board Services office shall notify each Trustee of all Public Information Act requests for documents and all requests for documents from a Trustee and shall make a copy of responsive documents available to all Trustees at their request.

#### **9. REQUESTS FOR LEGAL ADVICE**

Individual Board members shall submit all requests for legal advice to Board Counsel through the Board Chair or designee. If the Board Chair determines that the request is not reasonably related to official Trustee issues, the Board Chair shall instruct the requesting Board member to obtain independent legal counsel at the Board member's expense.

#### **10. BOARD MEMBER COMPLAINTS.**

A member of the Board who has a complaint against another member of the Board or the HCC administration shall undertake the following steps to resolve the complaint:

- a. Board members must submit a written complaint, using the form at Exhibit E, to the Board Chair, or to the Vice Chair if the Chair is the subject of the complaint, within 30 days of the date of the incident giving rise to the complaint or within 30 days of the date the Board member becomes aware of the complaint.

- b. The Board shall be advised when any complaint is submitted.
- c. The Chair or Vice-Chair, as appropriate, will undertake a process to resolve the complaint.
- d. Only after Board action may the Chair or Vice Chair initiate an independent investigation of a written complaint. The Chair shall consult with Board Counsel, and name an independent third party to investigate the complaint within the parameters set by the Board. Further, the Chair shall provide regular updates to the Board through the investigator.
- e. The Chair or Vice Chair shall issue a written statement regarding his or her findings at the conclusion of the resolution process. The decision of the Chair or Vice Chair is final.

**EXHIBIT A**  
**HOUSTON COMMUNITY COLLEGE BOARD OF**  
**TRUSTEES AND SENIOR STAFF**  
**CONFLICT OF INTEREST CERTIFICATION**  
**FY\_\_\_\_\_**

- By signing below, I certify that I will abide by the following conditions during FY \_\_\_\_\_:
- If I or a person related to me in the first degree by either affinity or consanguinity has a substantial interest in a business entity that either has a HCC contract or is being considered for a HCC contract, or has a substantial interest in real property that HCC is considering purchasing, before any vote or decision is made regarding that entity, I shall file a **conflict of interest affidavit** with the Board Services Office, and if a trustee, shall also publicly disclose the relationship to the Board in a meeting called and held in compliance with the Texas Open Meetings Act and shall also abstain from discussions or other proceeding regarding the entity and must not vote on the item. **See Chapter 171 of the Texas Local Government Code.**
- If I or a person related to me in the first degree by either affinity or consanguinity<sup>1</sup> either

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<sup>1</sup> Black's Law Dictionary defines consanguinity as kinship; blood relationship; the connection or relation of persons descended from the same stock or common ancestor. As distinguished from "affinity", which is the connection existing in consequence of a marriage.

receives income greater than \$2,500 during a 12-month period or receives gifts other than food, lodging, transportation or entertainment accepted as a guest that exceed \$100 during a 12-month period from a business entity that either has a HCC contract or is being considered for a HCC contract, I shall file a **Conflicts Disclosure Statement** with the Board Services Office not later than 5:00 p.m. on the seventh business day after the date on which I become aware of the facts that require the filing of this statement. **See Chapter 176 of the Texas Local Government Code.**

- These provisions apply to vendors that are prime or subcontractors.
- I \_\_\_ am \_\_\_ am not currently aware of any facts that require me to file a conflict of interest affidavit or a Conflicts Disclosure Statement.
- **I shall not:**
  - Accept or solicit any gift, favor, or service that might reasonably tend to influence me in the discharge of my official duties or that I know or should know is being offered with the intent to influence my official conduct.
  - Accept other employment or engage in a business or professional activity that I might reasonably expect would require or induce me to disclose confidential information acquired by reason of my position.
  - Accept other employment or compensation that could reasonably be expected to impair my independence of

judgment in the performance of my official duties.

- Make personal investments that could reasonably be expected to create a substantial conflict between my private interest and the public interest.
- Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised my official powers or performed my official duties in favor of another.
- With the intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly misuse government property, services, personnel, or any other thing of value belonging to the government that has come into my custody or possession by virtue of my office or employment.

\_\_\_\_\_/\_\_\_\_\_  
Signature      Date

\_\_\_\_\_  
Printed Name

**EXHIBIT B  
CODE OF ETHICS COMPLAINT FORM**

Please ensure all necessary/relevant information is included. All correspondence concerning this matter will be sent to the address or e-mail address provided below.

Name of Complainant: \_\_\_\_\_

Home Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Statement of complaint, including provision of the Code of Ethics that was allegedly violated:

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_



**EXHIBIT D**

<b>HCC Board of Trustees REQUEST TO ACCESS OFFICIAL COLLEGE RECORDS</b>	
PLEASE COMPLETE AND RETURN TO: Board Services at	
Name:	District:
Title:	Department:
Phone Number:	E-Mail:
Please describe the records requested:	

Records may contain privileged or confidential information. Disclosure of privileged or confidential information or documents may constitute a violation of a Trustee's fiduciary duties. HCC does not elect to waive attorney-client privilege or agree to the public disclosure of the records.

The College is committed to assuring that Trustees have open access to all records of the College to the extent permitted by law. Please follow these steps in submitting a request for access to HCC documents, in accordance with Board of Trustees Bylaws, Article H, Section 7:

1. Submit this completed form to the Board Services office, which will forward it to the Board Chair.
2. The Board Chair shall request input from the administration if the Board Chair determines that the request for documents is either (1) burdensome in the requested response time,

(2) seeks information that is more than thirty (30) pages in length, or (3) requires the creation of reports or documents that do not currently exist. After considering the administration's input, the Board Chair, at his or her discretion, will determine the cost effectiveness of the request and the proper utilization of College resources necessary to effectively respond to the request.

3. If the Board Chair determines that the request is excessive or not reasonably related to official Trustee issues, the Board Chair will direct the Board member requesting the information to submit his or her request to the HCC administration under the Texas Public Information Act.
4. Board members submitting a request under the Texas Public Information Act will be responsible for any fees and costs associated with the request.

The Office of Board Services shall notify each Board member of all requests for documents submitted by Board members, and shall make a copy of responsive documents available to all Board members upon request, subject to the provisions above.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

**EXHIBIT E**  
**BOARD MEMBER COMPLAINT FORM**

Please ensure all necessary/relevant information is included. All correspondence concerning this matter will be sent to the address or e-mail address provided below.

Name of Complainant: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Statement of complaint:

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_