

September 16, 2024

M E M O R A N D U M

TO: Jim Murdaugh, Ph.D.
President

FROM: Barbara Wills, Ph.D.
Vice President for Administrative Services and Chief Business Officer

SUBJECT: Policy Manual Changes

Item Description

This item requests Board approval of Policy Manual changes in chapters 0000 – Governance and 6000 – Finances.

Overview and Background

The College brings forth a request to modify the College's Policy Manual: the addition of Policy 0192 – District – Exceptional Student Education, and the revision of Policy 6320 – Purchasing and Contracting for Commodities and Contractual Services, as required by state statute.

Funding/ Financial Implications

N/A

Past Actions by the Board

The Board approved previous revisions to the College's Policy Manual in May 2024.

Recommended Action

Approve revision of College policies as presented.

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BOARD POLICY

Book	Policy Manual
Section	0000 Governance
Title	DISTRICT - EXCEPTIONAL STUDENT EDUCATION_New
Code	po0192
Status	
Legal	F.S. 447 F.S. 1012.81
Adopted	September 18, 2023

0192 - **DISTRICT - EXCEPTIONAL STUDENT EDUCATION**

The Tallahassee State College School District (District), as an expression of its commitment to provide a free, appropriate, public education for students with disabilities in accordance with State and Federal laws, rules, and regulations, shall develop and implement Special Programs and Procedures for Exceptional Students and the Plan for Exceptional Student Education. These documents shall include at least the components listed below, shall provide administrative procedures for Exceptional Student Education Programs, and shall be revised when required by the Florida Department of Education (FLDOE), readopted, and submitted to the FLDOE.

A. Child Identification

The District will make ongoing efforts to identify, locate, and evaluate K-12 students below twenty-two (22) years of age, who reside within the District and have a confirmed or suspected disability in accordance with all Federal regulations and State standards.

B. Procedural Safeguards

A child with a disability and their parent shall be provided with safeguards, as required by law, throughout the identification, evaluation, and placement process, and the provision of a free, appropriate, public education to the student.

C. Multifactor Evaluation

A student may not be given special instruction or services as an exceptional student until after they have been properly evaluated and found eligible as an exceptional student in the manner prescribed by rules of the State Board of Education.

The District will provide a multifactor evaluation for students with disabilities by ensuring that:

1. Children are assessed in their native language or other mode of communication;
2. Tests are used for their validated purposes;
3. Children are evaluated in all areas related to their suspected disability;
4. Testing is conducted by a multidisciplinary team;
5. Testing materials and procedures are not racially or culturally biased;
6. Tests are administered by trained personnel qualified in accordance with all Federal regulations and State standards;

7. Tests are administered in conformance with the instructions provided by the producer; and

8. Medical evaluation, when required as part of the multifaceted evaluation, shall be provided at no cost to the parent by a licensed physician designated by the Superintendent or his/her designee, when other no-cost resources are not available.

The parent of an exceptional student evaluated and found eligible or ineligible shall be notified of each such evaluation and determination. Such notice shall contain a statement informing the parent that they are entitled to a due process hearing on the identification, evaluation, and eligibility determination or non-determination.

D. Individualized Education Program

The District will develop an Individualized Education Program (IEP) for each child with a disability who needs special education and related services. The IEP shall be designed to meet the unique educational needs of the child and shall be developed in meetings with the child's designated IEP Team. At the initial meeting of a student's IEP team, the District will provide parents with information about the amount of funding the District receives for each of the five (5) exceptional student education support levels for a full-time student.

Parents of the child shall be strongly encouraged to participate in all planning conferences and IEP Team meetings. The school will provide written notice of an IEP meeting to the parent at least ten (10) days before the meeting, indicating the purpose, time and location of the meeting and who, by title or position, will attend the meeting. The IEP Team meeting requirement may be waived by informed consent of the parent after the parent receives the written notice.

The District will utilize FLDOE parental consent forms for the following actions in a student's IEP:

1. Administer to the student an alternate assessment pursuant to F.S. 1008.22 and provide instruction in the State standards access points curriculum; and
2. Place the student in an exceptional student education center.

Except for a disciplinary interim alternative placement for no more than forty-five (45) school days, if the District determines that there is a need to change a student's IEP as it relates to the actions described above in 1 and 2, the school must hold an IEP Team meeting that includes the parent to discuss the reason for the change.

The District will not implement the change without parental consent unless the District documents reasonable efforts to obtain the parent's consent and the child's parent has failed to respond, or the District obtains approval through a due process hearing.

The IEP will include the components listed in F.A.C. 6A-6.03028, Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities.

The child's IEP shall be reviewed and revised as often as necessary, but at least annually.

District personnel will collaborate with private instructional personnel who are hired or contracted by parents in compliance with F.S. 1003.572. "Private instructional personnel" include only the following:

1. Individuals certified under F.S. 393.17 or licensed under Chapter 490 or Chapter 491 for applied behavior analysis services as defined in F.S. 627.6686 and 641.31098;
2. Registered behavior technicians who have a nationally recognized paraprofessional certification in behavior analysis and who practice under the supervision of individuals licensed under F.S. 393.17 or licensed under F.S. Chapter 490 or Chapter 491 by assisting such individuals in the provision of applied behavior analysis services;

To provide services under this paragraph, a registered behavior technician must be employed by a provider described in Paragraph 1 above.

3. Speech-language pathologists licensed under F.S. 468.1185;
4. Occupational therapists licensed under part III of 379 Chapter 468;
5. Physical therapists licensed under Chapter 486;
6. Psychologists licensed under Chapter 490; and

7. Clinical social workers licensed under Chapter 491.

Private instructional personnel who are hired or contracted by parents to collaborate with public instructional personnel will be permitted to observe the student in the educational setting, collaborate with instructional personnel in the educational setting, and provide services in the educational setting only if the following requirements are met:

1. The student's public instructional personnel and principal consent to the time and place; and
2. The private instructional personnel satisfies the requirements of F.S. 1012.32 or 1012.321.

E. Least Restrictive Environment

The education of students with disabilities will occur in the least restrictive environment through appropriate special education programs and services designed to meet the unique needs of each disabled student. District personnel will use the regular school facilities and adapt them to the needs of exceptional students to the maximum extent appropriate. To the extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Segregation of exceptional students will occur only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

F. Confidentiality of Data

The confidentiality of personally-identifiable data relating to children with disabilities and their parents and families shall be protected at collection, storage, disclosure, and destruction; one official of this District shall be assigned the responsibility for protecting the confidentiality of personally-identifiable data. The District follows all Federal regulations and State standards related to the confidentiality of data.

G. Due Process

The District will use procedures to allow differences of opinion between parents and this District or between agencies and this District, to be aired and resolved. The procedures shall provide for case conferences and impartial hearings on the District's proposal or refusal to initiate or change the identification, evaluation, eligibility, or educational placement of the child, or the provision of FAPE to the child.

The impartial hearings shall be conducted by an administrative law judge (ALJ) from the Florida Division of Administrative Hearings (DOAH) and shall be final. However, any party who does not agree with the findings and decision in the due process hearing, including a hearing relating to disciplinary procedures, has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in a State court of competent jurisdiction or in a district court of the United States without regard to the amount in dispute. In the alternative, in hearings conducted on behalf of a student who is identified as gifted, any party aggrieved by the decision of the ALJ has the right to request a review of the order by the District Court of Appeal as provided in F.S. 120.68.

During the pendency of a due process hearing or appellate proceeding regarding a due process complaint, the student shall remain in their current educational assignment, unless the parent and the Board otherwise agree.

H. Surrogate Parent

It shall be the policy of the District that whenever the parent or a person who acts in a parental role to a child with a disability or a child suspected of having a disability is determined to be legally unavailable, the child's rights shall be protected through the assignment of a surrogate parent. A surrogate parent means an individual appointed by the Superintendent and/or the court to act in place of a parent in educational decision-making and in safeguarding a child's rights under the Individuals with Disabilities Education Act. The surrogate parent shall not be an employee of the Department of Education, the School District, a community-based care provider, the Department of Children and Family Services, or any other public or private agency involved in the education or care of the child. The surrogate parent shall meet all statutory requirements and attend the required training to be appointed. The Superintendent shall appoint a surrogate not more than thirty (30) days after the District determines a particular student is in need of a surrogate.

I. Testing Programs

Students with disabilities shall participate in local and State-wide testing programs to the maximum extent appropriate. Individual exemptions and/or waivers shall be granted only as permitted under Florida law and State Board of Education rules. Exceptional students with disabilities shall have access to testing sites.

Further, pursuant to State law, the IEP team may determine that end-of-course assessment cannot accurately measure the abilities of the student and may, therefore, waive the use of the results of the end-of-course assessment for purposes of determining the student's course grade and middle school promotion or award of high school credits.

If the IEP Team determines that a student with a disability is prevented by a "circumstance" or "condition" as defined in F.S.1008.212 from physically demonstrating the mastery of skills that have been acquired and are measured by the Statewide standardized assessment, a Statewide standardized end-of-course assessment, or an alternate assessment under F.S.1008.22(3)(c), the IEP Team may submit to the superintendent a written request for an extraordinary exemption from the administration of the assessment, pursuant to F.S. 1008.212. The request may be made at any time during the school year, but not later than sixty (60) days before the assessment for which the request is made. The superintendent will recommend to the Commissioner of Education whether the request should be granted or denied, and the Commissioner will grant or deny the requested exemption within thirty (30) days. A copy of the District's procedural safeguards as required in F.A.C. 6A-6.03311 shall be provided to the parent. If the parent disagrees with the IEP Team's recommendation, the dispute resolution methods described in the procedural safeguards shall be made available to the parent.

A parent who disagrees with the Commissioner's denial of a requested extraordinary exemption may request an expedited hearing before DOAH pursuant to F.S. 1008.212.

J. Right to be Accompanied at Meetings Pertaining to Students with Disabilities

Parents of students with disabilities, or eligible students with disabilities, may be accompanied by another person of their choice at a meeting with District personnel. Such meetings include, but are not limited to, meetings related to the eligibility for exceptional student education or related services; the development of an individual family support plan (IFSP); the development of an individual education plan (IEP); the development of a 504 accommodation plan issued under Section 504 of the Rehabilitation Act of 1973; the transition of a student from early intervention services to other services; the development of postsecondary goals for a student with a disability and the transition services needed to reach those goals; and other issues that may affect the student's educational environment, discipline, or placement of a student with a disability.

District personnel will not object to the attendance of such adult or discourage or attempt to discourage through any action, statement, or other means, parents or an eligible student, from inviting another person of their choice to attend a meeting. Parents, eligible students, or other individuals invited to attend such meetings by parents of students with disabilities or eligible students with disabilities on school grounds shall sign-in at the front office of such school as a guest.

Parents of students with disabilities, or eligible students with disabilities, and District personnel shall sign Form 5780 F1 at the meeting's conclusion which states whether or not any District personnel have prohibited, discouraged or attempted to discourage the parents, or eligible student, from inviting a person of their choice to the meeting pertaining to their child's, or their own, educational environment, placement, or discipline.

K. Early Literacy Skills for Retained Prekindergarten Students

A parent of a student with a disability who is enrolled in prekindergarten at the age of 4 and is fully funded through the Florida Education Finance Program may retain their child in consultation with the student's IEP team. A student with an IEP who has been retained pursuant to this paragraph and has demonstrated a substantial deficiency in early literacy skills shall receive instruction from the District in early literacy skills.

L. Transfer of Parental Rights at Age of Majority

Unless an exception applies under the rules of the State Board of Education, when a student with a disability reaches the age of eighteen (18), the right of prior written notice is retained as a shared right of the parent and the student. All other parent rights under the IDEA then transfer to the student. At least one (1) year before the student reaches the age of eighteen(18), the Board will provide written notice of the transfer of parent rights and information about the ways in which the parent may continue to participate in educational decisions, including informed consent, power of attorney, guardian advocacy and guardianship.

Placement by the Department of Children and Family Services

After the Department of Children and Family Services provides written notification to the District that an exceptional student has been placed in a private residential care facility, the receiving school district shall, within ten (10) business days, review the student's IEP and shall:

- A. Provide educational instruction to the student;
- B. Contract with another provider to provide the educational instruction;

C. Contract with the private residential care facility in which the student resides to provide the educational instruction; or

D. Decline to provide or contract for educational instruction, in which case the school district in which the legal residence of the student is located shall provide or contract for the educational instruction of the student.

The Superintendent shall administer the local implementation of these State procedures, in accordance with State and Federal laws, rules, and regulations, which shall ensure fulfillment of this policy.

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BOARD POLICY

Book	Policy Manual
Section	6000 Finances
Title	PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES_Tracked Changes
Code	po6320
Status	
Legal	F.S. 112.313 F.S. 112.3148 F.S. 119.0701 F.S. 255.05 F.S. 255.0516 F.S. 255.0518 F.S. 286.31 F.S. 287.017 F.S. 287.056 F.S. 287.057 F.S. 287.084 F.S. 287.087 F.S. 287.132 F.S. 287.133 F.S. 295.187 F.S. 1004.06 F.S. 1010.02 F.S. 1010.04 F.S. 1010.07(2)
Adopted	March 21, 2022
Last Revised	March 18, 2024

6320 - PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES

Any College employee who has purchasing authority shall consider first the interests of the College in all purchases and seek to obtain the maximum value for each dollar expended; not solicit or accept any gifts or gratuities from present or potential suppliers which might influence or appear to influence purchasing decisions; and refrain from any private business or professional activity that might present a conflict of interest in making purchasing decisions on behalf of The District Board of Trustees (Board). The College is committed to improving business opportunities for veteran, minority, and locally owned businesses.

Definitions

Competitive solicitation means purchasing made through the issuance of an invitation to bid, request for proposals, and invitation to negotiate.

Invitation to bid means a written or electronic solicitation for competitive sealed bids. The invitation to bid is used when the Board is capable of specifically defining the scope of work for which a contractual service is required or when the Board is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.

Invitation to negotiate means a written or electronically posted solicitation for competitive sealed replies to select one (1) or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the Board determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.

Proposer means those vendors submitting bids or responses to a competitive solicitation.

Request for proposals means a written or electronically posted solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the Board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the Board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.

Request for Quotations means an informal process to solicit one (1) or more price quotes on commodities or contractual services with standard specifications and valued under the threshold requiring formal competitive solicitations. Quotations on vendor letterhead is required and may be obtained via facsimile or e-mail.

General Provisions

No person, unless authorized to do so under this policy, may make any purchase or enter into any contract involving the use of College funds. The Board will not approve any expenditure for an unauthorized purchase or contract.

Purchases may be made through an online procurement system, an electronic auction service, or other efficient procurement tool.

This policy shall generally apply to the College's purchase of commodities and contractual services, except it shall not apply to:

- A. Employment contracts;
- B. Acquisition of architectural, engineering, landscape architectural, construction management at risk, registered surveying and mapping, or other services pursuant to Policy 6330 - *Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Land Surveying Services*;
- C. Contracts which are exempted, in whole or in part, from this policy's requirements, as set forth below; or
- D. Proposals and agreements for public-private partnerships with private entities for qualifying projects pursuant to F.S. 287.057(12).

Pre-Purchasing Review of Available Purchasing Agreements and State Term Contracts for Nonacademic Commodities and Contractual Services

Before purchasing nonacademic commodities and contractual services, the Board authorizes the President to review the purchasing agreements and State term contracts available under F.S. 287.056 to determine whether it is in the Board's economic advantage to use the agreements and contracts.

Each bid specification for nonacademic commodities and contractual services must include a statement indicating that the purchasing agreements and State term contracts available under F.S. 287.056 have been reviewed. This policy does not apply to services that are eligible for reimbursement under the Federal E-rate program administered by the Universal Service Administrative Company.

Competitive Solicitation Requirements for Commodities and Contractual Services Other Than Construction Contracting

Except as authorized by law or policy, competitive solicitations shall be requested from three (3) or more sources for the purchase of any authorized commodities or contractual services exceeding the amount specified in F.S. 287.017, Category Three.

The procurement of commodities or contractual services may not be divided so as to avoid this monetary threshold requirement.

A. Bid Solicitation

The President is authorized to issue invitations for bids.

B. Bid Publication

Notice of the invitation for bids or requests for proposals shall be published on the College's Purchasing website and the State of Florida's Vendor Bid System (VBS) and may be otherwise issued electronically, direct delivery, or other means which are appropriate under the circumstances. The required bid return date is to be announced at the time of the bid offering and shall not be less than five (5) working days from the bid offering date.

C. Bid Responses

The invitations to bid must be responded to by three (3) or more qualified vendors/bidders.

D. Bid Opening

Bids will be opened in the office designated in the bid advertisement with the President's designee and at least one (1) other College employee present.

E. Bid Rejection

The Board may reject any or all bids and request new bids.

F. Bid Award

In acceptance of responses to invitations to bid, the Board may accept the proposal of the lowest responsive, responsible proposer. The Board may also choose to award contracts to the lowest responsive, responsible bidder as the primary awardee of a contract and to the next lowest responsive, responsible bidder(s) as alternate awardees, from whom commodities or contractual services would be purchased, should the primary awardee become unable to provide all of the commodities or contractual services required by the Board during the term of the contract. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders, when such multiple awards are clearly stated in the bid solicitation documents.

For a bidder to be considered responsive, the proposal must respond to all bid specifications in all material respects and contain no irregularities or deviations from the bid specifications which would affect the amount of the bid or otherwise provide a competitive advantage.

For a bidder to be deemed responsible, the Board may request evidence from the bidder concerning:

1. The experience (type of product or service being purchased, etc.) of the bidder;
2. The financial condition;
3. The conduct and performance on previous contracts (with the College or other agencies);
4. The bidder's facilities;
5. Management skills;
6. The ability to execute the contract properly; and
7. A signed affidavit ensuring that neither the bidder nor any subcontractor has entered into an agreement with any labor organization regarding the public improvement project.

Award of a bid shall not create a binding obligation on the Board, and no obligation shall be created or imposed on the College until such time as the Board Chair/designee executes a contract.

Identical/Tie Low Bids

In the event two (2) or more proposers submit the exact dollar amount as their proposal offer, the following criteria, in order of importance, shall be used to break said tie: (1) Drug-Free Work Place, (2) Florida proposers, (3) Proposer's place of business is within Leon, Gadsden or Wakulla Counties, (4) or by flip of coin, when all other factors are equal.

Exception to Competitive Solicitation Requirements

Notwithstanding anything in this policy to the contrary, the Board may make certain purchases without the requirement for competitive solicitations, using the following established conditions.

- A. In lieu of requesting competitive solicitations from three (3) or more sources, the Board may make purchases at or below the unit prices in contracts awarded by other Federal, State, city or county governmental agencies, school boards, community colleges, State university system, or cooperative bid agreements when the proposer awarded a contract by another entity will

permit purchases by the Board at the same terms, conditions, and unit prices (or below such prices) awarded in such contract, and such purchases are to the economic advantage of the Board.

- B. The State Board has waived the requirement for requesting competitive solicitations from three (3) or more sources for purchases by the Board for the following established service providers.
1. **Professional services** which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration; provided nothing herein shall be deemed to authorize the President to acquire professional consultant services without Board approval as required by Board Policy.
 2. **Educational services** and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, DVDs, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the State, a governmental agency or a recognized educational institution.
 3. **Commodities and contractual services when:**
 - a. Competitive solicitations have been requested in the manner prescribed by this policy; and
 - b. The Board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time.

When such a finding has been officially made, the Board may enter into negotiations with suppliers of such commodities and contractual services and may execute contracts with such vendors under whatever terms and conditions as the Board determines to be in its best interests.
 4. **Commodities and contractual services when fewer than two (2)** responsive proposals are received. The Board may then negotiate on the best terms and conditions or decide to reject all proposals. The Board will document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the College in lieu of re-soliciting proposals.
- C. **Information technology resources**, whether by purchase, lease, lease with option to purchase, rental, or otherwise as defined in F.S. 282.0041(15), may be acquired by competitive solicitation or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the College as determined by the Board.
- D. **Purchases of insurance**, risk management programs, or contracting with third party administrators for insurance-related services may be through competitive solicitation or by direct negotiation and contract with a vendor or supplier.
- E. The Board may dispense with requirements for competitive solicitation for the emergency purchase of commodities or contractual services when the President determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the College requires emergency action. After the President makes such a written determination, the Board may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase shall be made by obtaining pricing information from at least two (2) prospective vendors, which must be retained in the contract file, unless the President determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the College.
- F. **Single source procurements** for the purpose of economy or efficiency in standardization of materials or equipment. Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements.
- G. The Board may make purchases of construction project materials directly from vendors, on behalf of the awarded construction contractor/manager, to take advantage of the College's sales tax exempt status.
- H. A contract for commodities or contractual services may be awarded without competitive solicitations if State or Federal law, a grant or a State or Federal agency contract prescribes with whom the Board must contract or if the rate of payment is established during the appropriations process.
- I. A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.

Contract

Each Board contract for services must include a provision that requires the contractor to comply with public records laws, specifically to:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the Board in order to perform the service under the contract;
- B. Provide the public with access to its public records on the same terms and conditions as the Board would provide the records, and at a cost that does not exceed the cost provided by the Board;
- C. Ensure that any of its public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law;
- D. Meet all requirements for retaining public record and, upon termination of the contract, transfer to the Board, at no cost, all public records in its possession and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Board in a format that is compatible with the Board's information technology systems; and
- E. The contractor shall furnish a copy of any public records request or request for records in any way relating to the College, immediately upon receipt to the College's Director of Purchasing.

Each contract must also include the following statement, in substantially the following form, identifying the contact information of the College's custodian of public records in at least fourteen (14) point boldface type:

If the contractor has questions regarding the application of F.S. Chapter 119 to the Contractor's duty to provide Public Records relating to this contract, contact the Custodian of Public Records at nyla.davis@tcc.fl.edu, (850) 201-6048, or via mail to: Tallahassee Community College, 444 Appleyard Drive, Tallahassee, FL 32304.

Contracts shall be approved and executed using the process set forth below.

A. President Authority

The President is authorized to approve and execute contracts on behalf of the College involving expenditure of public funds in an amount no greater than allowed by F.S. 287.017, so long as the obligation created does not exceed the applicable appropriation within the College budget and the contract is otherwise in compliance with applicable College procedures, policies, and law. For purposes of this policy, any group of contracts purchase orders to the same provider which are connected in terms of time, location, and services such that a reasonable person would view them as a single contract shall be deemed to be a single contract. The President shall not divide the procurement of commodities or contractual services so as to avoid the monetary cap imposed by this policy. Designations of contracting authority by the President shall be in writing and shall specify the maximum obligation permitted in F.S. 287.017. The President may delegate the authority to sign agreements, contract, and other such documents.

B. Emergency Purchases

Notwithstanding the general limit on the President's authority to enter into contracts involving expenditure of public funds, the President is authorized to approve and execute contracts on behalf of the College involving expenditure of public funds when the President determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the College requires emergency action.

C. Board Approval

Except as expressly provided herein, the Board shall approve and execute all contracts on behalf of the College involving expenditures of public funds in **excess of the threshold** amount as specified by F.S. 287.017, **Category Five**.

Purchase Order Approval

A. Bids/Exceptions

The President is authorized to issue purchase orders in accordance with bids awarded pursuant to below without further action of the Board so long as the obligation created does not exceed the applicable appropriation within the College budget.

B. Contracts

The approval of a contract in accordance with this policy authorizes the President to approve and issue any purchase order required to fulfill the College's obligation under the approved contract without further action of the Board.

Debarment

The Director of Purchasing shall have the authority to debar a person/corporation, for cause, from consideration or award of further contracts. The debarment shall be for a period commensurate with the seriousness of the cause, generally not to exceed three (3) years. If a suspension precedes a debarment, the suspension period shall not be considered in determining the debarment period. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

A. Cause of Debarment

The term debar or debarment means to remove a vendor from bidding on College work. Causes for debarment include, but are not limited to the following:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or sub-contract, or in performance of such contract;
2. Conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense indicating lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a vendor;
3. Conviction under State or Federal anti-trust statutes arising out of submission of bids or proposals;
4. Violation of contract provisions, including:
 - a. Deliberate failure, without good cause, to perform in accordance with specifications or within the time limits provided in the contract(s); and
 - b. A recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
5. Refutation of an offer by failure to provide bonds, insurance, or other required certificates within the time period as specified in bid/RFP response;
6. Refusal to accept a purchase order, agreement, or contract, or to perform thereon, provided such order was issued timely and in conformance with the offer received;
7. Presence of principals or corporate officers in the business of concern who were principals within another business at the time when the other business was suspended within the last three (3) years under the provisions of this section;
8. Violation of the ethical standards set forth in State law;
9. Providing or offering to provide anything of value, including, but not limited to, a gift, loan, reward, promise of future employment, favor, or service to any employee to influence the award of contract or purchase items from a contractor;
10. Existence of unresolved disputes between the contractor and the College arising out of or relating to prior contracts between the College and the contractor, work performed by the contractor, or services or products delivered; or
11. Any other cause the Director of Purchasing determines to be so serious and compelling as to affect credibility as a College vendor, including debarment by another governmental entity for any cause listed in this policy.

B. Notice of Recommended Decision

The Director of Purchasing or designee shall issue a notice letter that advises the party that it is debarred or suspended. The letter shall:

1. State the reason(s) for the action taken; and
2. Inform the vendor of its right to petition the President for reconsideration.

C. Right to Request a Hearing

Any person who is dissatisfied or aggrieved with the notification of the determination to debar or suspend must, within ten (10) calendar days of such notification, appeal such determination to the Board.

D. Hearing Date

The President shall schedule a hearing at which time the person shall be given the opportunity to demonstrate why the debarment/suspension by the Director of Purchasing should be overturned. All parties shall be given notice of the hearing date.

Prohibited Expenditures

Pursuant to F.S. 1004.06, neither the College nor the College's direct-support organization shall expend any funds, regardless of source, to purchase membership in, or goods and services from, any organization that discriminates on the basis of race, color, national origin, sex, disability gender, or religion. Further, the College and the College's direct-support organization may not expend any State or Federal funds to promote, support, or maintain any programs or campus activities that:

1. Advocates "Diversity, Equity and Inclusion" (DEI) or any program, campus activity, or policy that classifies individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes differential or preferential treatment of individuals on the basis of such classification.
2. Advocating for DEI, which is prohibited, occurs when the College or its direct-support organization engages in a program, policy, or activity that: (a) advantages or disadvantages, or attempts to advantage or disadvantage, an individual or group on the basis of race, color, sex, national origin, gender identity, or sexual orientation, to equalize or increase outcomes, participation, or representation as compared to other individuals or groups; or (b) promotes the position that a group or an individual's action is inherently, unconsciously, or implicitly biased on the basis of race, color, sex, national origin, gender identity, or sexual orientation.
3. Advocates "Political or Social Activism" and/or any activity organized with a purpose of effecting or preventing change to a government policy, action, or function, or any activity intended to achieve a desired result related to social issues (i.e., topics that polarize or divide society among political, ideological, moral, or religious beliefs), where the College endorses or promotes a position in communications, advertisements, programs, or campus activities. Political or social activism does not include authorized government relations and lobbying activities of the institution concerning matters that directly affect the operations of the College or direct-support organizations of the College. Political or social activism does not include endorsement or promotion of a position that encourages compliance with State or Federal law or State Board of Education rule.

- A. Violate F.S. 1000.05; or
- B. Advocate for diversity, equity, and inclusion, or promote or engage in political or social activism, as defined by rules of the State Board of Education.

Student fees to support student-led organizations are permitted notwithstanding any speech or expressive activity by such organizations which would otherwise violate this policy, provided that the public funds must be allocated to student-led organizations pursuant to written policies or regulations of the College. Use of College facilities by student-led organizations is also permitted notwithstanding any speech or expressive activity by such organizations which would otherwise violate this policy, provided that such use must be granted to student-led organizations pursuant to written policies or regulations of the College.

Similarly, this policy does not prohibit programs, campus activities, or functions required for compliance with general or Federal laws or regulations; for obtaining or retaining institutional or discipline-specific accreditation with the approval of the State Board of Education; or for access programs for military veterans, Pell Grant recipients, first generation college students, nontraditional students, students from low-income families, or students with unique abilities.

Abortion Services

The College shall not expend State funds as defined in F.S. 215.31 in any manner for a person to travel to another state to receive services that are intended to support an abortion as defined in F.S. 390.011, unless:

- A. The College is required by Federal law to expend State funds for such a purpose; or
- B. There is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or to avert a serious risk of imminent substantial and irreversible physical impairment or a major bodily function of the pregnant woman other than a psychological condition.

Background Screening Requirements

The College requires that Level 2 background screening requirements be completed for all contractors and vendors who:

- A. Are permitted access on school grounds when minor students are present;
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BOARD POLICY

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Adopted	March 21, 2022
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6320 - **PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES**

Any College employee who has purchasing authority shall consider first the interests of the College in all purchases and seek to obtain the maximum value for each dollar expended; not solicit or accept any gifts or gratuities from present or potential suppliers which might influence or appear to influence purchasing decisions; and refrain from any private business or professional activity that might present a conflict of interest in making purchasing decisions on behalf of The District Board of Trustees (Board). The College is committed to improving business opportunities for veteran, minority, and locally owned businesses.

Definitions

Competitive solicitation means purchasing made through the issuance of an invitation to bid, request for proposals, and invitation to negotiate.

Invitation to bid means a written or electronic solicitation for competitive sealed bids. The invitation to bid is used when the Board is capable of specifically defining the scope of work for which a contractual service is required or when the Board is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.

Invitation to negotiate means a written or electronically posted solicitation for competitive sealed replies to select one (1) or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the Board determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.

Proposer means those vendors submitting bids or responses to a competitive solicitation.

Request for proposals means a written or electronically posted solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the Board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the Board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.

Request for Quotations means an informal process to solicit one (1) or more price quotes on commodities or contractual services with standard specifications and valued under the threshold requiring formal competitive solicitations. Quotations on vendor letterhead is required and may be obtained via facsimile or e-mail.

General Provisions

No person, unless authorized to do so under this policy, may make any purchase or enter into any contract involving the use of College funds. The Board will not approve any expenditure for an unauthorized purchase or contract.

Purchases may be made through an online procurement system, an electronic auction service, or other efficient procurement tool.

This policy shall generally apply to the College's purchase of commodities and contractual services, except it shall not apply to:

- A. Employment contracts;
- B. Acquisition of architectural, engineering, landscape architectural, construction management at risk, registered surveying and mapping, or other services pursuant to Policy 6330 - *Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Land Surveying Services*;
- C. Contracts which are exempted, in whole or in part, from this policy's requirements, as set forth below; or
- D. Proposals and agreements for public-private partnerships with private entities for qualifying projects pursuant to F.S. 287.057(12).

Pre-Purchasing Review of Available Purchasing Agreements and State Term Contracts for Nonacademic Commodities and Contractual Services

Before purchasing nonacademic commodities and contractual services, the Board authorizes the President to review the purchasing agreements and State term contracts available under F.S. 287.056 to determine whether it is in the Board's economic advantage to use the agreements and contracts.

Each bid specification for nonacademic commodities and contractual services must include a statement indicating that the purchasing agreements and State term contracts available under F.S. 287.056 have been reviewed. This policy does not apply to services that are eligible for reimbursement under the Federal E-rate program administered by the Universal Service Administrative Company.

Competitive Solicitation Requirements for Commodities and Contractual Services Other Than Construction Contracting

Except as authorized by law or policy, competitive solicitations shall be requested from three (3) or more sources for the purchase of any authorized commodities or contractual services exceeding the amount specified in F.S. 287.017, Category Three.

The procurement of commodities or contractual services may not be divided so as to avoid this monetary threshold requirement.

A. Bid Solicitation

The President is authorized to issue invitations for bids.

B. Bid Publication

Notice of the invitation for bids or requests for proposals shall be published on the College's Purchasing website and the State of Florida's Vendor Bid System (VBS) and may be otherwise issued electronically, direct delivery, or other means which are appropriate under the circumstances. The required bid return date is to be announced at the time of the bid offering and shall not be less than five (5) working days from the bid offering date.

C. Bid Responses

The invitations to bid must be responded to by three (3) or more qualified vendors/bidders.

D. Bid Opening

Bids will be opened in the office designated in the bid advertisement with the President's designee and at least one (1) other College employee present.

E. Bid Rejection

The Board may reject any or all bids and request new bids.

F. Bid Award

In acceptance of responses to invitations to bid, the Board may accept the proposal of the lowest responsive, responsible proposer. The Board may also choose to award contracts to the lowest responsive, responsible bidder as the primary awardee of a contract and to the next lowest responsive, responsible bidder(s) as alternate awardees, from whom commodities or contractual services would be purchased, should the primary awardee become unable to provide all of the commodities or contractual services required by the Board during the term of the contract. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders, when such multiple awards are clearly stated in the bid solicitation documents.

For a bidder to be considered responsive, the proposal must respond to all bid specifications in all material respects and contain no irregularities or deviations from the bid specifications which would affect the amount of the bid or otherwise provide a competitive advantage.

For a bidder to be deemed responsible, the Board may request evidence from the bidder concerning:

1. The experience (type of product or service being purchased, etc.) of the bidder;
2. The financial condition;
3. The conduct and performance on previous contracts (with the College or other agencies);
4. The bidder's facilities;
5. Management skills;
6. The ability to execute the contract properly; and
7. A signed affidavit ensuring that neither the bidder nor any subcontractor has entered into an agreement with any labor organization regarding the public improvement project.

Award of a bid shall not create a binding obligation on the Board, and no obligation shall be created or imposed on the College until such time as the Board Chair/designee executes a contract.

Identical/Tie Low Bids

In the event two (2) or more proposers submit the exact dollar amount as their proposal offer, the following criteria, in order of importance, shall be used to break said tie: (1) Drug-Free Work Place, (2) Florida proposers, (3) Proposer's place of business is within Leon, Gadsden or Wakulla Counties, (4) or by flip of coin, when all other factors are equal.

Exception to Competitive Solicitation Requirements

Notwithstanding anything in this policy to the contrary, the Board may make certain purchases without the requirement for competitive solicitations, using the following established conditions.

- A. In lieu of requesting competitive solicitations from three (3) or more sources, the Board may make purchases at or below the unit prices in contracts awarded by other Federal, State, city or county governmental agencies, school boards, community colleges, State university system, or cooperative bid agreements when the proposer awarded a contract by another entity will

permit purchases by the Board at the same terms, conditions, and unit prices (or below such prices) awarded in such contract, and such purchases are to the economic advantage of the Board.

- B. The State Board has waived the requirement for requesting competitive solicitations from three (3) or more sources for purchases by the Board for the following established service providers.
1. **Professional services** which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration; provided nothing herein shall be deemed to authorize the President to acquire professional consultant services without Board approval as required by Board Policy.
 2. **Educational services** and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, DVDs, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the State, a governmental agency or a recognized educational institution.
 3. **Commodities and contractual services when:**
 - a. Competitive solicitations have been requested in the manner prescribed by this policy; and
 - b. The Board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time.

When such a finding has been officially made, the Board may enter into negotiations with suppliers of such commodities and contractual services and may execute contracts with such vendors under whatever terms and conditions as the Board determines to be in its best interests.
 4. **Commodities and contractual services when fewer than two (2)** responsive proposals are received. The Board may then negotiate on the best terms and conditions or decide to reject all proposals. The Board will document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the College in lieu of re-soliciting proposals.
- C. **Information technology resources**, whether by purchase, lease, lease with option to purchase, rental, or otherwise as defined in F.S. 282.0041(15), may be acquired by competitive solicitation or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the College as determined by the Board.
- D. **Purchases of insurance**, risk management programs, or contracting with third party administrators for insurance-related services may be through competitive solicitation or by direct negotiation and contract with a vendor or supplier.
- E. The Board may dispense with requirements for competitive solicitation for the emergency purchase of commodities or contractual services when the President determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the College requires emergency action. After the President makes such a written determination, the Board may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase shall be made by obtaining pricing information from at least two (2) prospective vendors, which must be retained in the contract file, unless the President determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the College.
- F. **Single source procurements** for the purpose of economy or efficiency in standardization of materials or equipment. Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements.
- G. The Board may make purchases of construction project materials directly from vendors, on behalf of the awarded construction contractor/manager, to take advantage of the College's sales tax exempt status.
- H. A contract for commodities or contractual services may be awarded without competitive solicitations if State or Federal law, a grant or a State or Federal agency contract prescribes with whom the Board must contract or if the rate of payment is established during the appropriations process.
- I. A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.

Contract

Each Board contract for services must include a provision that requires the contractor to comply with public records laws, specifically to:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the Board in order to perform the service under the contract;
- B. Provide the public with access to its public records on the same terms and conditions as the Board would provide the records, and at a cost that does not exceed the cost provided by the Board;
- C. Ensure that any of its public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law;
- D. Meet all requirements for retaining public record and, upon termination of the contract, transfer to the Board, at no cost, all public records in its possession and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Board in a format that is compatible with the Board's information technology systems; and
- E. The contractor shall furnish a copy of any public records request or request for records in any way relating to the College, immediately upon receipt to the College's Director of Purchasing.

Each contract must also include the following statement, in substantially the following form, identifying the contact information of the College's custodian of public records in at least fourteen (14) point boldface type:

If the contractor has questions regarding the application of F.S. Chapter 119 to the Contractor's duty to provide Public Records relating to this contract, contact the Custodian of Public Records at nyla.davis@tcc.fl.edu, (850) 201-6048, or via mail to: Tallahassee Community College, 444 Appleyard Drive, Tallahassee, FL 32304.

Contracts shall be approved and executed using the process set forth below.

A. President Authority

The President is authorized to approve and execute contracts on behalf of the College involving expenditure of public funds in an amount no greater than allowed by F.S. 287.017, so long as the obligation created does not exceed the applicable appropriation within the College budget and the contract is otherwise in compliance with applicable College procedures, policies, and law. For purposes of this policy, any group of contracts purchase orders to the same provider which are connected in terms of time, location, and services such that a reasonable person would view them as a single contract shall be deemed to be a single contract. The President shall not divide the procurement of commodities or contractual services so as to avoid the monetary cap imposed by this policy. Designations of contracting authority by the President shall be in writing and shall specify the maximum obligation permitted in F.S. 287.017. The President may delegate the authority to sign agreements, contract, and other such documents.

B. Emergency Purchases

Notwithstanding the general limit on the President's authority to enter into contracts involving expenditure of public funds, the President is authorized to approve and execute contracts on behalf of the College involving expenditure of public funds when the President determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the College requires emergency action.

C. Board Approval

Except as expressly provided herein, the Board shall approve and execute all contracts on behalf of the College involving expenditures of public funds in excess of the threshold amount as specified by F.S. 287.017, Category Five.

Purchase Order Approval

A. Bids/Exceptions

The President is authorized to issue purchase orders in accordance with bids awarded pursuant to below without further action of the Board so long as the obligation created does not exceed the applicable appropriation within the College budget.

B. Contracts

The approval of a contract in accordance with this policy authorizes the President to approve and issue any purchase order required to fulfill the College's obligation under the approved contract without further action of the Board.

Debarment

The Director of Purchasing shall have the authority to debar a person/corporation, for cause, from consideration or award of further contracts. The debarment shall be for a period commensurate with the seriousness of the cause, generally not to exceed three (3) years. If a suspension precedes a debarment, the suspension period shall not be considered in determining the debarment period. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

A. Cause of Debarment

The term debar or debarment means to remove a vendor from bidding on College work. Causes for debarment include, but are not limited to the following:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or sub-contract, or in performance of such contract;
2. Conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense indicating lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a vendor;
3. Conviction under State or Federal anti-trust statutes arising out of submission of bids or proposals;
4. Violation of contract provisions, including:
 - a. Deliberate failure, without good cause, to perform in accordance with specifications or within the time limits provided in the contract(s); and
 - b. A recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
5. Refutation of an offer by failure to provide bonds, insurance, or other required certificates within the time period as specified in bid/RFP response;
6. Refusal to accept a purchase order, agreement, or contract, or to perform thereon, provided such order was issued timely and in conformance with the offer received;
7. Presence of principals or corporate officers in the business of concern who were principals within another business at the time when the other business was suspended within the last three (3) years under the provisions of this section;
8. Violation of the ethical standards set forth in State law;
9. Providing or offering to provide anything of value, including, but not limited to, a gift, loan, reward, promise of future employment, favor, or service to any employee to influence the award of contract or purchase items from a contractor;
10. Existence of unresolved disputes between the contractor and the College arising out of or relating to prior contracts between the College and the contractor, work performed by the contractor, or services or products delivered; or
11. Any other cause the Director of Purchasing determines to be so serious and compelling as to affect credibility as a College vendor, including debarment by another governmental entity for any cause listed in this policy.

B. Notice of Recommended Decision

The Director of Purchasing or designee shall issue a notice letter that advises the party that it is debarred or suspended. The letter shall:

1. State the reason(s) for the action taken; and
2. Inform the vendor of its right to petition the President for reconsideration.

C. Right to Request a Hearing

Any person who is dissatisfied or aggrieved with the notification of the determination to debar or suspend must, within ten (10) calendar days of such notification, appeal such determination to the Board.

D. Hearing Date

The President shall schedule a hearing at which time the person shall be given the opportunity to demonstrate why the debarment/suspension by the Director of Purchasing should be overturned. All parties shall be given notice of the hearing date.

Prohibited Expenditures

Pursuant to F.S. 1004.06, neither the College nor the College's direct-support organization shall expend any funds, regardless of source, to purchase membership in, or goods and services from, any organization that discriminates on the basis of race, color, national origin, sex, disability gender, or religion. Further, the College and the College's direct-support organization may not expend any State or Federal funds to promote, support, or maintain any programs or campus activities that:

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