Employee Handbook

2025-2027

Mission Statement

Taylor Business Institute promotes higher learning that empowers a broad-based student population through general education, applied degrees, non-matriculation coursework, test preparation, and certifications for success in a global society.

Approved by the Strategic Planning Committee: **February 10, 2025**
Reviewed by the Strategic Planning Committee: **February 6, 2025**
Approved by the Faculty and Staff: **February 10, 2025**
Reviewed by Faculty and Staff: **February 6, 2025**
Approved by the Board of Governors: **February 10, 2025**
Reviewed by the Board of Governors: **February 6, 2025**

TBI's Mission and supporting documents

Mission

Taylor Business Institute promotes higher learning that empowers a broad-based student population through general education, applied degrees, non-matriculation coursework, test preparation, and certifications for success in a global society.

Explication

Taylor Business Institute is committed to providing a comprehensive educational experience that supports students pursuing both matriculation and non-matriculation pathways. TBI equips students with the academic foundation, professional and/or English language skills necessary for career readiness and lifelong learning.

Through its degree programs, skill-based training, certifications, and test preparation, the college prepares students for an evolving workforce, continued learning and successful social integration. By emphasizing general education, effective communication, skill mastery, and technological competency, TBI fosters adaptability and professional growth.

This structured yet flexible approach allows TBI to serve a broad-based student population, supporting those seeking degree completion as well as individuals focused on acquiring targeted coursework or skills for continued learning and future employment.

Vision

Taylor Business Institute's vision is to be a recognized leader in higher education, preparing and training students through both matriculation and non-matriculation pathways for career readiness and skill development.

Goals

To realize TBI's mission and vision, our administration and faculty have established the following institutional goals:

1. To create an effective learning and teaching environment for students and faculty where the primary focus is *Student Learning Outcomes*.
2. To recruit qualified instructors who remain current in their disciplines and philosophies of teaching.
3. To provide *Student Services* which are considerate of our students' needs.
4. To engage faculty and staff in continuous institutional assessment to improve *Student Learning Outcomes*.
5. To provide up-to-date facilities, technology and instructional resources to support student learning.

6. To empower students to master *General Education* competencies, acquire professional skills, earn applied degrees, certificates or credentials critical to employment and lifelong learning.
7. To encourage students to participate in *Service Learning* as a means of contributing to civic engagement.
8. To facilitate both the matriculating and non-matriculating of students for success in a global society.
9. To treat all students, faculty and staff with respect.

Core Values - IDEALS

- **I**ntegrity
- **D**iscovery
- **E**xcellence
- **A**ccountability
- **L**earning
- **S**ervice

Legal Control

Taylor Business Institute is legally controlled by Pan Ethnic International, Inc., an Illinois for-profit corporation doing business as Taylor Business Institute. Janice C. Parker is the Corporation's President. Franklin Parker is the Corporation's Secretary.

Legal Notices

Medical Emergency

TBI's classrooms and laboratories comply with the requirements of federal, state and local building codes, Board of Health and Fire Marshal regulations. In cases of emergency, the college will obtain the services of medical professionals as required.

Licensure/Approval

The Illinois Board of Higher Education has granted Taylor Business Institute authorization to operate and grant degrees. Approval to operate has been issued by the Illinois Board of Higher Education, 1 N. Old State Capitol Plaza, Suite 300, Springfield, Illinois 62701.

Drug Free Schools and Communities Act

TBI promotes a drug-free environment through its drug and alcohol prevention program. Information concerning this program is distributed annually to all students and employees. It is the policy of the college that the unlawful manufacture, possession, use, sale, dispensation or distribution of alcohol or illicit drugs are prohibited. Alcohol and drugs are not permitted on the

college premises or as part of the college activities. Further information on the college's policies can be found in the Student Handbook. Any violation of this policy, will result in appropriate disciplinary actions up to and including expulsion in the case of students and termination in the case of employees, even for a first offense. Violations of the law will also be referred to the appropriate law enforcement authorities.

Board of Governors

Chairman of the Board
Robert A. Crouch (retired)
Former Assistant Vice Chancellor of Human Resources
University of California San Diego

Secretary
Lonnie Jenkins
Director of Research and Planning
Chicago Fire Department

Sanford Alper, CPA
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Moraine Valley Community College

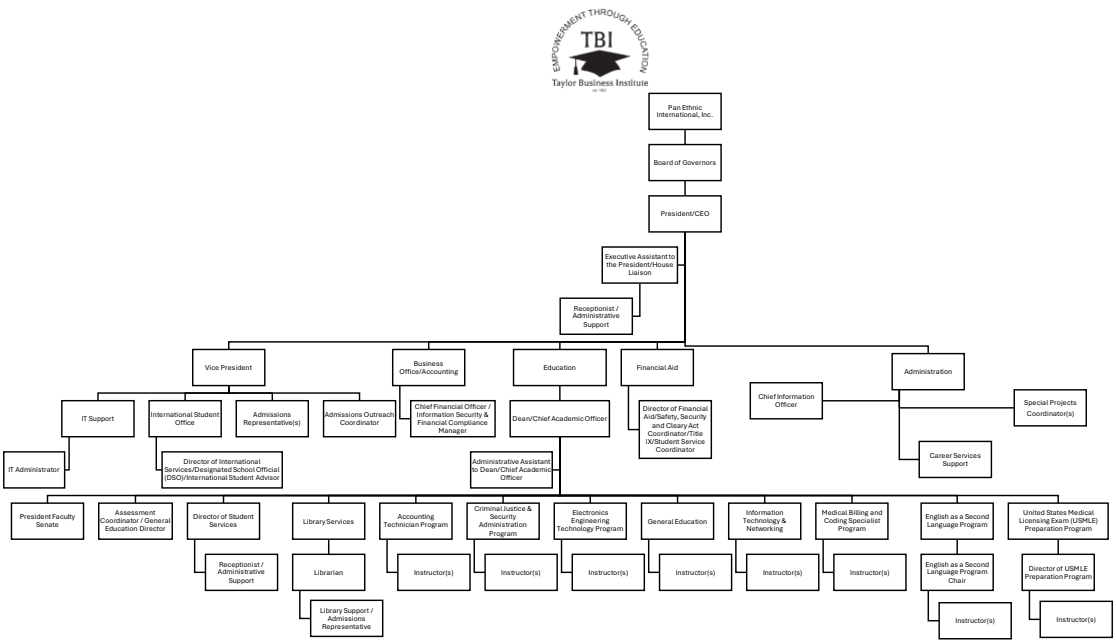
Franklin Parker, Vice President
Taylor Business Institute

Janice Parker, President/CEO
Taylor Business Institute

Thomas Planera, Attorney
Thomas Planera and Associates, Ltd.

Lisa Parker, Higher Education Law Partner,
Husch Blackwell

TBI's Organizational Chart



History of Taylor Business Institute

Taylor Business Institute (TBI) was founded in 1962 as the Nancy Taylor Speedwriting Secretarial School of Chicago, Inc., with the mission of providing secretarial training to Chicago-area residents. From 1964 until the early 1970s, the school expanded its offerings to include secretarial training, modeling, poise, and finishing skills for women. In 1969, under new ownership, the institution shifted its focus from modeling and finishing skills to developing employable and career-oriented skills to better serve the changing workforce needs.

In August 1973, TBI received its first accreditation. To reflect its evolving mission and commitment to broader educational opportunities, the institution was renamed Taylor Business Institute in December 1975. In 1983, it received approval to offer its first associate degree, marking a significant milestone in its academic expansion. Further strengthening its

academic standing, TBI achieved regional accreditation from the Higher Learning Commission (HLC) in February 2017, enabling students to transfer credits to major colleges and universities across the United States.

Today, TBI is home to business-minded, career-focused individuals seeking education and professional training. The college offers career-driven programs in information technology, electronics engineering, accounting, entrepreneurship, medical billing and coding, and criminal justice, equipping students with the critical skills required for today's workforce. Additionally, TBI's associate degree programs provide a strong foundation in general education, ensuring students' readiness for a dynamic and evolving global economy. The general education core also supports TBI's English as a Second Language (ESL) certificate program, further enhancing student success.

The COVID-19 pandemic reinforced TBI's resilience and commitment to academic continuity and innovation. In response to evolving educational needs, the college expanded its instructional model to include hybrid learning, providing students with greater flexibility through a combination of in-person and online courses. This approach ensures accessibility, adaptability, and a student-centered learning experience, preparing graduates to navigate an increasingly digital and interconnected world.

Location and Facility

The College is located in the historic Chicago Loop. The "Loop" is a major hub of business activity in Chicago encompassing the financial and theater districts and parks. It is at the cross-section of business, commerce, and great shopping. The college occupies multiple floors in the Heyworth Building which is a Chicago Landmark located at 29 East Madison Street, on the southwest corner of Madison Street and Wabash Avenue in Chicago, Illinois. within the Jewelers District. This property features excellent views of the city skyline, Lake Michigan, and Millennium Park from its top floors. A few blocks north, the college opens to Chicago's "Magnificent Mile;" south to the world-renowned Art Institute, the famous Grant and Millennium Parks, and the Harold Washington Library, west to the Chicago Stock Exchange, City Hall, and other major municipal buildings, and east to spectacular Lake Michigan. The campus is in a college corridor with several colleges and universities nearby. The college is easily accessible by all major forms of public transportation and has reasonable parking accommodations nearby. The convenience factor of commuter trains and buses, which bring students within a block or two of the college, is critical for a student population that depends primarily on public transportation. The college has also negotiated discounted parking accommodation for its guests, faculty, staff, and students. A variety of eating and retail establishments are within easy walking distance.

The Campus: Residing in 16,805 square feet of space on multiple floors, the campus has

sufficient administrative and student services offices and is fully wired for computer labs and internet connectivity. The Lower Level (LL) is a total of 14,661 square feet. Suite 1041 consists of 384 square feet of staff lounge space, and suite 950 is 1,760 square feet of administrative area. The three spaces comprise the total college campus. There are eleven classrooms and laboratories and ample space dedicated to the library, student lounge, faculty work area, and staff lounge. Restroom facilities are internal to the space, sufficient, and ADA-compliant. The building has 24-hour security and is compliant with Fire Marshall standards. The campus safety and security administrator also has plans in place to address college emergencies.

Accreditation and Approvals

Accreditation

Taylor Business Institute is accredited by the Higher Learning Commission (HLC) to award Associate of Applied Science degrees and a certificate. The Higher Learning Commission is an institutional accreditor in the United States and offers the highest form of accreditation available to a college. The Higher Learning Commission is recognized by both the U.S. Department of Education and the Council for Higher Education Accreditation. Accreditation provides assurance to the public and to prospective students that standards of quality have been met. Taylor Business Institute is currently Accredited – On Notice. For more information regarding the college's accreditation status please see the Executive Assistant to the President.
https://www.hlcommission.org/800.621.7440 / 312.263.0456

Approval – Illinois Board of higher Education (IBHE)[1]

Taylor Business Institute is an independent, degree granting institution approved by the Division of Private Business and Vocational Schools of the Illinois Board of Higher Education under the state's Private College Act and Academic Degree Act and licensed by the Division of Private Business and Vocational Schools of the Illinois Board of Higher Education. Questions about the college's approval and/or licensure status may be directed to the following agencies:

Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 300
Springfield, Illinois 62701-1404
(217) 782-2551
(217) 557-7359
Institutional Complaints Hotline (888) 261-2881 TTY

[1] **Evidence of the institution's accreditation and license of approval is either on display at the college or may be obtain by a written request to the Office of the President.

Complaints against this school may be registered with the Illinois Board of Higher Education through their online complaint system at http://complaints.ibhe.org, accessible through the agency's homepage (www.ibhe.org). The IBHE online complaint site includes step-by-step instructions and key information about the complaint process.

Other Approvals

The Institute is also approved by the State of Illinois Department of Veteran's Affairs and the United States Citizenship and Immigration Service.

http://www.tbiil.edu/accreditation/

Employee Standards of Conduct

The following standards of conduct shall apply to all employees of TBI:

No employee shall accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties or that the employee knows or should know is being offered with the intent to influence official conduct.
No employee shall accept employment or engage in any business or professional activity that the employee might reasonably expect would require or induce the disclosures of confidential information acquired by reason of the official position.
No employee shall accept other employment or compensation that would reasonably be expected to impair the employee's independence or judgment in the performance of official duties.
No employee shall make personal investments or knowingly solicit, accept, or agree to accept any benefit for having exercised the employee's official powers or performed official duties in favor of another.
All college employees must maintain a professional relationship with college students. Anything other than a professional relationship will not be tolerated and will provide grounds for dismissal of non-professional ethics.

See Appendix K, Conflict of Interest Policy

Professional Dress for Faculty and Staff

The professional dress policy is a unique aspect of TBI's culture. The College seeks to prepare students for their professional development. The employee dress policy aids this process. The expectation is that the faculty and administrative staff will act as role models showing students how to dress for the business environment. Concepts such as business casual will not be stressed as it is felt the best practice is to reinforce the concept of business apparel. When in doubt, please contact the Dean of Academic Affairs or the

President. Employees are expected to behave in a manner that supports a professional atmosphere and dress in a manner appropriate for an educational institution. Clothing and appearance must be neat and clean. Employees must practice good personal hygiene.

Guidelines for Professional Dress: Female Faculty and Staff

Suit, dresses, skirts and blouses/sweaters, pantsuits. Knee length is the shortest skirt length acceptable. Business dress shoes are always expected.

Male Faculty and Staff

Suit, jacket or sweater and dress slacks; or dress shirt and tie and dress slacks (tie always required). Dress socks and dress shoes.

Total Employee Meeting

On an average of four times a year and more if necessary, the President meets with the total faculty and staff. This meeting serves five major purposes:

1. It provides an accounting of the state of the college and its current initiatives.
2. It provides progress reports and the college's Strategic Plan.
3. It both educates and informs as needed.
4. It gives feedback from the other activity areas in the college.
5. It affords faculty and staff an opportunity to ask questions.

This employee meeting also becomes an important information channel for the formal planning process, and its activities become an item for review at Strategic Planning meetings.

Annual Meeting

Taylor Business Institute conducts an annual meeting to provide updates on regulations, policies and procedures for safety & security, FERPA, and other pertinent policies and procedures. All TBI employees are required to attend this meeting. The annual meeting may become a part of the college's Total Employee Meetings.

Offenses and Disciplinary Actions

In addition to the above-mentioned standards of conduct, each employee is expected to conduct himself or herself in a professional manner. Listed below are possible violations of TBI's Code of Conduct for employees along with possible sanctions and actions if an employee commits such violations:

OFFENSE	RANGE OF DISCIPLINARY ACTIONS

Unauthorized Leave	Written Reprimand to Termination
Habitual tardiness or failure to observe assigned work hours.	Oral Reprimand to Termination
Abuse of leave	Oral Reprimand to Termination (Refer to Family and Medical Leave Act and
Excessive Absenteeism	(To be used for employees who become unreliable because of frequent absenteeism, even if for good and sufficient reasons. Termination should be preceded by oral counseling in an attempt to inform the employee of the problem. Refer to Family and Medical Leave Act and Americans with Disabilities Act)
Leaving work station without authorization	Oral Reprimand to Termination
Reporting to work under the influence of alcohol	Suspension to Termination
Drinking alcoholic beverages on the job	Termination
Reporting to work under the influence of drugs	Suspension to Termination
Possessing or using illegal drugs on the job	Termination
Insubordination	Oral Reprimand to Termination
Falsification of records or documents	Suspension to Termination
Stealing	Termination
Negligence	Oral Reprimand to Termination
Willful violation of written rules, regulations, or written policies	Suspension to Termination
Unauthorized use of college equipment or property	Oral Reprimand to Termination

Destruction or misuse of property or equipment	Written Reprimand to Termination
Unauthorized possession of firearms on the job	Termination
Unauthorized distribution of written or printed material of any kind	Written Reprimand to Termination
Sleeping while on duty	Written Reprimand to Termination
Horseplay	Oral Reprimand to Termination
Malicious use of profane/abusive language to others	Oral Reprimand to Termination
Loafing	Oral Reprimand to Termination
Interference with other employee's work	Oral Reprimand to Termination
Working on personal jobs during work hours	Oral Reprimand to Termination
Excessive use of telephone for personal matters	Oral Reprimand to Termination
Defacing school property	Written Reprimand to Termination
Sexual harassment	Written Reprimand to Termination
Conviction of up to a felony Conviction of a misdemeanor which adversely reflects on an individual's suitability for continued employment	Termination
Discourteous treatment of visitors, customers, and/or students	Oral Reprimand to Termination
Failure to maintain satisfactory or harmonious working relationships with employees or supervisors	Oral Reprimand to Termination
Improper conduct or conduct unbecoming a school employee	Written Reprimand to Termination

Willful false statements to a supervisor	Suspension to Termination
Workplace violence	Termination

Employment Policies

Orientation for New Employees

The strength and soundness of the educational program at Taylor Business Institute depend on the quality of its employees. The college makes a concerted effort to employ only the most effective individuals. Moreover, it is clearly understood that new employees are most effective when they understand the mission and how the institution operates. The Dean of Academic Affairs for the teaching faculty and the departments heads for non-teaching positions are responsible for the orientation of new employees. Where there are questions, the Executive Assistant to the President provides overall guidance on the basic orientation structure.

Employee Orientation

- Welcome to Taylor Business Institute
- Explanation of Our Mission
  - Explanation of the Organization
  - Review of the Organizational Chart
- Catalog Review
- Policy and Procedures Overview
- Payroll Processes and Scheduling System/Structure
- Holiday Structure
- Do's and Don'ts
- Title IX
- Inappropriate Behavior
- Drug-Free Workplace
- Pay Dates
- Additional Questions
- Issuance of Keys/Other Material
- Tour

Note: Each employee will receive a more comprehensive orientation by the supervisor in the department for which they were hired.

Pay - Payroll Information (Benefits & Definitions)

Payday

The semi-monthly paydays will normally be on the 15th and the last day of the month. If either of these days occurs on a Saturday, the payroll will be paid out on the preceding Friday. If either of these days occurs on a Sunday, the payroll will be paid out on the following Monday.

Managers/Deans/Directors

These are salaried positions that do not qualify for overtime. Individuals classified in this structure may not have a fixed work schedule and must complete a timecard each pay period that is approved by the President.

A salaried employee is paid annually. Salaried employees are usually supervisory, managerial, or professional employees who work on an annual basis and are not paid an hourly rate. Salaried employees are typically considered to be exempt from overtime pay.

Fixed Salary Employees

These are employees who are paid a fixed salary each semi-period. These employees must complete timecards. All timecards must be signed by their immediate supervisor. These employees may also be eligible for overtime however all requests for overtime must receive prior approval by, at least, their immediate supervisor but may also require a second level of approval that may include the President.

Hourly Employees

These are employees who are paid at an agreed upon hourly rate. Their work schedules must be approved by the appropriate supervisor and filed with the Business Office prior to payment.

An hourly employee is paid on an hour-by-hour basis. Pay for an hourly employee is calculated as hours worked times rate. Hourly employees are also considered to be eligible for overtime, according to federal law, if they work over 40 hours in a workweek.

Full-Time Employees

Semi-monthly and hourly employees who work a total of 35 hours unless otherwise designated are considered permanent full-time employees and are eligible for benefits.

Part-Time Employees

Part-time employees may be paid hourly with flexible schedules or paid on a set number of hours. They work fewer than 35 hours a week and are not eligible for benefits.

Commissions

Commissions are never paid to Admissions Staff, the Financial Aid Director, the Financial Aid Administrator, the Business Manager or the Student Accounts Manager. Admissions representatives are hourly, not salaried workers, and are paid as such. Admissions representatives will not be required to work in excess of 40 hours. Should an exception to this practice occur, the representative will be compensated.

W-4 Form

All employees must complete a W-4 Form and other appropriate personnel paperwork.

Benefits and Insurance Eligibility

Currently, TBI does not provide insurance benefits for its employees. However, with the implementation of the Affordable Healthcare Act, Taylor Business Institute encourages its employees to investigate insurance opportunities offered through the Affordable Healthcare Marketplace.

https://www.healthcare.gov/

Pay - Time Card Processing

No employees should be paid unless both the employee and supervisor have approved hours worked for payment.

Breaks: Employees who are scheduled to work 7 hours or more are given an unpaid, one-hour lunch break that is automatically calculated into their daily schedule. Employees who work such a schedule are to take that lunch break no later than 5 hours into their schedule. Further, employees are advised not to work during that hour as it is considered unpaid time. Any exceptions to this policy will be made at the supervisor's and President's discretion.

All employees, other than the President and Vice President, must complete and sign or initial their timecards for payment. All appropriate supervisors must approve all the time cards of their subordinates and submit them to the Business Office for payment.

Employees should only be paid for time worked within their scheduled work week. Time reflected before or after the time scheduled to work should not be paid unless approved by a supervisor.

Comp-time or time accrued beyond that scheduled to be worked should not be considered as time to be paid unless approved by a supervisor.

All employees must pick up and sign for their paychecks. When permission is given to someone else to pick up an employee check, that employee must provide a written note supported by a phone call to the Business Manager.

All paychecks must be distributed in a sealed envelope.

The Chief Financial Officer (CFO) will periodically audit the payroll register.

Payroll and Cut-Off: Taylor Business Institute will pay its employees current through the 15th and last day of the month. A cut-off period of 3 days prior to phoning in the payroll to the payroll service must be allowed. The employee's supervisor must project the expected work schedule for the balance remaining in that pay period. If the times projected are not

accurate then the payroll processor will adjust the difference on the following payroll.
Taylor Business Institute uses an outside service for payroll check processing for its permanent employees. Payroll will be prepared by and/or phoned to the outside service by the Business Manager.
Taylor Business Institute does not offer direct deposit.

Pay - Vacation/Sick Pay

Scope: To ensure that vacation pay and sick pay are disbursed according to policy.

Full-Time Employee: Only full-time employees are eligible for sick and or vacation pay.
When Eligible: A full-time employee must have worked for three months of service to be eligible for sick or vacation time.
Compensation: Sick or vacation time must be calculated based on the employees scheduled work hours. Other time can only be included in the calculation if approved by a supervisor to be included.
Vacation Time: Vacation time is based on a schedule that begins in July and ends in June of any given year. Vacation is accrued at 5/6 of a day a month for a total of 10 vacation days a year. Vacation must be taken in the year accrued but no later than December 31st of any given year. Vacation may not be carried over unless approved by the President to do so the vacation time is not accrued until the month ends.
Sick Time: Sick time is accrued at the rate of a day a month for a total of 10 days a year. Employees absent more than three sick days in succession should bring a doctor's statement when returning to work. Sick days may be carried forward into the next year. No more than 20 total sick days will be allowed. Sick time will not be paid before or after a holiday. Sick time is not accrued until the month ends.
Bereavement: Sick time may be used for times of bereavement. Supporting documentation should be provided.
Permission: Permission to use sick or vacation time must be received from the employee's supervisor. Sick or vacation time should never be used to achieve a complete paycheck without permission from the affected employee and the President.

Performance Evaluation for Non-Teaching Staff

Employee performance will be measured against objective standards. At the beginning of a review period, the supervisor will discuss with the employee the evaluation criteria on which the employee is reviewed. Formal evaluations are conducted at least once a year. The primary goal of a performance evaluation system is to measure the value of an employee's contribution to the institution. This allows TBI to fairly compensate, and maximize the worth of the individual. The procedures outlined in this document (see Appendix I) apply to every full-time, non-faculty Taylor Business Institute employee.

Please refer to Appendix-I for forms used for performance evaluations.

Performance Evaluation for Teaching Faculty

The primary goal of a performance evaluation system is to measure the value of an employee's contribution to the institution. This allows TBI to fairly compensate, and maximize the worth of the individual. The procedures outlined in this document apply to every TBI faculty member. The major components of the professor evaluation system are (1) professor self-evaluation, (2) student evaluations and (3) a classroom observation with a critique by the evaluating teacher or dean. All of this is followed by a formal performance review and discussion with the Academic Dean. This occurs at least once a year for senior professors and more frequently for new professors. A student survey will also be conducted around the middle of the academic quarter for each professor.

Please refer to Appendix-I for forms used for performance evaluations.

Personnel Records

The Executive Assistant to the President will provide for gathering, organizing and safekeeping of pertinent data regarding each employee. Each person's file will be available to him/her for review upon request.

Employee Transcripts

HLC requires that each faculty member's academic credentials be stored in his/her personnel file in the form of an official transcript which must be issued to the school and not to the student. The Executive Assistant will initiate the ordering process for these transcripts. All necessary fees will be paid for by the college.

Policy of Lifelong Learning

Taylor Business Institute promotes a policy of continued learning for all of its faculty and staff and encourages all employees to pursue a life of learning that improves their lives as educated people and where practical supports the mission of the Institute. TBI encourages continued learning by helping its faculty and staff with limited tuition reimbursement and adjusting work schedules where possible.

Since TBI is a small college, it does not provide a universal plan for tuition reimbursement. However, in certain circumstances, when it is determined that the pursuit of specific course work or training would be beneficial to the college; the Institute may provide full or partial tuition reimbursement. Partial or full tuition reimbursement is based on a mutual agreement between the college and the employee on a case-by-case basis.

TBI does support a practice of flexible scheduling for employees who choose to pursue higher learning. A flexible schedule must be approved, in advance, by both the appropriate supervisor and the Institute's President. Flexible scheduling will usually occur:

- by adjusting an employee's work schedule to attend classes,
- by providing unpaid release time to attend classes, or

- by providing paid release time, based on prior supervisory approval to attend classes.

Flexible scheduling for continued learning is on a case-by-case basis and must always consider the needs of the college and its ability to grant flex time.

Exit Interview

Taylor Business Institute will conduct an exit interview for all regular exiting employees. The interview will be conducted in an atmosphere of openness and honesty so that the employee and the College can separate in an amicable way.

The Executive Assistant to the President will schedule and conduct a face-to-face exit interview with the separating employee. If a face-to-face interview is not possible, or is refused by the employee, the Executive Assistant to the President will send an "Exiting Employee Information Questionnaire" to the employee along with a postage paid envelope for the questionnaire's return.

The Executive Assistant to the President will complete the "Exiting Employee Checklist" to make sure the employee receives necessary benefits information. The employee will also be told how and where to return keys and other College property. The Exit Interview has to be completed before the final check is issued.

Grievance Policy and Procedure

Taylor Business Institute's Grievance Policy is comprehensive with the intent of addressing any issues or concerns with which an employee or a student may be faced. Taylor Business Institute recognizes that there may be times when an employee or a student has a complaint or grievance concerning a problem experienced at Taylor Business Institute that he or she may believe cannot be satisfactorily resolved through the ordinary channels. In such instances, the employee or student may wish to file a written grievance regarding the matter.

The grievance process involves the following steps:

Step One: The employee should request a conference with their immediate supervisor. The employee and supervisor should discuss the issue in an effort to seek a resolution.

Step Two: If a mutually satisfactory resolution cannot be reached using the agreed upon step, the aggrieved party should request a conference with the next supervisor in the chain of command.

Step Three: If, after all of the above steps have been completed and the grievance is still not satisfactorily resolved, the aggrieved party may present all facts relevant to the grievance in writing to the President of the college.

Within 24 hours of receipt of a written grievance, the President will schedule a Grievance

Committee Hearing and notify all parties concerned. The Committee will consist of the President or her designee and at a minimum two staff or faculty members not involved in the matter in question.

Both parties will be given the opportunity to discuss the grievance. The Grievance Committee will then excuse the party(ies) involved and immediately review and rule on the case. The decision of the Committee will be communicated to those involved in the grievance within 48 hours. The Committee decision will be final.

While TBI does its best to resolve issues of concern to its employees, some employees may still remain unsatisfied. Those employees may elect to seek resolution with appropriate external bodies. These include the state licensing and approval bodies or the U.S. Department of Education.

Illinois Board of Higher Education (IBHE)
1 N. Old State Capital Plaza, Suite 300
Springfield, Illinois 62701-1404
(217) 782-2551
(217) 557-7359
Institutional Complaints Hotline (888) 261-2881 TTY

Further, if the employee is not satisfied with any of these outcomes, complaints against this school may be registered with the Illinois Board of Higher Education through their online complaint system at http://complaints.ibhe.org, accessible through the agency's homepage (www.ibhe.org). The IBHE online complaint site includes step-by-step instructions and key information about the complaint process.

Sexual Harassment Policy

Taylor business institute does not condone sexual harassment. No individual whether student, faculty or staff should be subjected to sexual harassment by any other member of the Taylor Business Institute college community.

Sexual Harassment

Definition of Sexual Harassment Sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:
Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education.
Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment.

Examples of Sexual Harassment Some examples of sexual harassment include:
Pressure for a dating, romantic, or intimate relationship

Unwelcome touching, kissing, hugging, or massaging
Pressure for sexual activity
Unnecessary references to parts of the body
Sexual innuendos or sexual humor
Obscene gestures
Sexual graffiti, pictures, or posters
Sexually explicit profanity
Asking about, or telling about, sexual fantasies
E-mail and Internet use that violates this policy
Sexual violence (as defined in Taylor Business Institute's Title IX: Sexual Misconduct Policy)

It is the policy of TBI to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in TBI's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sex discrimination. TBI has designated certain officials to oversee compliance with Title IX.[2] Specifically, TBI has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination:

Title IX Coordinator
Florence Davis
Taylor Business Institute
180 N. Wabash Ave. 5th Floor
Chicago, IL 60601
312-658-5100
florence.davis@tbiil.edu

Please refer to Appendix B TBI's Title IX Policy for more information.

Other Discriminatory Harassment

Any conduct based on a person's race, color, religion, gender, national origin, age, disability, or any other characteristic protected by local or federal law is considered harassing if it creates a hostile, intimidating or offensive work or learning environment, or unreasonably interferes with an employee's or student's work performance.

As with sexual harassment, other discriminatory harassment can be verbal, non-verbal or physical. Examples of what may, if unwelcome and severe or pervasive, constitute other discriminatory harassment include, but are not limited to, the use of racial or ethnic slurs, jokes, or derogatory remarks; or the use of insults or threats.

This policy applies anywhere employees and/or students are functioning on behalf of TBI regardless of whether it is on campus or in a different location.

If you believe that you have been subject to sexual harassment, you should report the incident according to the complaint procedures outlined below. No retaliatory action will be taken against any employee who files a complaint. *Please see Appendix B – TBI's Title IX Policy.*

Social & Behavioral Concerns - Profanity

Every student, faculty and staff member of Taylor will be treated with respect. Any use of profane language towards any student, faculty, staff member or any one while on college premises is subjected to disciplinary action including but not limited to suspension and termination.

Social & Behavioral Concerns - Weapons

No weapons are allowed on the school's campus. Any faculty of staff found carrying any weapons will be immediately terminated.

Conflict of Interest (Outside Employment)

The expectation is that all full-time employees will give a full professional effort to their job. It is inappropriate to engage in gainful employment outside TBI that is incompatible with the institution's commitments. While outside employment may and does occur and may even strengthen the college's mission, it must be described and approved through the college's conflict of interest process.

Please refer to Appendix K for more details.

[2] At the time of publication of this policy, the officials named serve in the roles identified. If during the course of the 2022 year the officials leave their current employment role, the person who assumes their role also will assume their campus security authority related responsibilities. TBI updates this policy on an annual basis.

Crisis Management Plan

The Institute shall maintain a crisis management plan to handle various crises which might threaten the physical safety of students, employees, the general public and/or the resources of TBI.

The Crisis Management Plan should address, without limit; criminal activities, medical emergencies, workplace violence, fire, outbreaks of disease or infections, acts of terror of war and similar situations which require the management of resources and processes to protect life and property. The plan shall provide for effective means of communication with students, employees, and the public.

In the development of such a crisis management plan, the following underlying principles shall apply:

- The protection of human life and health is of the utmost importance.
- TBI property and other resources shall be protected and preserved wherever possible.
- The college shall cooperate with federal, state, and local disaster management and law enforcement agencies with respect to any crisis occurring on TBI property and/or involving college personnel or students.
- Plans should provide for the designation of a single individual as coordinator supported by a designated crisis management team.
- The college attorney shall be consulted in cases where the legal responsibilities of the college are unclear.
- The college has a policy of zero tolerance for violence. Employees who engage in any violence in the workplace, or threaten violence in the workplace, may be terminated immediately for cause. No talk of violence or joking about violence will be tolerated.

"Violence" includes physically harming another, shoving, pushing, harassing, intimidating, coercing, brandishing weapons, and threatening or talking of engaging in those activities. It is the intent of this policy to ensure that everyone associated with the college, including students and employees, never feels threatened by any individual's actions or conduct. *Please refer to Appendix-J for more information.*

Equal Employment Opportunity

Taylor Business Institute is an equal opportunity employer covered by Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, and Section 504 of the Vocational Rehabilitation Act of 1973 concerning nondiscrimination under federal grants. All applicants for admission to our educational programs, as well as applicants for employment, will be treated equally and without regard to race, color, sex, sexual orientation, religion, age, national origin, physical or mental handicap, or veteran status. Taylor Business Institute is subject to and complies fully with these requirements. In hiring and promotion, Taylor gives consideration only to those characteristics constituting bona-fide occupational requirements for the educational programs or activities that it operates.

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 as Amended prohibits discrimination on the basis of race, color, or national origin in all programs or activities that receive Federal financial assistance. Taylor Business Institute is subject to and complies fully with these requirements.

Please refer to Appendix-A for more information.

Title IX of Education Amendments of 1972

Title IX of Education Amendments of 1972 states: “No person in the United States shall, on the basis of sex, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Taylor Business Institute is subject to and complies fully with these requirements.

Please refer to Appendix-B for more information.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance. Taylor Business Institute is subject to and complies fully with these requirements.

Please refer to Appendix-C for more information.

Family and Medical Leave Act of 1993

The Family and Medical Leave Act allows employees to take up to twelve weeks of unpaid leave in any twelve-month period for one or more of the following reasons:

for the birth or adoption of a child;
to care for a family member; or
in the event of the employee's own serious health problems.

The employee can take the leave in a continuous block or by working on a reduced schedule. In some circumstances the employee can take the leave on an intermittent basis. Finally, the employee can take leave under the FMLA in addition to other paid time off that might be available, such as vacation time.

An employee must, however, follow certain procedures in order to take FMLA leave. If an employee knows in advance that he or she will need a leave, he or she must give the Institute thirty days’ notice. If the situation is an emergency, the employee must notify the college as soon as it is practical. TBI will also require the employee to submit written medical certification to verify any claimed health condition. The individual will also need medical certification that he or she is ready to return to work.

At the end of the leave, the employee is entitled to return to the same job or to an equivalent job with the institution.

To be eligible to take leave under the Family and Medical Leave Act, the employee must have been working for TBI for at least twelve months and have worked for at least 1,250 hours over the previous 12 months.

Please refer to Appendix-D for more information.

Family Educational Rights and Privacy Act of 1974

Under federal law, students have certain rights with respect to examination of their educational records. The Family Educational Rights and Privacy Act of 1974 (FERPA) requires colleges to inform students of rights guaranteed under this act.

Please refer to Appendix-E for more information.

The Age Discrimination Act of 1975

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. The Act, which applies to all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements. Taylor Business Institute is subject to and complies fully with these requirements.

Complaints of discrimination should be referred in writing to the Executive Assistant to the President, who serves as Taylor's Compliance Coordinator.

Please refer to Appendix-F for more information.

Drug-Free Workplace (Drug/Alcohol Policy)

Taylor promotes a drug and alcohol free environment in accordance with the Drug Free Workplace Act of 1988 and the Drug Free Schools and Communities Act Amendments of 1989. The unlawful manufacture, distribution, dispensations, possession, or use of illicit drugs or alcohol is prohibited on Taylor Business Institute's premises or in conjunction with any of its activities. In order to ensure that this policy is maintained, it will suspend and/or terminate any student or employee who is found either using/selling alcohol or drugs on campus, or is found under the influence of them.

The College will distribute its Drug and Alcohol Procedures and Policy for Staff and Students in compliance with federal law.

Please refer to Appendix-G for more information.

Student Right to Know and Campus Security Act

The Student Right to Know and Campus Security Act passed by Congress on November 9, 1990, mandates that all colleges and universities receiving federal assistance funds under Title IV of the Higher Education Act of 1965 provide graduation and crime data to current and prospective students and employees.

The Executive Assistant to the President is the school's Safety and Security/Clery Act Coordinator. Any infractions of the drug and alcohol policy, reports of sexual harassment,

anything stolen, or a security breach of any kind should be reported to her office on the fifth floor. The appropriate document will be completed and a formal report will be filed. The designated campus security coordinator publishes this information which is distributed to all students at the time of enrollment, and is available to prospective students upon request. Safety and Security programs are scheduled throughout the year, where students are encouraged to report any safety or security infraction that occurs on TBI's premises to the Safety and Security/Clery Act Coordinator or any other official of the college.

Please refer to Appendix-H for more information.

Use of Information Technology Policy

TBI provides computers facilities and network services to enhance educational and learning processes. As with all privileges, computer or network usage at TBI carries with it certain responsibilities. These responsibilities are set forth in the TBI Acceptable Use Policy and reproduced below:

Prohibited uses of the TBI Network include, but are not limited to:

- Use of the TBI Network for, or in support of, any illegal purposes
- Use of the TBI Network for, or in support of, any obscene or pornographic purposes; this includes, but is not limited to, the retrieving or viewing of any sexually explicit material;
- Use of profanity, obscenity, or language that is generally considered offensive or threatening to persons of a particular race, gender, religion, sexual orientation, or persons with disabilities
- "Reposting" or forwarding personal communications without the author's prior consent
- Copying commercial software in violation of state, federal, or international copyright laws
- Using the TBI Network for financial gain or for the transaction of any business or commercial activities
- Intentional disruption of the use of the TBI Network for any other users, including, but not limited to, use of any process, program, or tool to ascertain passwords or engaging in "hacking" of any kind
- Providing access to the TBI Network to unauthorized individuals

Please refer to Appendix-N for more information.

The Scope and Nature of Copyright Protection

Taylor Business Institute requires compliance with applicable copyright laws in the use of instructional materials.

The Copyright Act protects all types of expression or authorship fixed in any tangible

medium, including written works, paintings, sculptures, photographs, videos, recorded music, sheet music, computer programs, video games, architectural design, and choreography. It is important to note, however, that the Act does not protect the underlying facts or ideas in a copyrighted work -- only the "expression" of those facts or ideas.

During the applicable term of protection, the author of the work possesses certain exclusive rights (which may be assigned to another party such as the publisher or distributor). These exclusive rights include: (1) the right to copy the work; (2) the right to create derivative works; (3) the right to distribute the work; and (4) the right to display, perform or broadcast the work. Therefore, before exercising any of these rights with respect to a given work, you must obtain permission from the copyright holder unless a statutory exception such as "fair use" applies or the work is in the public domain.

The Public Domain and Other "Free" Works

Copyright protection does not extend to works in the public domain, which include: (1) works for which the applicable term of protection has expired; (2) works published by the federal government (e.g., published by the Centers for Disease Control or the National Oceanic and Atmospheric Association); (3) works that lack sufficient originality or expression to qualify for copyright protection (e.g., unadorned calendars, indices, phonebooks, databases); and (4) works expressly donated to the public domain. Such works may be copied and used without the permission of the author or publisher.

TBI students/instructors/staff who violate this policy are subject to appropriate disciplinary action. Serious violations of this policy may result in expulsion or discharge from Taylor Business Institute.

Individuals who violate state or federal copyright laws may also be subject to criminal/civil action by the appropriate agency or by the owner of the copyright.

Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act)

TBI promotes a drug and alcohol free environment in accordance with the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act). This Act establishes requirements for those who send unsolicited commercial email. The Act bans false or misleading header information and prohibits deceptive subject lines. It also requires that unsolicited commercial email be identified as advertising and provide recipients with a method for opting out of receiving any such email in the future. In addition, the Act directs the FTC to issue rules requiring the labeling of sexually explicit commercial email as such and establishing the criteria for determining the primary purpose of a commercial email.

Federal CAN-SPAM Act preempts state anti-spam laws, except those that prohibit "falsity or deception" in any portion of a commercial e-mail.

Please refer to Appendix-O for more information.

Whistleblower Policy

Whistleblower policies are critical tools for protecting individuals who report activities believed to be illegal, dishonest, unethical, or otherwise improper. TBI is following National Center for Education Statistics (NCES) who adopted a sample policy from a document developed by the Fairbanks (Alaska) North Star Borough.

Please refer to Appendix-P for more information.

The Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) is a federal law that protects individuals from genetic discrimination in health insurance and employment. Genetic discrimination is the misuse of genetic information.

Please refer to Appendix-Q for more information.

Appendix

Appendix A: Title VI of the Civil Rights Act of 1964 as Amended

Appendix B: Title IX: Sexual Misconduct Policy and Procedures

Appendix C: Section 504 of the Rehabilitation Act of 1973

Appendix D: Family and Medical Leave Act

Appendix E: Notification of Rights under FERPA for Taylor Business Institute

Appendix F: Age Discrimination: Overview of the Law:

Appendix G: Drug Free Workplace Act and Drug-Free Schools and Communities Act Amendments of 1989

Appendix H: The Clery Act Regulations

Appendix I: Performance Evaluations for Administrative Staff, Teaching Faculty 1, Faculty Self Evaluation 2 and Individual Professor Evaluation with Recommendations 3

Appendix J: TBI Crisis Management/Workplace Violence Policy

Appendix K: Conflict of Interest Policy

Appendix L: Statement of Understanding of Professional Conduct as an Admissions Representative for Taylor Business Institute

Appendix M: Nepotism Policy

Appendix N: Wireless Internet and Network Usage Policies

Appendix O: Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act)

Appendix P: Whistleblower policy

Appendix Q: Genetic Information Nondiscrimination Act of 2008 (GINA)

Appendix A: Title VI of the Civil Rights Act of 1964 as Amended

U.S. Department of Education

Education and Title VI

Title VI of the civil rights act of 1964 prohibits discrimination based on race, color or national origin in programs or activities which receive federal financial assistance

U.S. department of education
office for civil rights
Washington, D.C. 20202-1328

EDUCATION AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI and Race, Color and National Origin Discrimination

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance. Title VI states that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Programs and activities that receive Federal financial assistance from the United States Department of Education (ED) are covered by Title VI. ED maintains an Office for Civil Rights, with 10 regional offices and a headquarters office in Washington, D.C., to enforce Title VI.

Education Programs and Activities Covered by Title VI

Agencies and institutions that receive ED funds covered by Title VI include: 50 state education agencies, their subrecipients, and vocational rehabilitation agencies; the education and vocational rehabilitation agencies of the District of Columbia and of the territories and possessions of the United States; 17,000 local education systems; 4,700 colleges and universities; 10,000 proprietary institutions; and other institutions, such as libraries and museums that receive ED funds.

Programs and activities that receive ED funds must operate in a non-discriminatory manner. These may include, but are not limited to: admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment, if it affects those who are intended to benefit from the Federal funds. Also, a recipient may not retaliate against any person because he or she opposed an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title VI. For a recipient to retaliate in any way is considered a violation of Title VI.

The ED Title VI regulations (Volume 34, Code of Federal Regulations, Part 100) provide a detailed discussion of discrimination prohibited by Title VI.

The Office for Civil Rights Enforces Title VI

The Office for Civil Rights (OCR) in ED is responsible for enforcing Title VI as it applies to programs and activities funded by ED. OCR's responsibility to ensure that institutions that receive ED funds comply with Title VI is carried out through compliance enforcement. The principal enforcement activity is the investigation and resolution of complaints filed by people alleging discrimination on the basis of race, color or national origin. Also, through a compliance review program of selected recipients, OCR is able to identify and remedy discrimination that may not be addressed through complaint investigations. Compliance reviews differ from complaint investigations in that OCR has discretion in selecting the institutions it will review.

Given the large number of institutions under its jurisdiction, OCR is unable to investigate and review the policies and practices of all institutions receiving ED financial assistance. Therefore, through a program of technical assistance, OCR provides guidance and support to recipient institutions to assist them in voluntarily complying with the law. OCR also informs beneficiaries, such as students and applicants for admission to academic programs, of their rights under Title VI.

OCR has investigated and worked with state and local officials to resolve many kinds of civil rights problems, including the following:

The failure of some school districts to provide equal educational opportunity for national origin minority students who have a limited proficiency in English.

The maintenance by some state systems of higher education of separate college facilities for students based on their race, color or national origin.

The discriminatory assignment of minority students to classes designed for students who are mentally retarded.

How to File a Discrimination Complaint with OCR

Anyone who believes there has been an act of discrimination on the basis of race, color or national origin, against any person or group, in a program or activity that receives ED financial assistance, may file a complaint with OCR under Title VI. The person or organization filing the complaint need not be a victim of the alleged discrimination but may complain on behalf of another person or group. A complaint should be sent to the OCR regional office that serves the state in which the alleged discrimination occurred (See list of regional offices.) A complaint must be filed within 180 days of the date of the alleged discrimination unless the time for filing is extended for good cause by the Regional Civil Rights Director. If you have also filed a complaint under an institutional grievance process, see the time limit.

Complaint letters should explain who was discriminated against; in what way; by whom or by what institution or agency; when the discrimination took place; who was harmed; who can be contacted for further information; the name, address and telephone number of the complainant(s) and the alleged offending institution or agency; and as much background information as possible about the alleged discriminatory act(s). OCR regional offices may be contacted for assistance in preparing complaints. OCR keeps the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under the Freedom of Information Act, the Privacy Act or otherwise required by law.

If an investigation indicates there has been a violation of Title VI, OCR attempts to obtain voluntary compliance. If it cannot obtain voluntary compliance, OCR will initiate enforcement action, either by referring the case to the Department of Justice for court action, or by initiating proceedings, before an administrative law judge, to terminate Federal funding to the recipient's program or activity in which the

prohibited discrimination occurred. Terminations are made only after the recipient has had an opportunity for a hearing before an administrative law judge, and after all other appeals have been exhausted.

Prior to filing a complaint with OCR against an institution, a potential complainant may wish to find out what the institution's grievance process is and use that process to have the complaint resolved. A complainant is not required by law to use the institutional grievance procedure before filing a complaint with OCR. If a complainant uses an institutional grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after the last act of the institutional grievance process.

Where to Request Additional Information or File a Complaint

The addresses and telephone numbers of the OCR regional offices are listed below. Each regional office is responsible for enforcing Title VI in the states and territories designated for that region. The states and territories for each regional office are indicated.

If you wish additional information about Title VI, or a copy of the regulations which detail the requirements of Title VI, write or phone the OCR regional office which serves your state or territory.

If you wish to file a complaint alleging race, color or national origin discrimination by a recipient institution in your state or territory, write to the appropriate OCR regional office, and follow the instructions stated in the preceding section: How to File a Discrimination Complaint with OCR.

REGIONAL CIVIL RIGHTS OFFICES

ED/OCR 91-27R

Last Modified: 09/25/2018

Appendix B: Title IX: Sexual Misconduct Policy and Procedures

TITLE IX: SEXUAL MISCONDUCT POLICY

POLICY STATEMENT

Taylor Business Institute ("TBI") is committed to providing a learning and working environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex. TBI considers sex discrimination in all its forms to be a serious offense. Sex discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated.

Sexual harassment, whether verbal, physical, or visual, that is based on sex is a form of prohibited sex discrimination. Sexual harassment also includes sexual violence and discrimination on the basis of pregnancy. The specific definitions of sexual harassment and sexual violence, including examples of such conduct, are set forth below.

SCOPE

This policy applies to administrators, faculty, and other TBI employees; students; applicants for employment; customers; third-party contractors; and all other persons that participate in TBI's educational programs and activities, including third-party visitors on campus (the "TBI Community"). TBI's prohibition on sex discrimination and sexual harassment extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics and student services.

Amnesty for Student Misconduct

TBI recognizes that victims of sexual misconduct may hesitate to come forward out of fear that their own actions are violations of TBI's student conduct policies, including without limitation policies related to the use of drugs and alcohol. While TBI does not condone violations of such policies, it considers reporting incidents of sexual misconduct to be of paramount importance. Therefore, in order to facilitate reporting and resolution of sexual misconduct, TBI will extend immunity for any violation of TBI's student conduct policies, including without limitation policies concerning drug or alcohol possession or consumption, for conduct in which any victim of sexual misconduct might have engaged in connection with the reported Title IX incident. TBI will do so provided, however, that such immunity will not be extended if TBI determines that the violation of TBI's student conduct policies was egregious, involved any illegal activity, or involved violations that did, do, or may place the health or safety of any other person(s) at risk. Regardless of whether immunity applies, any individual's participation and cooperation in a Title IX investigation may be considered as a mitigating factor when determining appropriate disciplinary measures for violations of TBI's policies in connection with the reported Title IX incident.

TITLE IX STATEMENT

It is the policy of TBI to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in TBI's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sex discrimination.

TBI has designated certain officials to oversee compliance with Title IX.[2] Specifically, TBI has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination:

Title IX Coordinator
Florence Davis
Taylor Business Institute
180 N. Wabash, 5th Floor
Chicago, IL 60601
312-658-5100
florence.davis@tbiil.edu

TBI has also designated the following Deputy Title IX Coordinator, who also may receive and investigate inquiries regarding Title IX, including complaints of sex discrimination:

Deputy Title IX Coordinator
Rakesh Kumar
Dean of Academic Affairs
Taylor Business Institute
180 N. Wabash, 5th Floor
Chicago, IL 60601
312-658-5100
rakesh.kumar@tbiil.edu

A person may also file a complaint of sex discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting: https://www2.ed.gov/about/offices/list/ocr/complaintintro.html, or by calling: 1-800-421-3481.

SEXUAL HARASSMENT

Definition of Sexual Harassment

Sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment.

Examples of Sexual Harassment

Some examples of sexual harassment include:

- Pressure for a dating, romantic, or intimate relationship

[2] At the time of publication of this policy, the officials named serve in the roles identified. If during the course of the 2022 year the officials leave their current employment role, the person who assumes their role also will assume their campus security authority related responsibilities. TBI updates this policy on an annual basis.

- Unwelcome touching, kissing, hugging, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos or sexual humor
- Obscene gestures
- Sexual graffiti, pictures, or posters
- Sexually explicit profanity
- Asking about, or telling about, sexual fantasies
- E-mail and Internet use that violates this policy
- Sexual violence (as defined below)

Further examples of sexual harassment may be found in the Frequently Asked Questions

Sexual Violence

The Definition of Sexual Violence

Sexual violence is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or because of his or her youth.

Examples of Sexual Violence

Some examples of sexual violence include:

- Rape or sexual assault: sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another student or employee
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

Further examples of sexual violence may be found in the Frequently Asked Questions

Sexual Misconduct

Collectively, sex discrimination, sexual harassment, and sexual violence will be referred to as "sexual misconduct" through the remainder of this policy and the complaint resolution procedures.

Definition of Consent

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

Domestic Violence, Dating Violence, and Stalking

The crimes of domestic violence, dating violence and stalking can also constitute a form of sexual misconduct when motivated by a person's sex. These crimes, no matter the motivation behind them, are a violation of this policy.

Domestic Violence - "Domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction […], or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

For state law definitions covering domestic violence see: 750 ILCS 60/) Illinois Domestic Violence Act of 1986; also see http://www.illinoisattorneygeneral.gov/women/idva.pdf

Dating Violence - "Dating violence" means violence committed by a person:

- who is or has been in a social relationship of a romantic or intimate nature
- with the victim; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:

    (i) The length of the relationship.
    (ii) The type of relationship.
    (iii) The frequency of interaction between the persons involved in the relationship.

For state law definitions covering dating violence see: 750 ILCS 60 - Illinois Domestic Violence Act of 1986; also see http://www.illinoisattorneygeneral.gov/women/idva.pdf

Stalking -"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

For state law definitions covering domestic violence see: 720 ILCS 5/12-7.3 (Stalking); 720 ILCS 5/12-7.4 (Aggravated Stalking) and 720 ILCS 5/12-7.5 (Cyberstalking); see also

http://www.illinoisattorneygeneral.gov/women/IllinoisLawCanProtectYouFromStalking.pdf

It is clear that bullying and harassment of LGBT or Gender Non-Conforming students, that is gender based harassment, meaning harassment or bullying because a student does not conform to stereotyped notions of masculinity or femininity, is covered by Title IX.

ROLES AND RESPONSIBILITIES

Title IX Coordinator

It is the responsibility of the Title IX Coordinator, with the assistance of the Deputy Title IX Coordinator, is to coordinate dissemination of information and education and training programs to: (1) assist members of TBI community in understanding that sexual misconduct is prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints of sexual misconduct; (3) ensure that employees and students are aware of the procedures for reporting and addressing complaints of sexual misconduct; and (4) to implement the Complaint Resolution Procedures or to designate appropriate persons for implementing the Complaint Resolution Procedures.

Administrators, Deans, Department Chairs, and Other Managers

It is the responsibility of administrators, faculty managers, student success coordinators, and other managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this policy
- Work with the Title IX Coordinator or a Deputy Title IX Coordinator to implement education and training programs for employees and students
- Notify the Title IX Coordinator or a Deputy Title IX Coordinator if they receive reports, witness, or otherwise learn of complaints of sexual misconduct.
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy

All Employees

It is the responsibility of all employees to review this policy and comply with it.

Students

It is the responsibility of all students to review this policy and comply with it.

TBI

When TBI is aware that a member of TBI Community may have been subjected to or affected by conduct that violates this policy, TBI will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the sexual misconduct. TBI will act in accordance with its Procedures to Resolve Complaints under TBI's Title IX Policy (see page 17 below).

COMPLAINTS

Making a Complaint

Faculty and Employees

All TBI faculty and employees have a duty to report sexual misconduct to the Title IX Coordinator or a Deputy Title IX Coordinator.

Students and Other Persons

Students who wish to report sexual misconduct should file a complaint with the Title IX Coordinator or a Deputy Title IX Coordinator. Students and other persons may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth in Section III above.

Content of the Complaint

So that TBI has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that TBI may follow up appropriately. A complainant will be given a copy of the document titled "Explanation of Rights and Options After Filing a Complaint Under the Title IX: Sexual Misconduct Policy." (Last Page of this document)

Conduct that Constitutes a Crime

Any person who wishes to make a complaint of sexual misconduct that also constitutes a crime—including sexual violence, domestic violence, dating violence, or stalking—is encouraged to make a complaint to local law enforcement. If requested, TBI will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.

Special Guidance Concerning Complaints of Sexual Violence, Domestic Violence, Dating Violence, or Stalking

If you are the victim of sexual violence, domestic violence, dating violence, or stalking, do not blame yourself. These crimes are never the victim's fault. When physical violence of a sexual nature has perpetrated against you, TBI recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy.

If you are the victim of sexual violence, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists.

In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

Once a complaint of sexual violence, domestic violence, dating violence, or stalking is made, the complainant has several options such as, but not limited to:

- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- pursing disciplinary action
- requesting that no further action be taken
- Vendors, Contractors, and Third-Parties

This policy applies to the conduct of vendors, contractors, and third parties. Persons who believe they have been subject to sexual misconduct in violation of this policy should make a complaint in the manner set forth in this section.

Retaliation

It is a violation of this policy to retaliate against any member of TBI Community who reports or assists in making a complaint of sexual misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint in the manner set forth in this section.

Protecting the Complainant

Pending final outcome of an investigation in accordance with the Complaint Resolution Procedures, TBI will take steps to protect the complainant from further discrimination or harassment. This may include assisting and allowing the complainant to change his or her academic, transportation or work situation if options to do so are reasonably available (e.g., changes to academic schedule). Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. TBI will take all reasonable and legal action to implement the order.

Timing of Complaints

TBI encourages persons to make complaints of sexual misconduct as soon as possible because late reporting may limit TBI's ability to investigate and respond to the conduct complained of.

Investigation and Confidentiality

All complaints of sexual misconduct will be promptly and thoroughly investigated in accordance with the Complaint Resolution Procedures (see page 17 below), and TBI will take disciplinary action where appropriate. TBI will make reasonable and appropriate efforts to preserve an individual's privacy and

protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, TBI cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, TBI will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, TBI's ability to respond may be limited. TBI reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to TBI Community.

Resolution

If a complaint of sexual misconduct is found to be substantiated, TBI will take appropriate corrective and remedial action. Students, faculty, and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand, suspension, demotion, termination, or expulsion. Affiliates and program participants may be removed from TBI programs and/or prevented from returning to campus. Remedial steps may also include counseling for the complainant, academic, transportation, work, or living accommodations for the complainant, separation of the parties, and training for the respondent and other persons.

Bad Faith Complaints

While TBI encourages all good faith complaints of sexual misconduct, TBI has the responsibility to balance the rights of all parties. Therefore, if TBI's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

ACADEMIC FREEDOM

While TBI is committed to the principles of free inquiry and free expression, sexual misconduct is neither legally protected expression nor the proper exercise of academic freedom.

EDUCATION

Because TBI recognizes that the prevention of sexual misconduct, as well as domestic violence, dating violence, and stalking, is important, it offers educational programming to a variety of groups such as: campus personnel; incoming students and new employees participating in orientation; and members of student organizations. Among other elements, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator or Deputy Title IX Coordinator.

FREQUENTLY ASKED QUESTIONS

What are some additional examples of sexual harassment?

Sexual harassment is a form of prohibited sex discrimination. TBI's policies protect men and women equally from sexual harassment, including harassment by members of the same sex. Staff, faculty, and students are protected from sexual harassment by any other staff, faculty, student, or contractor. Examples of kinds of conduct that constitute sexual harassment include, but are not limited to, the following:

- Engaging in unwelcome sexual advances
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Telling unwelcome, sexually-explicit jokes
- Displaying sexually suggestive or lewd photographs, videos, or graffiti
- Making unwelcome and unwanted physical contact, such as rubbing, touching, pinching, or patting
- Making unwelcome and suggestive sounds, such as "cat calls" or whistling
- Commenting on a person's dress in a sexual manner
- Making sexual gestures
- Repeatedly asking someone for a date after the person has expressed disinterest
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Telling another person of one's sexual fantasies, sexual preferences, or sexual activities
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Using sexually explicit profanity

What should I do if I have been sexually harassed?

TBI encourages you to report sexual harassment as soon as possible. Ignoring sexual harassment does not make it go away. And delayed reporting may limit TBI's ability to investigate and remedy the sexual harassment.

If you are a student, you may report sexual harassment to the Title IX Coordinator or a Deputy Title IX Coordinator. If you are the victim of sexual harassment that constitutes a crime, TBI encourages you to also file a complaint with local law enforcement and to press charges.

You always have the option to directly confront the person that is harassing you. Sometimes, individuals are not aware that their behavior is offensive and quickly apologize and change their behavior once it is brought to their attention. However, you are not required or expected to confront your harasser prior to filing a complaint.

What are some additional examples of sexual violence?

Sexual violence is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs and/or alcohol or to an intellectual or other disability. Examples of kinds of conduct that constitute sexual violence include, but are not limited to, the following:

- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person's vagina or anus with an object
- Use of the "date rape drug" to effect sexual intercourse or some other form of sexual contact with a person
- One partner in a romantic relationship forcing the other to have sexual intercourse without the partner's consent
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to
- Groping a person's breasts or groin on the dance floor or at a bar
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
- Coercing someone into having sexual intercourse by threatening to expose their secrets
- Secretly videotaping sexual activity where the other party has not consented

What constitutes "consent" for purposes of sexual violence?

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

What should I do if I am a victim of sexual violence, domestic violence, dating violence, or stalking?

Don't blame yourself. These crimes are never the victim's fault. Please contact the Title IX Coordinator or the Deputy Title IX Coordinator as soon as possible for information on options and resources available to you. You may also wish to call local law enforcement (911 if emergency), or the Chicago Rape Crises Hotline at (888) 293- 2080 and/or Rape Victim Advocates at (312) 443-9603. For more information about any of these services, please contact, the Title IX Coordinator or the Deputy Title IX Coordinator.

If you are the victim of sexual violence, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital such as Northwestern at (312) 926-2000 or Stroger Hospital (Cook County) at (312) 864-6000, and take a full change of clothing, including shoes, for

use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contract and violence.

Can I make a complaint of sexual violence against my boyfriend or girlfriend?

Anyone can commit sexual violence, even if you and that person are in a romantic relationship. The critical factor is consent. If your boyfriend or girlfriend perpetrates a sexual act against you without your consent, such conduct constitutes sexual violence, and you may make a complaint. This type of conduct and other types of conduct perpetrated by your boyfriend or girlfriend may also be classified as domestic violence or dating violence.

What should I do if someone who is not a TBI student or employee engages in sexual misconduct against me?

TBI's policies protect you from sexual misconduct perpetrated by vendors, contractors, and other third parties that you encounter in your TBI learning and employment environment. If you believe that you have been subject to conduct that violates these policies, you should report the sexual misconduct just as if it were committed by a TBI student or employee.

What should I do if a student or TBI employee engages in sexual misconduct against me but we are off campus?

It is possible for off-campus conduct between TBI employees or students to contribute to a hostile working or academic environment or otherwise violate TBI's policies. You may make a complaint of sexual misconduct even if the conduct occurs off-campus.

What should I do if I observe sexual misconduct, but it is not directed at me?

Anyone that witnesses sexual misconduct, even it is directed at someone else, can still feel uncomfortable and harassed. If you are a student and witness conduct that you believe constitutes sexual misconduct, please make a complaint in the same manner as if the conduct was directed against you. If you are an employee or staff member of TBI, it is your duty to report conduct that constitutes sexual misconduct.

What is the role of the Title IX Coordinator?

The Title IX Coordinator oversees TBI's compliance with Title IX and receives inquiries regarding Title IX, including complaints of sexual misconduct. The Title IX Coordinator has received special training on TBI's policies and procedures pertaining to sexual misconduct, and is available to answer questions about those policies and procedures, respond to complaints, and assist you in identifying other resources to aid in your situation. The Title IX Coordinator is assisted by the Deputy Title IX Coordinator. The Deputy Title IX Coordinator is responsible for implementing the Complaint Resolution Procedures for complaints.

If I make a complaint of sexual misconduct, will it be treated confidentially?

TBI will take reasonable and appropriate steps to preserve the confidentiality of the parties to the complaint and to protect the confidentiality of information gathered during the investigation. However, TBI has an

obligation to provide a safe and non-discriminatory environment for all students and employees. Therefore, no unconditional promises of confidentiality can be provided. However, Rape Victim Advocates has confidential advisors, and are not employed by TBI and hold professionals licenses requiring confidentiality.

Who is typically involved in investigating a complaint of sexual misconduct?

TBI's Title IX Coordinator and/or Deputy Title IX Coordinator will be involved in investigating complaints of sexual harassment. The Title IX Coordinator or Deputy Title IX Coordinator may appoint another member of the staff to investigate and resolve the complaint. The process of gathering evidence will necessarily require the involvement of the complainant, the respondent, and any witnesses to the incident that gave rise to the complaint. In sum, it will involve those persons necessary to fairly and completely investigate the complaint and resolve it.

What are the possible outcomes of an investigation into a complaint?

The outcome will be determined based on the totality of the evidence using a preponderance of the evidence standard (i.e., it is more likely than not). If the preponderance of the evidence does not support a finding that the incident occurred, then the complaint is resolved in favor of the accused. If, however, the preponderance of the evidence supports that sexual misconduct occurred, the actions taken by TBI will include those necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of TBI community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

May I have a support person/advisor with me in the investigation process?

During the investigation process, both a complainant (i.e., the accuser) and a respondent (i.e., the accused) may ask a support person/advisor to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process.

What should I do if I am retaliated against for making a complaint of sexual misconduct?

TBI's Title IX: Sexual Misconduct Policy prohibits retaliation against any person for making a good faith complaint of sexual misconduct and/or cooperating in the investigation of (including testifying as a witness to) such complaint. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the underlying allegation of sexual misconduct. If you feel you are the victim of retaliation in violation of this policy, you should report the retaliation just as you would a complaint of sexual misconduct.

How does TBI handle a bad faith allegation of sexual misconduct?

A bad faith allegation of sexual misconduct occurs when the accuser intentionally reports information or

incidents that he or she knows to be untrue. Failure to prove a complaint of sexual misconduct is not equivalent to a bad faith allegation. TBI may impose sanctions against an individual who knowingly makes false allegations of sexual misconduct.

PROCEDURES TO RESOLVE COMPLAINTS UNDER TBI'S TITLE IX POLICY

General Principles

Administration

For purposes of these procedures, "Investigating Officer" means the Title IX Coordinator, the Deputy Title IX Coordinator(s) and/or his or her designee. The Investigating Officer shall have responsibility for administering these complaint resolution procedures.

Promptness, Fairness and Impartiality

These procedures provide for prompt, fair, and impartial investigations and resolutions. The Investigating Officer shall discharge his or her obligations under these complaint resolution procedures fairly and impartially. If the Investigating Officer determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, the Investigating Officer shall designate another appropriate individual to administer these procedures.

Training

These procedures will be implemented by officials who receive annual training on the issues related to sexual misconduct, domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Investigation and Resolution of the Complaint

Commencement of the Investigation

Once a complaint is made, the Investigating Officer will commence an investigation of it as soon as practicable, but not later than seven (7) days after the complaint is made. The purpose of the investigation is to determinate whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes sexual misconduct. During the course of the investigation, the Investigating Officer may receive counsel from TBI administrators, TBI's attorneys, or other parties as needed.

In certain narrow circumstances, the Investigating Officer may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns.

Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Investigating Officer will review the

statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

Support Person/Advisor

During the investigation process, both a complainant and a respondent may ask a support person/advisor to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process.

Interim Measures

At any time during the investigation, the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Title IX: Sexual Misconduct Policy.

Pending Criminal Investigation

Some instances of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, TBI will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve TBI of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, TBI will proceed with its own investigation and resolution of the complaint.

Resolution

At the conclusion of the investigation, the Investigating Officer will prepare a written report. The written report will explain the scope of the investigation, identify findings of fact, and state whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence.

If the written report determines that sexual misconduct occurred, the Investigating Officer shall set forth in an addendum to the written report those steps necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of TBI Community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

The complainant and the respondent will receive a copy of the written report and any addendum within three (3) days of its completion. If necessary, the version of the addendum provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures

is disclosed in a manner consistent with Title IX, the Family Educational Rights and Privacy Act ("FERPA"), and the Clery Act, as explained by the April 4, 2011 Dear Colleague Letter issued by the U.S. Department of Education.

https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-schools-ensuring-equity-and-providing-behavioral-supports-students-disabilities

The written report of the Investigating Officer shall be final subject only to the right of appeal set forth in Section IV below.

Special Procedure Concerning Complaints Against The President/Chief Executive Officer, Vice President, The Title IX Coordinator, A Deputy Title IX Coordinator, Or Other Administrators Ranked Higher Than The Title IX Coordinator

If a complaint involves alleged conduct on the part of TBI's President and Chief Executive Officer or TBI's Vice President, TBI's Governing Board will designate the Investigating Officer. Based on the information gathered by the investigation, the Governing Board will prepare and issue the written report determining the complaint. The determination of the Governing Board is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Title IX Coordinator, TBI's President will designate the Investigating Officer. Based on the information gathered by the investigation, the President will prepare and issue the written report determining the complaint. The determination of the President is final and not subject to appeal.

If a complaint involves alleged conduct on the part of a Deputy Title IX Coordinator, the Title IX Coordinator will be the Investigating Officer. Based on the information gathered by the investigation, the Title IX Coordinator will prepare and issue the written report determining the complaint. Deputy Title IX Coordinators have the right to appeal as outlined in Section IV, below.

Informal Resolution

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. However, informal means may only be used with the complainant's voluntary cooperation and the involvement of the Title IX Coordinator or a Deputy Title IX Coordinator at the campus to which the complaint pertains. The complainant, however, will not be required to work out the problem directly with the respondent. Moreover, the complainant may terminate any such informal means at any time. In any event, informal means, even on a voluntary basis, will not be used to resolve complaints alleging any form of sexual violence.

Timing of the Investigation

TBI will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within three (3) days.

Rights of the Parties

During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to all information considered by the Investigating Officer
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Investigating Officer

Appeals

Grounds of Appeal

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- The decision was contrary to the substantial weight of the evidence
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer, would result in a different decision
- Bias or prejudice on the part of the Investigating Officer, or
- The punishment or the corrective action imposed is disproportionate to the offense

Method of Appeal

Appeals must be filed with TBI's President, Janice Parker, within ten (10) days of receipt of the written report determining the outcome of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant
- Name of the respondent
- A statement of the determination of the complaint, including corrective action if any
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the President, but the decision to grant a meeting is within the President's discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity. The President may be contacted at:

Janice Parker
President and Chief Executive Officer
Taylor Business Institute
180 N. Wabash, 5th Floor
Chicago, IL 60601
312.658.5100
janice.parker@tbiil.edu

Resolution of the Appeal

The President will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he/she determines to be in the interest of a fair and just decision. The decision of the President

is final. The President shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Investigating Officer's previous written determination. The written statement shall be provided to the complainant, respondent, Title IX Coordinator, and the Deputy Title IX Coordinators within three (3) days of the resolution.

Documentation

Throughout all stages of the investigation, resolution, and appeal, the Investigating Officer, the Title IX Coordinator, Deputy Title IX Coordinators, and the President as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

Intersection with Other Procedures

These complaint resolution procedures are the exclusive means of resolving complaints alleging violations of the Title IX: Sexual Misconduct Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other TBI grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Title IX: Sexual Misconduct Policy.

EXPLANATION OF RIGHTS AND OPTIONS AFTER FILING A COMPLAINT UNDER THE TITLE IX: SEXUAL MISCONDUCT POLICY

The following information provides a short summary of your rights and options after filing a complaint.

General Information

It is extremely important that you preserve evidence as it may be necessary to prove the complaint you are making or needed to obtain a protection order. In the case of physical violence, including sexual violence, domestic violence, and dating violence, you should go directly to the emergency room and should not bathe, urinate, douche, brush teeth, drink liquids, or change clothes until after you are examined and, if necessary, a rape examination is completed.

Once you have made a complaint, you have several options, including, but not limited to:

- Contacting parents or a relative
- Seeking legal advice
- Seeking personal counseling
- Pursing legal action against the perpetrator
- Pursing disciplinary action
- Requesting that no further action be taken

If requested, the Title IX Coordinator or Deputy Title IX Coordinator will assist you in contacting local law enforcement regarding the incident. You may decline to notify such authorities.

If you have obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, please provide such information to the Title IX Coordinator or Deputy

Title IX Coordinator. The TBI will take all reasonable and legal action to implement the order.

Institutional Procedures

TBI's Title IX: Sexual Misconduct Policy:

- Will provide a prompt, fair, and impartial resolution of your complaint.
- It is carried out by TBI officials who have received training on these issues and how to conduct an investigation and hearing process that promotes safety and accountability.
- Provides you and the accused the right to have a support person accompany you to all aspect of the investigation and resolution process. The support person may not advocate like an attorney would in court.
- Ensures that both you and the accused will be notified simultaneously in writing of the outcome of all stages of the process, including any appeals.
- Prohibits retaliation by the accused or anyone else against you for making a complaint.

Possible Sanctions or Protective Measures

Interim Measures: At any time during the investigation, the Title IX Coordinator or Deputy Title IX Coordinator may impose interim remedies or protections for the parties or witnesses. These may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative living, class-placement, or workplace arrangements.

Sanctions: If there is a finding that a violation has occurred, sanctions may include counseling or training, separation of the parties, and/or discipline of the respondent, including written reprimand, suspension, demotion, termination, or expulsion.

Confidentiality

If you request confidentiality or ask that a complaint not be investigated, TBI will take reasonable steps to investigate and respond to the complaint consistent with the request. However, TBI's ability to respond may be limited in such cases, and TBI may not be able to grant such a request when the accused poses a continuing threat to the TBI community.

Options for Changing your Current Situation

Pending final outcome of an investigation, you may be allowed to change your academic, transportation, or work situation if options to do so are reasonably available. This may occur regardless of whether you choose to make a complaint to local law enforcement.

Resources Available

Rape Victim Advocates (RVA) (312) 443-9603
www.rapevictimadvocates.org
Illinois Attorney General Helping Crime Victims Resource Webpage:
http://www.illinoisattorneygeneral.gov/victims/links.html
RAINN - Rape, Abuse & Incest National Network; 1-800-656-HOPE; www.rainn.org
Northwestern at (312) 926-2000 or Stroger Hospital (Cook County) at (312) 864-6000, and take a full change of clothing, including shoes, for use after a medical examination.

Appendix C: Section 504 of the Rehabilitation Act of 1973

U.S. Department of Health and Human Services. Office for Civil Rights. Washington, D.C. 20201.(202) 619-0403

What Is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency, including the U.S. Department of Health and Human Services (DHHS). These organizations and employers include many hospitals, nursing homes, mental health centers and human service programs.

Section 504 forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services. It defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services.

Who Is Protected from Discrimination?

Section 504 protects qualified individuals with disabilities. Under this law, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered. Major life activities include caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. Some examples of impairments which may substantially limit major life activities, even with the help of medication or aids/devices, are: AIDS, alcoholism, blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, drug addiction, heart disease, and mental illness.

In addition to meeting the above definition, for purposes of receiving services, education or training, qualified individuals with disabilities are persons who meet normal and essential eligibility requirements. For purposes of employment, qualified individuals with disabilities are persons who, with reasonable accommodation, can perform the essential functions of the job for which they have applied or have been hired to perform. (Complaints alleging employment discrimination on the basis of disability against a single individual will be referred to the U. S. Equal Employment Opportunity Commission for processing.) Reasonable accommodation means an employer is required to take reasonable steps to accommodate your disability unless it would cause the employer undue hardship.

Prohibited Discriminatory Acts in Health Care and Human Services Settings

Section 504 prohibitions against discrimination apply to service availability, accessibility, delivery, employment, and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A recipient of Federal financial assistance may not, on the basis of disability:

X Deny qualified individuals the opportunity to participate in or benefit from federally funded programs, services, or other benefits.

X Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers.
X Deny employment opportunities, including hiring, promotion, training, and fringe benefits, for which they are otherwise entitled or qualified....
These and other prohibitions against discrimination based on disability can be found in the DHHS Section 504 regulation at 45 CFR Part 84.
For information on how to file a complaint of discrimination, or to obtain information of a civil rights nature, please contact us. OCR employees will make every effort to provide prompt service.
Hotlines: 1-800-368-1019 (Voice) 1-800-537-7697 (TDD)
E-Mail: ocrmail@hhs.gov Website: http://www.hhs.gov/ocr

Responsibility to Provide a Free, Appropriate Public Education (FAPE)?

--Yes. An "appropriate" education means an education comparable to that provided to students without disabilities. This may be defined as regular or special education services. Students can receive related services under Section 504 even if they are not provided any special education. Section 504 does require development of a plan, although this written document is not mandated. The Individualized Education Program (IEP) of IDEA may be used for the Section 504 written plan. Many experts recommend that a group of persons knowledgeable about the students convene and specify the agreed-upon services.

Funding to Implement Requirements?

--No. State and local jurisdictions have responsibility. IDEA funds may not be used to serve children found eligible only under Section 504.

Procedural Safeguards

--Section 504 requires notice to parents regarding identification, evaluation, and/or placement. Written notice is recommended. Notice must be made only before a "significant change" in placement. Following IDEA procedural safeguards is one way to meet Section 504 mandates.

Evaluation/Placement Procedures

--Unlike IDEA, Section 504 requires only notice, not consent, for evaluation. It is recommended that districts obtain parental consent.
Like IDEA, evaluation and placement procedures under Section 504 require that information be obtained from a variety of sources in the area of concern; that all data are documented and considered; and that decisions are made by a group of persons knowledgeable about the student, evaluation data, and placement options. Section 504 requires periodic reevaluations, but does not specify any timelines for placement. Section 504 requires that students be educated with their nondisabled peers to the maximum extent appropriate. Section 504 does not require a meeting or any change in placement.

Due Process

--Section 504 requires local education agencies to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a student. It requires that parents have an opportunity to participate in the hearing process and to be represented by counsel. Beyond this, due process details are left to the discretion of the local education agency. It is recommended that districts develop policy guidance and procedures.

This information is provided by National Disability Rights Network. For more information please visit website at: http://www.ndrn.org *I* goals.htm.

Appendix D: Family and Medical Leave Act

U.S. Department of Labor

Wage and Hour Division

Fact Sheet #28: The Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. This fact sheet provides general information about which employers are covered by the FMLA, when employees are eligible and entitled to take FMLA leave, and what rules apply when employees take FMLA leave.

COVERED EMPLOYERS

The FMLA only applies to employers that meet certain criteria. A covered employer is a:

Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;

Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or

Public or private elementary or secondary school, regardless of the number of employees it employs.

ELIGIBLE EMPLOYEES

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

Works for a covered employer;

Has worked for the employer for at least 12 months;

Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave*; and

Works at a location where the employer has at least 50 employees within 75 miles.

* Special hours of service eligibility requirements apply to airline flight crew employees. See Fact Sheet 28J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act.

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

LEAVE ENTITLEMENT

Eligible employees may take up to **12 workweeks** of leave in a 12-month period for one or more of the following reasons:

The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;

To care for a spouse, son, daughter, or parent who has a serious health condition;

For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or

For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to **26 workweeks** of leave during a "single 12-month period" to care for a covered service member with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the service member. The "single 12-month period" for military caregiver

leave is different from the 12-month period used for other FMLA leave reasons. See Fact Sheets 28F: Qualifying Reasons under the FMLA and 28M: The Military Family Leave Provisions under the FMLA.
Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.
Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

NOTICE

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.
When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. See Fact Sheet 28E: Employee Notice Requirements under the FMLA .
Covered employers must:
Post a notice explaining rights and responsibilities under the FMLA. Covered employers may be subject to a civil money penalty for willful failure to post. For current penalty amounts, see www.dol.gov/whd/fmla/applicable_laws.htm;
Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;
When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and
Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.
See Fact Sheet 28D: Employer Notice Requirements under the FMLA.

CERTIFICATION

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member's serious health condition, the employer may require certification in support of the leave from a health care provider. An employer may also require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. See Fact Sheet 28G: Certification of a Serious Health Condition under the FMLA. For information on certification requirements for military family leave, See Fact Sheet 28M(c): Qualifying Exigency Leave under the FMLA; Fact Sheet 28M(a): Military Caregiver Leave for a Current Service member under the FMLA; and Fact Sheet 28M(b): Military Caregiver Leave for a Veteran under the FMLA.

JOB RESTORATION AND HEALTH BENEFITS

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same

terms and conditions as if the employee had not taken leave. See Fact Sheet 28A: Employee Protections under the Family and Medical Leave Act.

OTHER PROVISIONS

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent or reduced schedule FMLA leave or the taking of FMLA leave near the end of a school term.
Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under the FLSA regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an eligible employee's use of FMLA leave.

ENFORCEMENT

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to the FMLA. See Fact Sheet 77B: Protections for Individuals under the FMLA . The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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One Hundred Third Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fifth day of January, one thousand nine hundred and ninety-three

An Act

To grant family and temporary medical leave under certain circumstances. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. —This Act may be cited as the ''Family and Medical Leave Act of 1993''.

(b) TABLE OF CONTENTS. —The table of contents is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS. —Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to aTBImodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES. —It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition; (3) to aTBIplish the purposes described in paragraphs (1) and (2) in a manner that aTBImodates the legitimate interests of employers;

(4) to aTBIplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE. —The terms ‘‘commerce’’ and ‘‘industry or activity affecting commerce’’ mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include ‘‘commerce’’ and any ‘‘industry affecting commerce’’, as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(2) ELIGIBLE EMPLOYEE. —

(A) IN GENERAL. —The term ‘‘eligible employee’’ means an employee who has been employed—
(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and
(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.
(B) EXCLUSIONS. —The term ‘‘eligible employee’’ does not include—
(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or
(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.
(C) DETERMINATION. —For purposes of determining
whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.
(3) EMPLOY; EMPLOYEE; STATE. —The terms ‘‘employ’’,
‘‘employee’’, and ‘‘State’’ have the same meanings given such terms in subsections (c), (e), and (g) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (c), (e), and (g)).
(4) EMPLOYER. —
(A) IN GENERAL. —The term ‘‘employer’’—
(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;
(ii) includes—
(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and
(II) any successor in interest of an employer; and
(iii) includes any ‘‘public agency’’, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).
(B) PUBLIC AGENCY. —For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.
(5) EMPLOYMENT BENEFITS.—The term ‘‘employment benefits’’ means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an ‘‘employee benefit plan’’, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).
(6) HEALTH CARE PROVIDER. —The term ‘‘health care provider’ means—
(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
(B) any other person determined by the Secretary to be capable of providing health care services.
(7) PARENT. —The term ‘‘parent’’ means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.
(8) PERSON. —The term ‘‘person’’ has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).
(9) REDUCED LEAVE SCHEDULE. —The term ‘‘reduced leave schedule’’ means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
(10) SECRETARY. —The term ‘‘Secretary’’ means the Secretary of Labor.
(11) SERIOUS HEALTH CONDITION. —The term ‘‘serious health condition’’ means an illness, injury, impairment, or physical or mental condition that involves—
(A) inpatient care in a hospital, hospice, or residential medical care facility; or
(B) continuing treatment by a health care provider.
(12) SON OR DAUGHTER. —The term ‘‘son or daughter’’ means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—
(A) under 18 years of age; or
(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.
(13) SPOUSE. —The term ‘‘spouse’’ means a husband or wife, as the case may be.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL. —
(1) ENTITLEMENT TO LEAVE. —Subject to section 103, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:
(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.
(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
(2) EXPIRATION OF ENTITLEMENT. —The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.
(b) LEAVE TAKEN INTERMITTENTLY OR ON A REDUCED LEAVE SCHEDULE. —
(1) IN GENERAL. —Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 103(b)(5), leave under subparagraph (C) or (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.
(2) ALTERNATIVE POSITION. —If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1), that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—
(A) has equivalent pay and benefits; and
(B) better aTBImodates recurring periods of leave than the regular employment position of the employee.
(c) UNPAID LEAVE PERMITTED. —Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave. Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee under such section.
(d) RELATIONSHIP TO PAID LEAVE. —
(1) UNPAID LEAVE. —If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.
(2) SUBSTITUTION OF PAID LEAVE. —(A) IN GENERAL. —An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection. (B) SERIOUS HEALTH CONDITION. —An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1)for any part of the 12-week period of such leave under such subsection, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.
(e) FORESEEABLE LEAVE. —
(1) REQUIREMENT OF NOTICE. —In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.
(2) DUTIES OF EMPLOYEE. —In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—
(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and
(B) shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.
(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER. —In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken— (1) under subparagraph (A) or (B) of subsection (a)(1); or (2) to care for a sick parent

under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL. —An employer may require that a request for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION. —Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and (B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee;

(5) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(6) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(D), a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(C), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(c) SECOND OPINION. —

(1) IN GENERAL. —In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection

(b) for such leave.

(2) LIMITATION. —A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS. —

(1) IN GENERAL. —In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY. —The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION. —The employer may require that the eligible employee obtain subsequent recertification's on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION. —

(1) IN GENERAL. —Except as provided in subsection (b), any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position
of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS. —The taking of leave under section
102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS. —Nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION. —As a condition of restoration under paragraph (1) for an employee who has taken leave under section 102(a)(1)(D), the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except

that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of such employees.
(5) CONSTRUCTION. —Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to report periodically to the employer on the status and intention of the employee to return to work.
(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES. —
(1) DENIAL OF RESTORATION. —An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—
(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;
(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at thetime the employer determines that such injury would occur; and
(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.
(2) AFFECTED EMPLOYEES. —An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.
(c) MAINTENANCE OF HEALTH BENEFITS. —
(1) COVERAGE. —Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any ''group health plan'' (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.
(2) FAILURE TO RETURN FROM LEAVE. —The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—
(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and
(B) the employee fails to return to work for a reason other than—
(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or
(ii) other circumstances beyond the control of the employee.
(3) CERTIFICATION. —
(A) ISSUANCE. —An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—
(i) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C); or
(ii) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D).
(B) COPY. —The employee shall provide, in a timely manner, a copy of such certification to the employer.
(C) SUFFICIENCY OF CERTIFICATION. —
(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE. —The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.
(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER. —The certification described in subparagraph (A)(i) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS. —
(1) EXERCISE OF RIGHTS. —It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title. (2) DISCRIMINATION. —It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.
(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES. —It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual— (1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;
(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL. —To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS. —Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS. —The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) SUBPOENA POWERS. —For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) CIVIL ACTION BY EMPLOYEES. —

(1) LIABILITY. —Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION. —An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) FEES AND COSTS. —The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) LIMITATIONS. —The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1), unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(b) ACTION BY THE SECRETARY. —

(1) ADMINISTRATIVE ACTION. —The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION. —The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED. —Any sums recovered by the Secretary pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION. —
(1) IN GENERAL. —Except as provided in paragraph (2), an action may be brought under this section not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.
(2) WILLFUL VIOLATION. —In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.
(3) COMMENCEMENT. —In determining when an action is commenced by the Secretary under this section for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.
(d) ACTION FOR INJUNCTION BY SECRETARY. —The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—
(1) to restrain violations of section 105, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or
(2) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.
(e) SOLICITOR OF LABOR. —The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION. —
(1) IN GENERAL. —Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this title shall apply to—
(A) any ''local educational agency'' (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and
(B) any private elementary or secondary school and an eligible employee of the school.
(2) DEFINITIONS. —For purposes of the application described in paragraph (1):
(A) ELIGIBLE EMPLOYEE. —The term ''eligible employee'' means an eligible employee of an agency or school described in paragraph (1).
(B) EMPLOYER. —The term ''employer'' means an agency or school described in paragraph (1).
(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS. —
A local educational agency and a private elementary or secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this title.
(c) INTERMITTENT LEAVE OR LEAVE ON A REDUCED SCHEDULE FOR INSTRUCTIONAL EMPLOYEES. —
(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—
(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—
(i) has equivalent pay and benefits; and
(ii) better aTBImodates recurring periods of leave than the regular employment position of the employee.
(2) APPLICATION. —The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).
(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM. —The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:
(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM. —If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—
(A) the leave is of at least 3 weeks' duration; and
(B) the return to employment would occur during the 3-week period before the end of such term.
(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM. —If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—(A) the leave is of greater than 2 weeks' duration; and(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM. —If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.
(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION. —For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary or secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.
(f) REDUCTION OF THE AMOUNT OF LIABILITY. —If a local educational agency or a private elementary or secondary school that has violated this title proves to the satisfaction of the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of this title, such court may, in the discretion of the court, reduce the amount of the liability provided for under section 107(a)(1)(A)to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 109. NOTICE.

(a) IN GENERAL. —Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.
(b) PENALTY. —Any employer that willfully violates this section may be assessed a civil money penalty not to exceed $100 for each separate offense.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES. —
(1) IN GENERAL. —Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:
'SUBCHAPTER V—FAMILY AND MEDICAL LEAVE '

'§ 6381. Definitions

''For the purpose of this subchapter—
''(1) the term 'employee' means any individual who— ''(A) is an 'employee', as defined by section 6301(2), including any individual employed in a position referred to in clause (v) or (ix) of section 6301(2), but excluding any individual employed by the government of the District of Columbia and any individual employed on a temporary or intermittent basis; and ''(B) has completed at least 12 months of service as an employee (within the meaning of subparagraph (A));
''(2) the term 'health care provider' means— ''(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and ''(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;
''(3) the term 'parent' means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter;
''(4) the term 'reduced leave schedule' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;
''(5) the term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves— ''(A) inpatient care in a hospital, hospice, or residential medical care facility; or ''(B) continuing treatment by a health care provider; and
''(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is— ''(A) under 18 years of age; or (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

''§ 6382. Leave requirement

''(a)(1) Subject to section 6383, an employee shall be entitled to a total of 12 administrative workweeks of leave during any12-month period for one or more of the following:''(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.''(B) Because of the placement of a son or daughter with the employee for adoption or foster care.''(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.''(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.''(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.''(b)(1) Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employing agency of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 6383(b)(5), leave under subparagraph (C) or(D) of subsection (a)(1) may be taken intermittently or on a reduced leave

schedule when medically necessary. In the case of an employee who takes leave intermittently or on a reduced leave schedule pursuant to this paragraph, any hours of leave so taken by such employee shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.‘‘(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection(a)(1), that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—‘‘(A) has equivalent pay and benefits; and‘‘(B) better aTBImodates recurring periods of leave than the regular employment position of the employee.‘‘(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.‘‘(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee’s accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subsection, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave. ‘‘(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days’ notice, before the date the leave is to begin, of the employee’s intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.‘‘(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—‘‘(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and‘‘(B) shall provide the employing agency with not less than30 days’ notice, before the date the leave is to begin, of the employee’s intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

‘‘§ 6383. Certification

‘‘(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

‘‘(b) A certification provided under subsection (a) shall be sufficient if it states—‘‘(1) the date on which the serious health condition commenced;‘‘(2) the probable duration of the condition;‘‘(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;‘‘(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and‘‘(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and‘‘(5) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

‘‘(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave. ‘‘(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

‘‘(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).‘‘(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

‘‘(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertification on a reasonable basis.

‘‘§ 6384. Employment and benefits protection

‘‘(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave— ‘‘(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or ‘‘(2) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

‘‘(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the

date on which the leave commenced.
‘‘(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to— ‘‘(1) the accrual of any employment benefits during any period of leave; or‘‘(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.
‘‘(d) As a condition to restoration under subsection (a) for an employee who takes leave under section 6382(a)(1)(D), the employing agency may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work.
‘‘(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

‘‘§ 6385. Prohibition of coercion

‘‘(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of any rights which such other employee may have under this subchapter.
‘‘(b) For the purpose of this section— ‘‘(1) the term ‘intimidate, threaten, or coerce’ includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation); and ‘‘(2) the term ‘employee’ means any ‘employee’, as defined by section 2105.

‘‘§ 6386. Health insurance

‘‘An employee enrolled in a health benefits plan under chapter89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

‘‘§ 6387. Regulations

‘‘The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary of Labor to carry out title I of the Family and Medical Leave Act of 1993.’’.
(2) TABLE OF CONTENTS. —The table of contents for chapter63 of title 5, United States Code, is amended by adding at the end the following:

‘‘SUBCHAPTER V—FAMILY AND MEDICAL LEAVE
‘‘6381. Definitions.
‘‘6382. Leave requirement.
‘‘6383. Certification.
‘‘6384. Employment and benefits protection.
‘‘6385. Prohibition of coercion.
‘‘6386. Health insurance.
‘‘6387. Regulations.’’.

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS. —Section2105(c)(1) of title 5, United States Code, is amended— (1) by striking ‘‘or’’ at the end of subparagraph (C); and (2) by adding at the end the following new subparagraph: ‘‘(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from non-appropriated funds; or’’.

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (referred to in this title as the ‘‘Commission’’).

SEC. 302. DUTIES.

The Commission shall—
(1) conduct a comprehensive study of—
(A) existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under this Act;
(B) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees;
(C) possible differences in costs, benefits, and impact on productivity, job creation and business growth of such policies on employers based on business type and size;
(D) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act;
(E) alternate and equivalent State enforcement of title I with respect to employees described in section 108(a); (F) methods used by employers to reduce administrative costs of implementing family and medical leave policies;

(G) the ability of the employers to recover, under section104(c)(2), the premiums described in such section; and
(H) the impact on employers and employees of policies that provide temporary wage replacement during periods of family and medical leave.
(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION. —
(1) APPOINTMENTS. —The Commission shall be composed of 12 voting members and 4 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:
(A) SENATORS. —One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.
(B) MEMBERS OF HOUSE OF REPRESENTATIVES. —One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.
(C) ADDITIONAL MEMBERS. —
(i) APPOINTMENT. —Two members each shall be appointed by—(I) the Speaker of the House of Representatives; (II) the Majority Leader of the Senate;(III) the Minority Leader of the House of Representatives; and(IV) the Minority Leader of the Senate.
(ii) EXPERTISE. —Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor management issues. Such members shall include representatives of employers, including employers from large businesses and from small businesses.
(2) EX OFFICIO MEMBERS. —The Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Commerce, and the Administrator of the Small Business Administration shall serve on the Commission as nonvoting ex officio members.
(b) VACANCIES. —Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.
(c) CHAIRPERSON AND VICE CHAIRPERSON. —The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.
(d) QUORUM. —Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY. —Members of the Commission shall serve without compensation.
(b) TRAVEL EXPENSES. —Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code,
when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS. —The Commission shall first meet not later than30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.
(b) HEARINGS AND SESSIONS. —The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.
(c) ACCESS TO INFORMATION. —The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.
(d) USE OF FACILITIES AND SERVICES. —Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.
(e) PERSONNEL FROM OTHER AGENCIES. —On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the Commission or assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.
(f) VOLUNTARY SERVICE. —Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS. —Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS. —Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State or local law that provides greater family or medical leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE. —Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE. —The rights established for employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out title I and this title not later than120 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III. —Title III shall take effect on the date of the enactment of this Act. (b) OTHER TITLES. — (1) IN GENERAL. —Except as provided in paragraph (2), titles, II, and V and this title shall take effect 6 months after the date of the enactment of this Act. (2) COLLECTIVE BARGAINING AGREEMENTS. —In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—(A) the date of the termination of such agreement; or(B) the date that occurs 12 months after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE. —The rights and protections established undersections 101 through 105 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term ‘‘eligible employee’’ means a Senate employee and the term ‘‘employer’’ means an employing office.

(b) CONSIDERATION OF ALLEGATIONS. — (1) APPLICABLE PROVISIONS. —The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1213) shall, except as provided in subsections (d) .and (e)—(A) apply with respect to an allegation of a violation of a provision of sections 101 through 105, with respect to Senate employment of a Senate employee; and(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES. —The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 101 through 105.

(d) LIMITATIONS. —A request for counseling under section 305of such Act by a Senate employee alleging a violation of a provision of sections 101 through 105 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 105.

(e) APPLICABLE REMEDIES. —The remedies applicable to individuals who demonstrate a violation of a provision of sections 101through 105 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 107(a).

(f) EXERCISE OF RULEMAKING POWER. —The provisions of subsections(b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) SEVERABILITY. —Notwithstanding any other provision of law, if any provision of section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), or of subsection (b)(1) insofar as it applies such section 309 to an

allegation described in subsection (b)(1)(A), is invalidated, both such section 309, and subsection (b)(1) insofar as it applies such section 309 to such an allegation, shall have no force and effect, and shall be considered to be invalidated for purposes of section 322 of such Act (2 U.S.C. 1221).
(h) DEFINITIONS. —As used in this section:(1) EMPLOYING OFFICE. —The term ''employing office'' means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)). (2) SENATE EMPLOYEE. —The term ''Senate employee'' means an employee described in subparagraph (A) or (B) of section301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 502. LEAVE FOR CERTAIN HOUSE EMPLOYEES.

(a) IN GENERAL. —The rights and protections under sections102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.
(b) ADMINISTRATION. —In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.
(c) DEFINITION. —As used in this section, the term ''Fair Employment Practices Resolution'' means rule LI of the Rules of the House of Representatives.

TITLE VI—SENSE OF CONGRESS

SEC. 601. SENSE OF CONGRESS.

It is the sense of the Congress that:
(a) The Secretary of Defense shall conduct a comprehensive review of current departmental policy with respect to the service of homosexuals in the Armed Forces;
(b) Such review shall include the basis for the current policy of mandatory separation; the rights of all service men and women, and the effects of any change in such policy on morale, discipline, and military effectiveness;
(c) The Secretary shall report the results of such review and consultations and his recommendations to the President and to the Congress no later than July 15, 1993;
(d) The Senate Committee on Armed Services shall conduct (i) comprehensive hearings on the current military policy with respect to the service of homosexuals in the military services; and (ii) shall conduct oversight hearings on the Secretary's recommendations as such are reported.
Speaker of the House of Representatives. Vice President of the United States and President of the Senate.

Appendix E: Notification of Rights under FERPA for Taylor Business Institute

Under federal law, students have certain rights with respect to examination of their educational records. The Family Educational Rights and Privacy Act of 1974 (FERPA) requires colleges to inform students of rights guaranteed under this Act.

General Provisions

FERPA protects from disclosure to third parties certain records containing personally identifiable information about an individual student. FERPA also grants students the right to examine certain files, records, or documents maintained by the college that contain such information. Colleges must permit students to examine their "educational records" within 45 days after submission of a written request, and provide copies of such records upon payment by the student of the cost of reproduction.

TBI students may request that the college amend their educational records on the grounds that these records are inaccurate, misleading, or in violation of the student's right to privacy. In the event that the college does not comply with a student's request after the student has complied with Taylor Business Institute's complaint procedures, the student is entitled to a full hearing. Requests for such a hearing should be directed in writing to the Office of the President.

Notification of Rights under FERPA for Postsecondary Institutions

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. These rights include:

The right to inspect and review the student's education records within 45 days of the day Taylor Business Institute receives a request for access.

A student should submit to the registrar, dean of academic affairs, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. An official from Taylor Business Institute will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the College official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

The right to request the amendment of the student's education records that the student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

A student who wishes to ask Taylor Business Institute to amend a record should write the College official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.

If Taylor Business Institute decides not to amend the record as requested, Taylor Business Institute will notify the student in writing of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

The right to provide written consent before Taylor Business Institute discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

Taylor Business Institute discloses education records without a student's prior written consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is a person employed by Taylor Business Institute in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom Taylor Business Institute has contracted as its agent to provide a service instead of using Taylor Business Institute employees or officials (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities for Taylor Business Institute.

Upon request, Taylor Business Institute also discloses education records without consent to officials of another school in which a student seeks or intends to enroll. Taylor Business Institute will forward records on request.

The right to file a complaint with the U.S. Department of Education concerning alleged failures by the College to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-5901

[NOTE: In addition, an institution may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]

Educational Records

A student's educational records consist of all files, records, or documents maintained by TBI that contain information directly related to the student, including student academic files, placement files, and financial aid files. The only persons other than the student who are allowed access to such records without the student's consent are individuals who have a legitimate administrative or educational interest in their content, or as required by law.

Exemptions

The following items are exempt from provisions of the Act that guarantee student access, and need not be disclosed to the student under FERPA:

Parents' Confidential Statement, Financial Need Analysis Report, and the PELL Grant A.D. Report. Confidential letters of recommendation received by the college prior to January 1, 1975. As to such letters received after 1974, the Act permits students to waive their right of access if the letters are related to

admissions, employment, or honors.
Records of students produced by instructors or administrators which are maintained by and accessible only to the instructors or administrators.
School security records.
Employment records of college employees who are not currently students.
Records compiled or maintained by physicians, psychiatrists, psychologists, or other recognized professionals or paraprofessionals acting or assisting in such capacities, for treatment purposes, and which are available only to persons providing the treatment.

Directory Information

FERPA also provides that certain information, known as "directory information," may be released unconditionally, without a student's consent, unless the student has specifically requested that the information not be released.
Directory information includes a student's: name, address(es), telephone number(s), date and place of birth, course of study, extracurricular activities, degrees and awards received, last school attended, post-graduation employer(s), job title(s) in post-graduation job(s), academic honors, and dates of attendance.
Students who do not wish to have directory information released by the college may make this preference known when responding to the **Directory Information - Memorandum of Agreement** at the time of enrollment.

Access Without Student Consent

The college may release educational records to the following parties without the prior written consent of the student:
Other schools where a student has applied for admission. In this case, the student must be advised that the records are being sent and that he or she is entitled to receive a copy and is given an opportunity to review and challenge the records.
Authorized representatives of the Department of Education or the Comptroller General of the United States.
State and local authorities where required.
Accrediting agencies.
Parents of students who list them as their dependents for purposes of the Internal Revenue Code. However, the college is not required to release such records.
Appropriate persons or agencies in connection with student applications for, or receipt of, financial aid.
Courts ordering compliance with a court order or subpoena provided that the student is notified prior to compliance.
Appropriate persons or agencies in the event of a health or safety emergency, where such release without consent is necessary under the circumstances.
In all other cases, the college shall obtain the written consent of the student prior to releasing educational records to any person or organization.
For more information on FERPA, please visit the College's website (www.tbiil.edu).

Appendix F: Age Discrimination: Overview of the Law

U.S. Department of Education

Age Discrimination: Overview of the Law

The Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive federal financial assistance. The U.S. Department of Education gives financial assistance to schools and colleges. The Age Discrimination regulation describes conduct that violates the Act. The Age Discrimination regulation is enforced by the Office for Civil Rights and is in the Code of Federal Regulations at 34 CFR Part 110.

The Age Discrimination Act of 1975 does not cover employment discrimination. Complaints of employment discrimination based on age may be filed with the Equal Employment Opportunity Commission, under the Age Discrimination in Employment Act.

The regulations under the Age Discrimination Act, however, allow you to file a claim in Federal court under that law only after (1) 180 days have passed since you file your complaint with OCR and OCR has made no finding, or (2) OCR issues a finding in favor of the recipient. In the latter case, OCR will promptly notify you and remind you of your right to file in court.

The Age Discrimination Act of 1975 prohibits retaliation for filing a complaint with OCR or for advocating for a right protected by the Act.

Links to Age Discrimination Act and its implementing regulations:

42 USC 6101 : Statement of purpose (USCode.house.gov)
http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title42-section6101&num=0&edition=prelim

34 CFR Part 110 and Electronic Code of Federal Regulations https://www.ecfr.gov/cgi-bin/text-idx?SID=b42730d77e3c4843ba50b06777a30d0c&mc%20=true&tpl=/ecfrbrowse/Title34/34cfr110_main_02.tpl

Appendix G: Drug Free Workplace Act and Drug-Free Schools and Communities Act Amendments of 1989

(30 ILCS 580/) Drug Free Workplace Act.

(30 ILCS 580/1) (from Ch. 127, par. 132.311)
Sec. 1. This Act shall be known and may be cited as the Drug Free Workplace Act.
(Source: P.A. 86-1459.)

(30 ILCS 580/2) (from Ch. 127, par. 132.312)
Sec. 2. As used in this Act:
(a) "Drug free workplace" means a site for the performance of work done in connection with a specific grant or contract of an entity whose employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act.
(b) "Employee" means an employee of a grantee or contractor directly engaged in the specific performance of work pursuant to the provisions of a grant or contract with the State, except that for the purpose of determining the number of employees of a grantee or a contractor under subsections (f) and (g) of this Section, an "employee" shall include any employee of the contractor or grantee.
(c) "Controlled substance" means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act.
(d) "Conviction" means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.
(e) "Criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.
(f) "Grantee" means a corporation, partnership, or other entity with 25 or more employees at the time of issuing the grant, or a department, division, or other unit thereof, directly responsible for the specific performance under a grant of $5,000 or more from the State. For purposes of this Act, "grantee" does not include corporations, partnerships, or other entities that receive public funds in connection with the WIC Vendor Management Act; medical assistance reimbursements to pharmacies for prescribed drugs and reimbursements for durable medical supplies covered under Article V of the Illinois Public Aid Code; the vendor's discount for collection of use and occupation taxes pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act; the Superfund program contained in the Illinois Environmental Protection Act; the lease or rental of real property; or grants or loans made for the purpose of solid waste management or reduction. The term "grantee" does not include

subcontractors of a grantee. The term "grantee" does not include a railroad that is subject to a federally mandated drug testing program.

(g) "Contractor" means a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of $5,000 or more. For purposes of this Act, "contractor" does not include corporations, partnerships, or other entities that receive public funds in connection with the WIC Vendor Management Act; medical assistance reimbursements to pharmacies for prescribed drugs and reimbursements for durable medical supplies covered under Article V of the Illinois Public Aid Code; the vendor's discount for collection of use and occupation taxes pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act; the Superfund program contained in the Illinois Environmental Protection Act; the lease or rental of real property; or grants or loans made for the purpose of solid waste management or reduction. The term "contractor" does not include subcontractors of a contractor. The term "contractor" does not include a railroad that is subject to a federally mandated drug testing program.

(h) "State" means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths of the State government which are created by or pursuant to statute. (Source: P.A. 86-1459.)

(30 ILCS 580/3) (from Ch. 127, par. 132.313)

Sec. 3. Contracts and grants. No grantee or contractor shall receive a grant or be considered for the purposes of being awarded a contract for the procurement of any property or services from the State unless that grantee or contractor has certified to the granting or contracting agency that it will provide a drug free workplace by:

(a) Publishing a statement:

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee's or contractor's workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will:

(A) abide by the terms of the statement; and

(B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(b) Establishing a drug free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the grantee's or contractor's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(c) Making it a requirement to give a copy of the statement required by subsection (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.

(d) Notifying the contracting or granting agency within 10 days after receiving notice under part (B) of paragraph (3) of subsection (a) from an employee or otherwise receiving actual notice of such conviction.

(e) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by Section 5.

(f) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.
(Source: P.A. 86-1459.)

(30 ILCS 580/4) (from Ch. 127, par. 132.314)

Sec. 4. Requirement for individuals. The State shall not enter into a contract for more than $5,000 or make a grant of more than $5,000 with any individual unless the contract or grant includes a certification by the individual that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.=
(Source: P.A. 86-1459.)

(30 ILCS 580/5) (from Ch. 127, par. 132.315)

Sec. 5. Employee sanctions and remedies. A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace:

(a) Take appropriate personnel action against such employee up to and including termination; or

(b) Require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State, or local health, law enforcement, or other appropriate agency.
(Source: P.A. 86-1459.)

(30 ILCS 580/6) (from Ch. 127, par. 132.316)

Sec. 6. Suspension, termination or debarment of the contractor or grantee. Each contract or grant awarded by the State shall be subject to suspension of payments or termination, or both, and the contractor or grantee thereunder or the individual who entered the contract with or received the grant from the State shall be subject to suspension or debarment in accordance with the requirements of this Section if the head of the agency determines that:

(a) the contractor, grantee, or individual has made a false certification under Section 3 or 4;

(b) the contractor or grantee violates such certification by failing to carry out the requirements of Section 3;

(c) the contractor or grantee does not take appropriate remedial action against employees convicted on drug offenses as specified in Section 5; or

(d) such a number of employees of the contractor or grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor or grant recipient has failed to make a good faith effort to provide a drug free workplace as required by this Act.

(Source: P.A. 86-1459; 87-895.)

(30 ILCS 580/7) (from Ch. 127, par. 132.317)

Sec. 7. Suspension, termination or debarment proceedings. Any determination proceedings for suspension of payments, termination, or debarment pursuant to this Act shall be conducted in accordance with The Illinois Administrative Procedure Act.

(Source: P.A. 86-1459.)

(30 ILCS 580/8) (from Ch. 127, par. 132.318)

Sec. 8. Effect of debarment. Upon issuance of any final decision under this Act requiring debarment of a contractor, grantee or individual, such contractor, grantee or individual shall be ineligible for award of any contract or grant by the State for at least one year but not more than 5 years, as specified in the decision.

(Source: P.A. 86-1459.)

(30 ILCS 580/9) (from Ch. 127, par. 132.319)

Sec. 9. Waiver. A termination, suspension of payments, or suspension or debarment under this Act may be waived by the head of an agency with respect to a particular contract or grant if the head of the agency determines that suspension of

payments, termination of the contract or grant, or suspension or debarment of the contractor, grantee, or individual, as the case may be, would severely disrupt the operation of such agency to the detriment of the general public or would not be in the public interest.
(Source: P.A. 86-1459.)

(30 ILCS 580/10) (from Ch. 127, par. 132.320)
Sec. 10. At the time of entering into a contract or issuing a grant that results in the application of this Act, the State agency letting the contract or issuing the grant must notify the corporation, partnership, or other entity with 25 or more employees or the department, division, or unit of the corporation, partnership, or other entity of the application of this Act and of the necessity of compliance.
(Source: P.A. 86-1459.)

(30 ILCS 580/11) (from Ch. 127, par. 132.321)
Sec. 11. Any actions undertaken by a contractor or grantee in compliance with this Act and in establishing a drug-free workplace shall create a rebuttable presumption of good faith compliance with this Act and shall not be considered a violation of the Illinois Human Rights Act.
(Source: P.A. 86-1459.)

Drug-Free Schools and Communities Act Amendments of 1989

H.R.3614 — 101st Congress (1989-1990)

--H.R.3614--
H.R.3614
One Hundred First Congress of the United States of America
AT THE FIRST SESSION
Begun and held at the City of Washington on Tuesday, the third day of January, one thousand nine hundred and eighty-nine
An Act
To amend the Drug-Free Schools and Communities Act of 1986 to revise certain requirements relating to the provision of drug abuse education and prevention program in elementary and secondary schools, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as the `Drug-Free Schools and Communities Act Amendments of 1989'.
SEC. 2. AUTHORIZATION OF APPROPRIATIONS.
Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)) is amended--
(1) in paragraph (1)--
(A) in subparagraph (A)--
(i) by inserting after `part C' the following: `and section 5136'; and
(ii) by striking `and $20,000,000' and all that follows and inserting the following: `$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993.'; and
(B) in subparagraph (B), by striking `$230,000,000' and inserting `$215,000,000'; and
(2) by adding at the end the following new paragraph:

`(3) There are authorized to be appropriated for purposes of carrying out section 5136 $25,000,000 for each of the fiscal years 1991, 1992, and 1993.'.

SEC. 3. RESERVATIONS AND STATE ALLOTMENTS.

Section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended--

(1) in subsection (a), by striking `From' and inserting `Except as provided in subsection (c)';

(2) in subsection (b), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(3) by adding at the end the following new subsections:

`(c) DISTRIBUTION OF APPROPRIATIONS- Except for funds provided for any fiscal year for part C of this title and sections 5136 and 5137, and for fiscal year 1991 for section 5146, the Secretary shall distribute any amounts appropriated or otherwise made available to carry out this title for any fiscal year in the following manner:

`(1) In any year in which the total of such amounts is not more than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the Secretary shall distribute such total amount as provided in subsections (a) and (b).

`(2) In any year in which the total of such amounts is greater than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the amount in excess of the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989 shall be distributed as follows:

`(A) Such amount as is necessary to carry out the reservations under paragraphs (1), (2), and (3) of subsection (a);

`(B)(i) Except as provided in clause (ii), not more than $14,700,000 to be allocated to the chief executive officer of each State, in an amount which bears the same ratio to such amount as the school-age population of the State bears to the school-age population of all States.

`(ii) For fiscal year 1990, in addition to amounts made available under clause (i), $25,000,000 shall be available for distribution to the chief executive officer of each State in an amount which bears the same ratio to such additional amount as the school-age population of the State bears to the school-age population of all States. Funds available under this clause shall be used to carry out section 5136.

`(C) Subject to subparagraph (D), of the remainder--

`(i) 50 percent of such remainder shall be distributed to the States under subsection (b); and

`(ii) 50 percent of such remainder shall be distributed to the States on the basis of the amounts received by each State under part A of title I of chapter 1 for the preceding fiscal year.

`(D) Under subparagraph (C), no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

`(d) DEFINITION- For the purposes of this section, the term `State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.'.

SEC. 4. USE OF ALLOTMENTS BY STATES.

Section 5121 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3191) is amended by adding at the end the following new subsection:

`(c) USE OF ADDITIONAL AMOUNTS- Any amounts received by a State under section 5112(c)(2)(C) shall be used by the State educational agency to make grants to local educational agencies for purposes of carrying out programs in accordance with section 5125. The State educational agency shall distribute any such amounts among the local educational agencies within the State on the basis of the amounts received by each such local educational agency under part A of title I of chapter 1 for the preceding fiscal year.'.

SEC. 5. STATE PROGRAMS.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended--

(1) in subsection (a) by striking `local governments' and all that follows through `organizations' and inserting `parent groups, community action agencies, community-based organizations, and other public entities and private nonprofit entities';

(2) in subsection (a)--
(A) in paragraph (6) by striking `and' at the end thereof;
(B) in paragraph (7) by striking the period at the end thereof and inserting `; and'; and
(C) by adding at the end of such subsection the following new paragraph:
`(8) to promote, establish, and maintain drug-free school zones for schools within the State.'.
(3) in subsection (b) by striking the second sentence of paragraph (1) and inserting the following: `The chief executive officer shall make grants to or enter into contracts with public entities or private nonprofit entities for purposes of providing community-based programs of coordinated services that are designed for high-risk youths, including programs that use strategies to improve skills of such youths such as vocational and educational counseling and job skills training, giving priority to assisting community action agencies, community-based organizations, parent groups, and other entities which are representative of communities or significant segments of communities and which have the capability to provide such services. The chief executive officer shall also make grants to private nonprofit organizations to develop new strategies to communicate anti-drug abuse messages to youths.';
(4) in subsection (b)(2)--
(A) in subparagraph (I) by striking `or';
(B) in subparagraph (J) by striking the period and inserting `; and'; and
(C) by adding after subparagraph (J) the following new subparagraph:
`(K) is a juvenile in a detention facility within the State.'.
(5) by adding at the end thereof the following new subsection:
`(d) DRUG TESTING PROGRAMS- For each fiscal year, amounts made available to the chief executive officer of a State by section 5121(a) may be used for nondiscriminatory random drug testing programs for students voluntarily participating in athletic activities only in schools which voluntarily choose to participate in such a program. Nothing in this subsection shall prescribe or prohibit the use of drug testing programs.'.

SEC. 6. STATE APPLICATIONS.

Subsection (b) of section 5123 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3193) is amended--
(1) in paragraph (7), by inserting before the semicolon the following: `, and judicial officials';
(2) by striking `and' at the end of paragraph (10);
(3) by striking the period at the end of paragraph (11) and inserting `; and'; and
(4) by adding at the end the following new paragraph:
`(12) include a plan for providing innovative programs of drug abuse education for juveniles in detention facilities within the State as required by section 5122(b)(1)(A).'.

SEC. 7. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

Section 5124 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194) is amended--
(1) by amending subsection (a) to read as follows:
`(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES- (1) Each State educational agency shall use a sum which shall not be less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local educational agencies, intermediate educational agencies, and consortia in the State, in accordance with applications approved under section 5126.
`(2) From the sum described in paragraph (1), the State educational agency shall distribute funds for use among local educational agencies, intermediate educational agencies, and consortia in the State on the basis of the relative enrollments in public schools and private nonprofit schools served by such agencies and consortia.
`(3)(A) Not later than July 1 of each year, the State educational agency shall inform each local educational agency, intermediate educational agency, and consortium in the State of the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121. If a local educational agency or a consortium of local educational agencies chooses not to apply to receive the amount allocated to such agency under

this subsection, the State educational agency--
`(i) shall distribute such amount to the intermediate educational agency serving such local educational agency or consortium; or
`(ii) may, if it is able to facilitate the arrangement of a consortium among local educational agencies in the State that choose not to apply to receive the amounts allocated to such agencies under this subsection, distribute such amount to such consortium.
`(B) The State educational agency shall distribute to a local educational agency, intermediate educational agency, or consortium the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121 upon the approval of an application for such agency under section 5126.
`(4)(A) Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency, intermediate educational agency, or consortium under this subsection receives its allocation under this subsection--
`(i) such agency or consortium shall return to the State educational agency any funds from such allocation that remain unobligated; and
`(ii) the State educational agency shall reallocate any such amount to local educational agencies, intermediate educational agencies, or consortia that have plans for using such amount for programs or activities on a timely basis.
`(B) In any fiscal year, a local educational agency, intermediate educational agency, or consortium may retain for obligation in the succeeding fiscal year--
`(i) an amount equal to not more than 25 percent of the allocation it receives under this subsection for such fiscal year; or
`(ii) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency,'; and
(2) in subsection (b)--
(A) in paragraph (2), by inserting after `materials' the following: `that clearly and consistently teach that illicit drug use is harmful'; and
(B) in paragraph (5), by striking `2.5 percent' and all that follows and inserting `5 percent of the amounts available under subsections (b) and (c) of section 5121.'.

SEC. 8. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended in subsection (a)--
(1) in paragraph (2), by inserting before the semicolon the following: `, which--
`(A) should, to the extent practicable, employ counselors whose sole duty is to provide drug abuse prevention counseling to students;
`(B) may include the use of drug-free older students as positive role models and instruction relating to--
`(i) self-esteem;
`(ii) drugs and drug addiction;
`(iii) decision making and risk-taking;
`(iv) stress management techniques; and
`(v) assertiveness;
`(C) may bring law enforcement officers into the classroom to provide antidrug information and positive alternatives to drug use, including decision making and assertiveness skills; and
`(D) in the case of a local educational agency that determines it has served all students in all grades, such local educational agency may target additional funds to particularly vulnerable age groups, especially those in grades 4 through 9';
(2) in paragraph (4)--
(A) by inserting `and intervention' after `drug abuse prevention'; and
(B) by striking the semicolon at the end and inserting the following: `, which may include--
`(A) the employment of counselors, social workers, psychologists, or nurses who are trained to provide drug abuse prevention and intervention counseling; or
`(B) the provision of services through a contract with a private nonprofit organization that employs individuals who are trained to provide such

counseling;';
(3) in paragraph (8), by striking `educational personnel' and inserting `school personnel'; and
(4) in paragraph (11) by striking `and' at the end thereof;
(5) by redesignating paragraph (12) as paragraph (13); and
(6) by adding after paragraph (11) the following new paragraph:
`(12) model alternative schools for youth with drug problems that address the special needs of such students through education and counseling; and'.

SEC. 9. LOCAL APPLICATIONS.

Section 5126 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196) is amended--
(1) in subsection (a)--
(A) in paragraph (1), by inserting before the period the following: `before the expiration of the 120-day period beginning on the date that the State educational agency notifies the local educational agency, intermediate educational agency, or consortium of the amount allocated to such agency or consortium under section 5124(a).'; and
(B) in paragraph (2)--
(i) in subparagraph (H), by inserting before the semicolon the following: `and with appropriate community-based organizations';
(ii) by striking `and' at the end of subparagraph (L);
(iii) by redesignating subparagraph (M) as subparagraph (R); and
(iv) by inserting after subparagraph (L) the following new subparagraphs:
`(M) describe how the applicant will ensure that the schools will be an important part of a community-wide effort to achieve a drug-free population;
`(N) describe how, to the extent practicable, assistance provided under this title will be used to provide trained counselors, social workers, psychologists, and nurses to carry out drug abuse prevention and intervention activities in addition to any individuals so employed by the applicant on the date of the enactment of the Drug-Free Schools and Communities Act Amendments of 1989;
`(O) provide assurances that the applicant will maintain and make available for distribution a list of local resources for substance abuse counseling and treatment;
`(P) provide assurances that the applicant has reviewed curricula that it intends to use and that such curricula will meet the needs of the schools served by the applicant;
`(Q) describe the training that will be provided for teachers and other personnel who are involved in the implementation of programs to be carried out by the applicant under this part; and'; and
(2) by amending paragraph (1) of subsection (b) to read as follows:
`(1) Each applicant shall annually submit to the State educational agency a progress report on the implementation of its plan. The progress report shall include--
`(A) the applicant's significant accomplishments under the plan during the preceding year;
`(B) the extent to which the original objectives of the plan are being achieved;
`(C) a discussion of the method used by the applicant to evaluate the effectiveness of its drug education program carried out under its plan; and
`(D) the results of the evaluation described in subparagraph (C).'.

SEC. 10. REPORTS.

Subsection (a) of section 5127 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3197) is amended in paragraph (3)--
(1) by striking `and' at the end of subparagraph (F);
(2) by striking the period at the end of subparagraph (G) and inserting `; and'; and
(3) by adding at the end the following new subparagraph:
`(H) an evaluation of the effectiveness of State and local drug and alcohol abuse education and prevention programs.'.

SEC. 11. TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL.

(a) AMENDMENT TO PART HEADING- The heading for part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198 et seq.) is amended to read as follows:

`PART C--TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL'.
(b) PROGRAM AND ALLOCATIONS- Subsection (b) of section 5128 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198) is amended by striking `educational personnel' in the first sentence and inserting `school personnel'.

SEC. 12. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL- Section 5131 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211) is amended--
(1) in paragraph (4) of subsection (a), by striking `subsection (d)' and inserting `subsection (c)';
(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and
(3) by striking subsection (e).
(b) TRANSITION PROVISION- Any amounts appropriated for the fiscal year 1990 and for any subsequent fiscal year for the purpose of making training grants under section 5131(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211) as such section existed on the day before the date of the enactment of this Act shall be used by the Secretary of Education for the purpose of making grants under section 5128 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198).

SEC. 13. FEDERAL ACTIVITIES.

Subsection (b) of section 5132 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended--
(1) by striking `and' at the end of paragraph (4);
(2) by striking the period at the end of paragraph (5) and inserting `; and'; and
(3) by adding at the end the following new paragraphs:
`(6) use private nonprofit organizations to develop innovative strategies to communicate antidrug abuse messages to youths and to eliminate drug abuse from the communities of the Nation; and
`(7) as necessary, evaluate programs assisted under this title.'.

SEC. 14. EMERGENCY GRANTS.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following new section:

`SEC. 5136 EMERGENCY GRANTS.

`(a) PROGRAM AUTHORIZED- Except as provided under subsection (d), the Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall make grants to eligible local educational agencies that demonstrate significant need for additional assistance for purposes of combating drug and alcohol abuse by students served by such agencies.
`(b) ELIGIBLE AGENCIES- A local educational agency shall be eligible to receive a grant under this section if such agency--
`(1) receives assistance under section 1006 or meets the criteria of clauses (i) and (ii) of section 1006(a)(1)(A); and
`(2) serves an area--
`(A) in which there is a large number or a high percentage of--
`(i) arrests for, or while under the influence of, drugs or alcohol; or
`(ii) convictions of youths for drug or alcohol-related crimes;
`(B) in which there is a large number or high percentage of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs; and
`(C) that has a significant drug and alcohol abuse problem, as indicated by other appropriate data.
`(c) AMOUNT OF GRANTS- Each grant awarded under this section shall be in an amount that is not less than $100,000 and not more than $1,000,000.
`(d) FISCAL YEAR 1990- For fiscal year 1990, funds available for the purposes of this section shall be allocated to the chief executive officer of each State for distribution through State educational agencies to local educational agencies.'.

SEC. 15. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM.

Part D of the Drug-Free Schools and Communities Act (20 U.S.C. 3211 et seq.) is amended by adding after section 5136 (as added by section 14) the following new section:

`SEC. 5137. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM.

`(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR DRUG-FREE SCHOOL ZONES- The Secretary of Education is authorized to establish a demonstration program to establish and maintain drug-free school zones. In carrying out the demonstration program under this section, the Secretary shall make grants to local educational agencies, intermediate educational agencies, and consortia.

`(b) EVALUATIONS- The Secretary shall evaluate programs under this section.

`(c) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated $2,000,000 to carry out the purposes of this section. Funds appropriated under this section are authorized to remain available until expended.'.

SEC. 16. DEFINITIONS.

Section 5141 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3221) is amended--

(1) in paragraph (1), by inserting before the period the following: `, including anabolic steroids';

(2) in paragraph (2), by inserting before the period the following: `, including anabolic steroids'; and

(3) by adding at the end the following new paragraph:

`(10) The term `school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.'.

SEC. 17. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT ELEMENTARY AND SECONDARY SCHOOLS.

Subsection (c) of section 5143 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3233) is amended--

(1) by striking `WAIVER;';

(2) by inserting after `SECRETARY' the following: `AND STATE EDUCATIONAL AGENCIES';

(3) by inserting `(1)' before `If by reason'; and

(4) by adding at the end the following new paragraph:

`(2) If a State educational agency determines that a local educational agency, intermediate educational agency, or consortium, as appropriate, is failing to provide for the equitable participation of children or teachers from private nonprofit elementary or secondary schools in accordance with subsection (a) or (b), the State educational agency shall waive the requirements of such subsection with respect to such local educational agency, intermediate educational agency, or consortium and make appropriate arrangements for the equitable participation of such children or teachers.'.

SEC. 18. NATIONAL DIFFUSION NETWORK.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3221 et seq.) is amended by adding at the end the following new section:

`SEC. 5146. DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.

`(a) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE- The Secretary, through the National Diffusion Network established under section 1562, shall disseminate information and technical assistance with respect to drug abuse education and prevention programs of demonstrated effectiveness.

`(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section, $500,000 for fiscal year 1991.'.

SEC. 19. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS.

(a) AMENDMENT TO PART HEADING- The heading for part F of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3227) is amended to read as follows:

`PART F--DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS'.

(b) PROGRAM AUTHORIZED- Subsection (a) of section 5151 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3227) is amended--

(1) by striking `and such other' and inserting `such other'; and

(2) by inserting before the period the following: `, and to parents of children participating in such programs'.

SEC. 20. LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT.

Section 541(b) of the Higher Education Act of 1965 (20 U.S.C. 1109(b)) is amended--

(1) by striking `and' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting `;

and'; and
(3) by adding at the end the following new paragraph:
`(6) developing skills and techniques for administering drug prevention and education programs.'.
SEC. 21. EMERGENCY GRANTS FOR CHILD ABUSE PREVENTION SERVICES FOR CHILDREN WHOSE PARENTS ARE SUBSTANCE ABUSERS.
The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 (Public Law 101-126), is amended by adding after section 107 the following new section:
`SEC. 107A. EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANT.
`(a) ESTABLISHMENT- The Secretary shall establish a program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.
`(b) ELIGIBLE ENTITIES- Entities eligible to receive a grant under this section shall be--
`(1) State and local agencies that are responsible for administering child abuse or related child abuse intervention services; and
`(2) community and mental health agencies and nonprofit youth-serving organizations with experience in providing child abuse prevention services.
`(c) APPLICATION-
`(1) IN GENERAL- To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.
`(2) ASSURANCE OF USE- An application submitted under paragraph (1) shall--
`(A) contain an assurance that the applicant operates in a geographic area where child abuse has placed substantial strains on State and local agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;
`(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;
`(C) contain a description of emergency situations with regard to children of substance abusers who need services of the type described in this section;
`(D) contain a plan for improving the delivery of such services to such children;
`(E) contain assurances that such services will be provided in a comprehensive multi-disciplinary and coordinated manner; and
`(F) contain any additional information as the Secretary may reasonably require.
`(d) USE OF FUNDS- Funds received by an entity under this section shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include--
`(1) the hiring of additional personnel by the entity to reduce caseloads;
`(2) the provision of additional training for personnel to improve their ability to provide emergency child abuse prevention services related to substance abuse by the parents of such children;
`(3) the provision of expanded services to deal with family crises created by substance abuse; and
`(4) the establishment or improvement of coordination between the agency administering the grant, and--
`(A) child advocates;
`(B) public educational institutions;
`(C) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants; and
`(D) parents and representatives of parent groups and related agencies.
`(e) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1990, and such sums as may be necessary for each of the subsequent fiscal years 1991, 1992, and 1993.'.
SEC. 22. DRUG-FREE SCHOOLS AND CAMPUSES.
(a) IN GENERAL-
(1) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAM- Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by

adding at the end a new section 1213 to read as follows:
`DRUG AND ALCOHOL ABUSE PREVENTION
`SEC. 1213. (a) Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes--
`(1) the annual distribution to each student and employee of--
`(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;
`(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;
`(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
`(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and
`(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and
`(2) a biennial review by the institution of its program to--
`(A) determine its effectiveness and implement changes to the program if they are needed; and
`(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.
`(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).
`(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for--
`(A) the periodic review of a representative sample of programs required by subsection (a); and
`(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.
`(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.
`(d) Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.'.
(2) EFFECTIVE DATE- (A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on October 1, 1990.
(B) The Secretary of Education may allow any institution of higher education until not later than April 1, 1991, to comply with section 1213 of the Higher Education Act of 1965 (as added by paragraph (1)) if such institution demonstrates--
(i) that it is in the process of developing and implementing its plan under such section; and

(ii) it has a legitimate need for more time to develop and implement such plan.
(b) AMENDMENTS TO DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986-
(1) IN GENERAL- Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding after section 5144 the following new section:
`SEC. 5145. CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.
`(a) IN GENERAL- Notwithstanding any other provision of law other than section 432 of the General Education Provisions Act and section 103(b) of the Department of Education Organization Act, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes--
`(1) age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;
`(2) conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful;
`(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;
`(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;
`(5) information about any available drug and alcohol counseling and rehabilitation and re-entry programs that are available to students and employees;
`(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);
`(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and
`(8) a biennial review by the applicant of its program to--
`(A) determine its effectiveness and implement changes to the program if they are needed; and
`(B) ensure that the sanctions required by paragraph (4) are consistently enforced.
`(b) DISSEMINATION OF INFORMATION- Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.
`(c) CERTIFICATION TO SECRETARY- Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.
`(d) REGULATIONS- (1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for--
`(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and
`(B) a range of responses and sanctions for local educational agencies that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development

of a compliance agreement, and the termination of any form of Federal financial assistance.

`(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.

`(e) Upon a determination by the Secretary to terminate financial assistance to any local educational agency under this section, the agency may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such agency is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the agency concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.'.

(2) CONFORMING AMENDMENTS- Paragraph (2) of section 5126(e) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(c)) (as amended by section 9 of this Act) is amended--

(A) by striking subparagraphs (E), (F), and (G); and

(B) by redesignating subparagraphs (H) through (R) as subparagraphs (E) through (O), respectively.

(3) EFFECTIVE DATE- (A) Except as provided in subparagraph (B), the amendments made by paragraphs (1) and (2) shall take effect on October 1, 1990.

(B) The Secretary of Education may allow any local educational agency until not later than April 1, 1991, to comply with section 5145 of the Drug-Free Schools and Communities Act of 1986 (as added by paragraph (1)) if such agency demonstrates--

(i) that it is in the process of developing and implementing its plan under such section; and

(ii) it has a legitimate need for more time to develop and implement such plan.

SEC. 23. BEFORE AND AFTER SCHOOL PROGRAMS FOR UNSUPERVISED CHILDREN.

Section 3521(d) of the National Narcotics Leadership Act of 1988 is amended by--

(1) redesignating paragraph (8) as paragraph (9);

(2) striking `and' at the end of paragraph (7); and

(3) inserting after paragraph (7) the following new paragraph:

`(8) programs for unsupervised children before and after school, including--

`(A) education and instruction consistent with the Drug-Free Schools and Communities Act of 1986;

`(B) athletic activities;

`(C) creative activities; and

`(D) other programs designed to reduce the risk of drug abuse; and'.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

Appendix H: The Clery Act Regulations

A Legislative History of the Clery Act

The Student Right to Know and Campus Security Act (Public Law 101-542) was signed into law by President Bush in 1990 and went into effect on Sept. 1, 1991. Title II of this act is known as the Crime Awareness and Campus Security Act of 1990. This act amends the Higher Education Act of 1965 (HEA) by adding campus crime statistics and reporting provisions for postsecondary institutions. It requires the disclosure of crime statistics for the most recent three years, as well as disclosure of the institution's current security policies. Institutions are also required to issue timely warnings when necessary. All public and private Title IV eligible institutions must comply with the requirements of this act which is enforced by the U. S. Department of Education (ED).

This law was amended when Congress enacted the Campus Sexual Assault Victim's Bill of Rights as part of the Higher Education Amendments of 1992 {Public Law 102-325, Section 486(C)}, giving victims of sexual assault on campus certain basic rights. In addition, institutions are required to develop and distribute a policy statement concerning their campus sexual assault programs targeting the prevention of sex offenses. This statement must also address the procedures to be followed if a sex offense occurs.

The most recent version of this law was passed as part of the Higher Education Amendments Act of 1998 {Section 486(e) of Public Law 105-244}. The official title under this act is the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act {20 U.S.C. 1092(f)}. On Nov. 1, 1999, ED issued the final regulations which went into effect on July 1, 2000. The amendments require ED to collect, analyze, and report to Congress on the incidences of crime on college campuses. The amendments also expand the requirement of the Student Right to Know and Campus Security Act of 1990 that all institutions of higher education participating in the federal student aid programs must disclose to students, faculty, staff, and, upon request, prospective students, information regarding the incidence of crimes on campus as part of their campus security report.

The 1998 amendments made several changes to the disclosure requirements. Among these changes were the addition of two crimes (Arson and Negligent Manslaughter) and three locations (residence halls, noncampus buildings or property not geographically contiguous to the campus, and public property immediately adjacent to a facility that is owned or operated by the institution for education purposes) that schools must include in the reported statistics. Institutions that have a campus police or security department are required to maintain a daily crime log that is available to the public.

The Clery Act was further amended in October 2000 by the Campus Sex Crimes Prevention Act (Section 1601 of Public Law 106-386). The changes went into effect on Oct. 28, 2002. Beginning in2003, institutions are required to notify the campus community where law enforcement agency information provided by a state concerning registered sex offenders who are on campus may be obtained. The text for the regulations, as well as Section 668.41, Reporting and Disclosure of Information, are included in this appendix. Student Assistance General Provisions; Final Rule [Federal Register: November 1, 1999 (Volume 64, Number 210)] [Rules and Regulations] [Page 59059-59073] From the Federal Register Online via GPO Access [wais.access.gpo.gov] [DOCID:fr01no99-18]
[[Page 59059]] Part IX Department of Education

Appendix I: Performance Evaluations for Administrative Staff, Teaching Faculty1, Faculty Self-evaluation 2, and Individual professor evaluation with recommendations

PERFORMANCE EVALUATION FOR NON-TEACHING STAFF

Employee performance will be measured against objective standards. At the beginning of a review period, the supervisor will discuss with the employee the evaluation criteria on which the employee is reviewed. Formal evaluations are conducted at least once a year. The primary goal of a performance evaluation system is to measure the value of an employee's contribution to the institution. This allows TBI to fairly compensate, and maximize the worth of the individual. The procedures outlined in this document apply to every full-time, non-faculty Chicago College of Oriental Medicine employee.

PERFORMANCE EVALUATION FOR TEACHING FACULTY

The primary goal of a performance evaluation system is to measure the value of an employee's contribution to the institution. This allows TBI to fairly compensate, and maximize the worth of the individual. The procedures outlined in this document apply to every full-time, TBI faculty member. The major components of the professor evaluation system are (1) professor self-evaluation, (2) student evaluations and (3) a classroom observation with a critique by the evaluating teacher or dean. All of this is followed by a formal performance review and discussion with the academic dean. This occurs at least once a year for senior professors and more frequently for new professors.

Taylor Business Institute's
Performance Evaluation

Employee Name	Date of Evaluation

Job Title	Department

Rating Guide
Unsatisfactory – Major shortcomings in performance.
Marginal – Improvement needed in some key job areas. Considerable guidance and supervision are required.
Competent – Responsibilities are met in a wholly satisfactory manner. Normal guidance and supervision required.
Superior – Generally exceeds requirements with minimum guidance. Well above average performance.
Distinguished – Conspicuously meritorious performance. Consistently exceeds all requirements.

Place the number, which best describes the employee's performance inside the bracket in each section. Comments must be made in the comments section that supports each numerical rating.

Knowledge of Job		The understanding of basic fundamentals and job procedures.
Quality of Work		Consider the level of accuracy, uniformity, thoroughness of work.
Productivity		Effectiveness in completing required work assignments.
Dependability		Does what the supervisor requests and exhibits sound judgment.

Human Relations		Effectiveness in on the job dealing with people.
Initiative		Seeks ways to complete assignments with minimum supervision.
Overall Evaluation		An accumulative result of each section.

Supervisor's Comments

Knowledge of Job

Quality of Work
Productivity
Dependability
Human Relations
Initiative
Overall Evaluation

Employee's Comments

This performance evaluation has been discussed with the employee.

Employee's Signature and Review Date Supervisor's Signature and Review Date

Taylor Business Institute's
Course and Teacher Evaluation

Date: _____
Course name: _____
Professor's Name: _____
Please circle the response which you think most accurately fits your answer to the questions below. 5 = Always, 4 = Usually, 3 = Sometimes, 2 = Rarely, 1 = Never and NA = Not Applicable for this course.

Questions about you as student in the course:

1.	I was self-motivated to learn in this course.	5	4	3	2	1
2.	I prepared ahead of time for each class session.	5	4	3	2	1
3.	I ask the professor for help when I needed it.	5	4	3	2	1
4.	I put enough time and effort into the course to succeed.	5	4	3	2	1
5.	I participated actively in the class activities.	5	4	3	2	1
6.	I attended class sessions.	5	4	3	2	1
7.	I was on time for class sessions.	5	4	3	2	1
8.	Overall I gave my best effort in this course.	5	4	3	2	1

Questions about the course

1.	The course syllabus was clear and organized.	5	4	3	2	1
2.	The textbooks were helpful.	5	4	3	2	1
3.	The textbooks were available on time.	5	4	3	2	1
4.	The assignments were helpful for learning.	5	4	3	2	1
5.	The amount of work was appropriate for the credits.	5	4	3	2	1
6.	The tests were related to the course objectives.	5	4	3	2	1

Questions about the professor:

1.	The professor related the objectives to the class activities	5	4	3	2	1
2.	The professor helped me relate my experience to	5	4	3	2	1
3.	the course material.	5	4	3	2	1
4.	The professor had knowledge of the subject matter.	5	4	3	2	1
5.	The professor showed the practical value of the material	5	4	3	2	1
6.	The professor provided useful feedback on tests and assignments.	5	4	3	2	1
7.	The professor inspired excitement about the material.	5	4	3	2	1
8.	The professor was available to help me.	5	4	3	2	1
9.	The professor communicated ideas clearly.	5	4	3	2	1
10.	The professor graded fairly.	5	4	3	2	1
11.	The professor treated students and ideas with respect.	5	4	3	2	1
12.	The professor came to class prepared.	5	4	3	2	1
13.	The professor was open to different points of view.	5	4	3	2	1
14.	The professor was patient when explaining material.	5	4	3	2	1
15.	The professor used a variety of teaching methods.	5	4	3	2	1
16.	The professor kept order in the classroom.	5	4	3	2	1
17.	The professor started class on time.	5	4	3	2	1

Summary questions: Compared with other courses, how would you rate this course: (5 = very high, 4 = high, 3 = adequate, 2 = low 1 = very low, NA = not applicable)

		VH		H	A	L	VL	NA
1.	This course increased my desire to learn more about the subject.	5	4	3	2	1	NA	
2.	I would encourage other student to take this course.	5	4	3	2	1	NA	
3.	Overall, I would rate the quality of this course as	5	4	3	2	1	NA	
4.	Overall, I would rate the effectiveness of this professor as	5	4	3	2	1	NA	
5.	Overall I would rate the amount I learned as	5	4	3	2	1	NA	

Comments:

Faculty Self-Evaluation

Department: Course Number:
Professor: Quarter:

The following items reflect some of the ways teachers can be described. Please circle the number, which indicates the degree to which you feel each item is descriptive of your teaching in this course. In some cases, the statement may not apply. In these cases, Check "Doesn't Apply or Don't Know."

As an Professor, I ……Excellent……..……..Poor

1	Begin class promptly at the designated time	1 2 3 4 5
2	Take attendance daily	1 2 3 4 5
3	Am never late to class	1 2 3 4 5
4	Begin the day's lesson immediately, no fooling around	1 2 3 4 5
5	Follow a written plan for that particular lesson	1 2 3 4 5
6	Have written goals for each subject taught	1 2 3 4 5
7	Check student progress with established goals	1 2 3 4 5
8	Vary the class procedures from day to day	1 2 3 4 5
9	Use audio visual aids when appropriate	1 2 3 4 5
10	Provide individual help outside of class as needed	1 2 3 4 5
11	Always speak distinctly and clearly; enunciate well	1 2 3 4 5
12	Have no irritating mannerisms	1 2 3 4 5
13	Do not introduce irrelevant materials in class	1 2 3 4 5
14	Prepare test that measure progress on what's taught in class	1 2 3 4 5
15	Return tests corrected/scored within 24 hours	1 2 3 4 5
16	Do not dominate the class and allow for students to take part	1 2 3 4 5
17	Evaluate other textbooks for possible adoption	1 2 3 4 5
18	Use community resources	1 2 3 4 5
19	Preview all homework assignments	1 2 3 4 5
20	Review homework when appropriate	1 2 3 4 5
21	Evaluate, in some manner, all homework submitted	1 2 3 4 5
22	Do not assign an excessive amount of homework	1 2 3 4 5
23	Discuss points of view other than my own	1 2 3 4 5
24	Discuss recent developments in the field	1 2 3 4 5
25	Give references for more interesting and involved points	1 2 3 4 5
26	Emphasize conceptual understanding	1 2 3 4 5
27	Explain clearly	1 2 3 4 5
28	Am well prepared	1 2 3 4 5
29	Give lectures that are easy to outline	1 2 3 4 5
30	Summarize major points	1 2 3 4 5
31	Identify what I consider important	1 2 3 4 5
32	Encourage class discussion	1 2 3 4 5

33	Invite students to share their knowledge and experience	1 2 3 4 5
34	Invite criticism "of my own ideas."	1 2 3 4 5
35	Know if the class is understanding me or not	1 2 3 4 5
36	Have students apply concepts to demonstrate understanding	1 2 3 4 5
37	Give personal "help to students having difficulties in course	1 2 3 4 5
38	Relate to students, as individuals	1 2 3 4 5
39	Am accessible to students outside of class	1 2 3 4 5
40	Have an interesting style of presentation	1 2 3 4 5
41	Vary the speed and tone of my voice	1 2 3 4 5
42	Motivate students to do their best work	1 2 3 4 5
43	Give interesting, and stimulating assignments	1 2 3 4 5
44	Give exams permitting students to show Understanding	1 2 3 4 5
45	Keep students informed of their progress	1 2 3 4 5

INDIVIDUAL PROFESSOR EVALUATION WITH RECOMMENDATIONS

Date:

Name of Professor:

Course:

1. Areas of strengths discussed with relevant data:

2. Areas needing improvement discussed with relevant data:

3. Recommendations:

Signed: _____ Date: _____
(Professor)

Signed: _____ Date: _____

SUMMARY of COURSE and TEACHER EVALUATIONS

Date: _____

1. Students' Self Evaluation:
a. Average overall score: _ _____
b. Areas of strength and weakness:

c. Recommendations/Reflections:

2. Course Evaluation:
a. Average overall score: _ _____
b. Areas of strength and weakness:

c. Recommendations/Reflections:

3. Teacher Evaluations:
a. Average overall score: _ _____
b. Overall areas of strength:

c. Overall areas needing improvement:

d. Specific professors needing improvement (separate form contains details):

e. Recommendations/Reflections:

4. Overall response to the course:

a. Overall Score

b. Areas of strength:

c. Areas needing improvement:

d. Recommendations/Reflections:

Appendix J: TBI Crisis Management/ Workplace Violence Policy

TABLE OF CONTENTS

1. Introduction

The College shall maintain a crisis management plan to handle various crises which might threaten the physical safety of students, employees, the public and/or the resources of Taylor Business Institute (TBI). The Crisis Management Plan should address, without limit: criminal activities, medical emergencies, workplace violence, active shooters, fire, outbreaks of disease or infections, acts of terror of war and similar situations which require the management of resources and processes to protect life and property. The plan shall provide for effective means of communication with students, employees and the public. In the development of such a crisis management plan, the following underlying principles shall apply. The protection of human life and health is of the utmost importance. TBI property and other resources shall be protected and preserved wherever possible. The college shall cooperate with federal, state, and local disaster management and law enforcement agencies with respect to any crisis occurring on TBI property and/or involving college personnel or students.

Plans should provide for the designation of a single individual as coordinator supported by a designated crisis management team. The college attorney shall be consulted in cases where the legal responsibilities of the college are unclear.

The college has a policy of zero tolerance for violence. Employees who engage in violence in the workplace, or threaten violence in the workplace, may be terminated immediately for cause. No talk of violence or jokes about violence will be tolerated.

"Violence" includes physically harming another, shoving, pushing, harassing, intimidating, coercing, brandishing, weapons, and threatening or talking of engaging in those activities. It is the intent of this policy to ensure that everyone associated with the college, including students and employees, never feels threatened by any individual's actions or conduct.

2. Communications

- Communications shall be from the President of her designee with respect to crises affecting the institution.
- The Crisis Management Team shall inform the President and the Board of Governors of any crisis that has occurred and give periodic status reports as information is available.
- Appropriate information shall be provided routinely to TBI employees and students to enable their cooperation in a potential crisis.

- The Safety and Security Coordinator is the contact person for adaptations or revisions to this policy.

3. Types of Crises/Emergencies Identified

1) Medical Emergency – epidemic or poisoning.
2) Violence Crime or Behavior – robbery, suicide, personal injury (existing or personal) etc.
3) Off Campus Incidents/Accidents Involving Students, Faculty and/or Staff.
4) Active Shooter.

4. TBI Crisis Management Team

The TBI Crisis Management Team is created under the authority of the President of Taylor Business Institute. Authority to activate the Crisis Management Team is designated to each member. The TBI Crisis Management Team must be available to respond and react as a team in emergency or crisis situations. The team is required to meet annually to review the plan and update information. A written report will be provided to the President after each review.

The TBI Crisis Management Team consists of the following roles:

- Incident Commander
- Public Information Officer
- Safety Officer
- General Staff consisting of Vice President, Dean of Academic Affairs and Safety and Security Coordinator

5. GENERAL PLAN

Assumptions

In any situation where the Police or Fire Department are involved, they will secure the situation and take jurisdiction of all activities. The President of TBI will coordinate all college communications including those with the media. Under no circumstance will any representative of the college reveal a victim's name in any case, unless authorized to do so by the victim or the victim's agents.

Crisis Team Meeting Place

The 9th floor conference room will be the primary meeting place.

Emergency Shelter

The lower level will be the on-campus emergency shelter for students and teaching staff. The 9th floor will be the on campus emergency shelter for the administrative staff.

6. Crisis Management Team Responsibilities

Emergency in Progress or Immediate Aftermath

City services are called if required and not already on scene.
Initiate College communication plans, contact key personnel.
Set up command post.
React and coordinate activities for campus security, evacuation, shelter, counceling, etc.
Coordinate restoration of lost or damaged utility services.
Initiate damage control.
Contact Emergency Responders
Complete incident report(s) and complete a record of activities.

Post Emergency

Debrief and continuing communications as required to the college community, general community, and the media.
Ensure arrangements are made for counseling to be provided to those who need it.
Record events and prepare permanent records to be maintained.
Assess any required changes or additions to the crisis management plan.
Complete incident report(s).

7. College Functional Responsibilities

Security Services

Protect lives and property as well as secure and control the emergency site.
Coordinate and maintain command post.
Maintain public order on campus.
Coordinate rescue activities by college personnel.
Record the event and actions taken.
Assist proper authorities (Police, Fire, EMS, etc.) whenever necessary.

Safety and Security Coordinator

Handle or clear all media activities.
Act as chief spokesperson for the college or advise chief spokesperson.
Initiate emergency closing notifications and coordinate special notifications as required.
Provide clear, continuous and timely communication to faculty, staff and students and external publics as required.

Building Maintenance

Monitor safety hazards.
Field observations for hazardous conditions and situations.
Advise on measures to maintain safety.
Record the event and action taken for liability and risk management.
Contact appropriate outside agencies.

Dean of Academic Affairs

Contact students or families when appropriate.
Advise faculty about situations involving students.
Provide counseling as required to victims and affected individuals.

8. CRISIS MANAGEMENT PROTOCOL

A. Medical Emergency

STEPS

Person Identifying Situation

1. Notify 911 and indicate medical emergency, 911 will contact necessary Emergency Responders.
2. Notify the Safety and Security Coordinator or the Dean of Academic Affairs.
3. Be available to provide information to Emergency Responders about the situation.

Security Services (Safety and Security Coordinator)

4. Safety and Security Coordinator will contact the Crisis Management Team
5. Secure the victim from further injury due to unsafe conditions if possible.

6. Prevent unauthorized access to the incident site.

Crisis Management Team

7. Set up crisis command post.
8. Arrange for temporary accommodation and relocations if necessary.
9. Prepare for appropriate communication.
10. Arrange for hot line if necessary for students and/or parents.

B. Violent Crime or Behavior

STEPS: CRIME IN PROCESS

Person experiencing situation

1. Stay Calm
2. Meet demands (money, grades, etc.) whenever possible
3. Notify 911 and indicate the situation immediately
4. Contact Safety and Security Coordinator as soon as possible
5. Move to a safe environment

Security Services (Safety and Security Services)

6. Safety and Security Coordinator will contact the Crisis Management Team.
7. Secure the victim from further injury due to unsafe conditions if possible.
8. Prevent unauthorized access to the incident site.

Crisis Management Team

9. Initiate communication plans.
10. Set up crisis command post if required.
11. Arrange counseling or victim service for affected individuals.

C. Discovery of Violent Crimes

STEPS: DISCOVERY OF VIOLENT CRIMES (POST OCCURANCE)

Person Discovering the Situation

1. Notify 911 and they will notify appropriate responders.
2. Notify the Safety and Security Coordinator as soon as possible.
3. Go to a safe place and wait for Emergency Responders. Report everything noted, or relevance, to the authorities.

Security Services

4. The Safety and Security Coordinator will secure the area.
5. Assist Police or Emergency Responders with any required actions deemed necessary.
6. The Safety and Security Coordinator will contact the Crisis Management Team.

Crisis Management Team

7. The Crisis Management Team will contact other required personnel.
8. Arrange for counseling or victim services for those affected.
9. Prepare media response as required.
10. Notify family if required.

D. Off Campus Incidents Involving Students, Faculty and/or Staff

STEPS:

1. Notify the Safety and Security Coordinator or Dean of Academic Affairs as soon as possible.
2. The Safety and Security Coordinator or the Dean of Academic Affairs will notify the Crisis Management Team immediately.
3. The Crisis Management Team will contact the required personnel.
4. Prepare press release if required.
5. Arrange counseling if required.

E. Active Shooter

STEPS:

Person Identifying Situation

1. Treat all threats as a life-threatening situation.
2. Do not assume the threat is unreal or not possible.
3. Notify 911 immediately.
4. Follow active shooter procedures.

Security Services (Safety and Security Coordinator)

5. Assess situation and notify College administration if necessary.
6. Follow the evacuation procedures.

Appendix K: Conflict of Interest Policy Statement for Board of Governors, Administrators and Employees of Taylor Business Institute

Policy Statement

The Board of Governors, faculty, administrators and staff at Taylor Business Institute recognize a shared responsibility to ensure that they conduct themselves in an unbiased manner and serve the goals of the College. It is therefore the responsibility of the College and its employees to protect against conflicts of interest which might compromise the integrity and objectivity of the Taylor Business Institute community.

Situations in which real or personal conflicts of interest may exist may not be completely avoidable without impairing the desirable consequences intended. The goal of this policy, therefore, is not to eliminate all conflicts. Rather the goal of the policy is to develop the means to manage material conflicts of interest and to ensure that the integrity of the College is not compromised or perceived to be compromised.

This statement of the College's Conflict of Interest policy has been prepared to outline TBI's approach to identifying and evaluating potential conflicts of interest and assisting its Board and employees in addressing conflict of interest issues.

A. APPLICATION OF POLICY

This policy is applicable to:

- Board of Governors
- Administrators
- All Taylor Business Institute faculty members.
- All Taylor Business Institute staff members.

B. DEFINITIONS

- **Conflict of Interest.**
  1. Taylor Business Institute's Board of Governors and many of its employees either have positions that allow them to influence Taylor Business Institute's decisions, or they have been entrusted with the authority to make decisions for the College. Conflict of interest exists if an employee's position or authority may be used to influence or make decisions that lead to any form of financial or personal gain for that Board member, Administrator or employee or for his or her family.
  2. A conflict of interest is only material if an ordinary person would take it into account in making a decision. Only material conflicts of interest are within the scope of this policy.
- **Family.** For purposes of this policy, family is defined as the employee's spouse and minor children.
- **Financial Interest.** Any relationship, including a consulting relationship, entered into by the

employee or his or her family, other than employment by the College, which could result in financial gain for the employee or his or her family.

C. PRINCIPLES

- **General Principles.** As a natural outgrowth of personal commitment to academic principles, TBI's Board, Administrator and employees must ensure the integrity of their college related pursuits by taking steps to avoid conflict of interest, or even the appearance of a conflicts of interest. Because the complexity and diversity of personal relationships is extensive, and the perception of conflict of interest may vary from one individual to another, the most effective means to address conflict of interest issues is to establish a system under which the Board or College's employees disclose and obtain evaluation of potential conflict. Thus, the Board and all TBI employees shall disclose any potential conflict of interest that is or may be material.
- **Identification of Conflict of Interest.** The following is a partial list of activities or actions that merit case-by-case examination to determine whether they create a material conflict of interest that should either be managed appropriately or eliminated.
    1. Consulting activities.
    2. The purchase of goods or services for the College from businesses in which the Board or the employee, or his or her family, has a financial interest, or as a result of such purchase, may directly benefit.
    3. Receipt of gifts, gratuities, loans, or special favors (including trips or speaker's fees) from sponsors or vendors.
    4. Holding of an ownership interest by the employee or the employee's family in any real or personal property leased or purchased by the College.
    5. Holding of an equity, or debt instrument interest by the Board or the employee or the employee's family in an entity providing to the College financial support, when such support will benefit the employee or persons supervised, directly or indirectly, by the employee.
    6. Receipt, directly to the Board or the employee from non-College sources, of cash, services, or equipment provided in support of the Board or employee's College activities.
    7. Use of information received as a Board member or employee of the College for personal purposes.

D. IMPLEMENTATION

1. Authority. The Board of Governors has directed the President of Taylor Business Institute to develop, administer and implement the Conflict of Interest Policy. A copy of the policy is to be a part of each employee's hire package and a signed copy of the policy by every member of the Board of Governors, administrators and all faculty and staff will be placed on file in the office of the Executive Assistant to the President.
2. Disclosure Review Process. Board members and employees of Taylor Business Institute will be required, on an annual basis or whenever the occasion arises, whichever comes first, to report to the President and identify any possible present conflict of interest situations that rises to the test of a "material conflict," as described within the scope of this policy.
3. Disclosures. A potential material conflict must always be disclosed when a situation meets the test of a conflict of interest circumstance. When it does meet that test it will be classified into

one of three possible levels of disclosure:

a) *Management Level One:* At a minimum but at least annually Board members, administrators, faculty and staff must issue a financial disclosure statement if only one or a combination of the following circumstances exist:
   - Serving in a compensated activity on an advisory board at another College or University (private, not-for-profit, for-profit or public)
   - Honorariums received for publications or lectures
   - Cash compensation received for consulting

b) *Management Level Two:*
   - Having an equity compensated position holding equity in or having an immediate family member who has an equity compensated position, holding a position or equity in a competing business, or College
   - Entering into an equity compensated consulting position for a competing business or College

c) *Management Level Three:* Other possible conflicts
   - Purchasing goods or services for the College from which an employee could benefit by directly receiving gifts, a gratuity, loans or special favors from vendors or sponsors of the College.
   - Use of information of the College for personal purposes or personal gain.
   - Sharing or giving the College's assets to other Colleges, Universities or other possible competitive interests. Example of assets include equipment, intellectual property, (i.e. programs developed by the College, syllabi or materials developed by the College) books, supplies purchased by the College.

4. Timing of Disclosures. A conflict of interest statement will be required at the point of hire of each employee. Employees will be asked to complete a conflict of interest form at any point at which they enter into a relationship they presume to be a conflict of interest.
   In addition, on the anniversary of each employee's date of hire, that employee will be asked to complete a new conflict of interest form. Every January the Board of Governors will also be asked to sign a conflict of interest form. Board members must also identify any conflicts that may arise before this time.

5. Identification and Management of Conflict of Interest.

   Self-Identification: When a risk situation for conflict of interest is self- identified by the Board member, administrator or employee, a Conflict of Interest Review Committee will be convened by the President to review the issue and classify the risk. If the risk is considered acceptable it will be documented, presented to the Board of Governors for their review and if approved filed with the Executive Assistant to the President who will keep it on file until notified by the President that it is no longer an area of potential risk.

   In instances where the Board does not agree with the committee's conclusion more documentation or assurance may be required.

   In instances where both the committee and the Board conclude the risk is too great for the College then the Board member, administrator or employee will be asked to cease the activity or

action creating the conflict or leave the College.

Identification by Other Means: Where issues of conflict of interest are discovered by other means (i.e. an employee within the College alerts the management, an external agent alerts the management) the President will convene a Conflict of Interest Review Committee within 48 hours of notification to determine if the situation rises to the level of a risk situation and will then proceed with the measures as stated above in this section. If the situation is considered College-critical a special meeting of the Board of Governors will be called.

6. Accessibility of Information

To allow the implementation of this policy, the President or his/her designees, may seek from Taylor Business Institute's Board, administrators or its employees any information relevant to ensuring compliance with this policy. Because the integrity and, therefore the credibility of the institution is enhanced by disclosure, it is expected that all appropriate parties will provide any relevant information requested. The information received shall be handled confidentially unless public disclosure is part of the conflict of interest management plan, or is required by law.

Noncompliance with Policy

Violations of the requirements of this policy by any of the aforementioned parties shall, if not resolved, subject the employee to sanctions or other actions permitted by the College up to and including termination from the College.

Prohibition of Illegal Activity and Corruption

Activities which are in violation of federal, state, or local law, including the offering or acceptance of a bribe or kickback, are strictly prohibited.

Interpretation

Questions concerning the interpretation or applicability of this policy should be directed to the College President.

Appeals Process.

Any Board member, administrator or employee who disagrees with the Conflict of Interest Review Committee's decision may appeal to the Board of Governors. Their review will be final.

Appendix L: Statement of Understanding of Professional Conduct as an Admissions Representative for Taylor Business Institute

I acknowledge and understand as a representative of Taylor Business Institute that I am expected to and will do the following:

1. Verify that the prospect seeking to enroll in Taylor Business Institute possesses, as a minimum, at least a high school diploma or a G.E.D.
2. Obtain evidence of readiness for post-secondary education and understanding of the possible penalties for misrepresentation through the following:
    a. A signed affidavit attesting to their graduate or G.E.D. completion status
    b. A signed permission statement requesting evidence through an official transcript of completion of either high school diploma, G.E.D. or post high school work.
    c. Copies, if available, of a high school diploma, G.E.D. or other college credentials (if applicable) to be placed in file to document status until official transcript(s) is received.
3. Provide each enrolling student with a copy of the Taylor Business Institute catalog and the appropriate disclosure information to include:
    a. Completion, retention and placement data, and
    b. Students Right to Know
    c. Safety & Security and Drug Free Environment Policy and Crime Statistics
    d. Credit Transfer Disclosure Form
    e. Memorandum of Understanding on Mediation and Arbitration
    f. Authorization of Rights under FERPA for Postsecondary Institutions (FERPA)
    g. Notification of Rights under FERPA for Postsecondary Institutions
    h. Memorandum of Understanding on Transportation, Child Care, Directory Information, Criminal Record, Background Checks and Dress Standards
4. Make certain all prospective students understand they must be free of felony convictions to enroll in TBI's programs of study and that background checks will be performed.
5. Show the enrolling student how to get to the college's website and how to check the net price calculation.
6. Give enrolling student a copy of their signed contract.
7. Explain the Admission's testing procedure conducted by the Education department and how they should prepare themselves for testing. (provide test preparation booklet)
8. Explain costs properly to students and set an appointment with them for financial aid who will explain student eligibility for financial aid and packaging details.
9. Remember never misrepresent or exaggerate the facts. There is no reason to do so. An education is everyone's best investment.

By signing below, I acknowledge as an admissions representative, that I will comply with all items as stated above and further understand that failing to do so will result in my termination as an admissions representative at Taylor Business Institute.

Name: _____

Date: _____

Appendix M: Nepotism Policy

1. PURPOSE

To establish a policy regarding the employment of relatives.

2. RESPONSIBILITY

All Taylor Business Institute's ("TBI") Officers, Department Heads and Supervisors.

3. HIRING PRACTICES

a. It is the policy of TBI to hire the best qualified individual for each position.

b. To assure that each employee's growth and advancement is based on his/her personal performance and not a family relationship, it is TBI's policy to employ only one member of an immediate family. However, when an immediate family member is the best qualified person for the position, and placement does not present potential conflict within the work assignments (e.g. relatives will not be permitted to report to one another), such a relative may be employed if approved by the appropriate Department Head and the President.

c. In the event that one employee marries another, husband and wife may continue employment with TBI so long as it does not interfere with their performance or responsibilities. In addition, the newly married couple will not be permitted to report to one another.

Appendix N: Wireless Internet and Network Usage Policies

Wireless Network Policies and Procedures

A. Rationale and Purpose of Policy:

This document provides guidelines for the deployment and usage of wireless technology on Taylor Business Institute's (TBI) campus for all users who require Wireless access. This includes faculty, staff, students, wireless classrooms and guests of the college. The purpose of this policy is to inform users what is and is not considered acceptable use of this technology.

This policy has been put in place to protect all wireless users and to prevent inappropriate use of wireless network access that may expose Taylor Business Institute to multiple risks including viruses, network attacks, and various administrative and legal issues. This policy has been created to expand on the Department of Information Technology's Computer and Network Usage Policy by including specific information regarding the use of wireless networking and Internet access on campus. The wireless network's acceptable use falls under the Computer and Network Usage Policy acceptable use guidelines and rules. This policy is subject to change as new technologies and methods of implementing these technologies emerge.

B. SCOPE:

This wireless network policy provides guidelines regarding all wireless communication issues.

A Wireless Network Policy is required to:

- Support the academic mission of the College
- Limit interface with the college's network infrastructure
- Promote greater security in campus networking
- Protect all wireless resources owned or managed by TBI
- Protect all users and uses of TBI wireless resources

This Wireless Network policy applies to all workstations, notebooks, tablets, wireless local area networks, systems, servers and software applications used on campus. It also applies to any wireless user at Taylor Business Institute. The purpose of this policy is to ensure the security, reliability and utilization of the wireless network. Wireless access is available at Taylor Business Institute and all users will have the ability to access the Internet and other web resources using their own laptops. Staff doing College work will be required to use a Taylor Business Institute owned laptop or computer for security purposes.

C. POLICY:

General Policy:

It is the intention of TBI's Department of Information Technology to provide a high level of reliability and privacy when using the wireless network. Wireless Access Points are distributed around Taylor Business Institute to provide and maintain connectivity when "roaming" about the campus. Wireless Access Points provide shared bandwidth. As the number of users increase the available bandwidth per user decreases. As such, please show consideration for other users and refrain from running high bandwidth applications and operations such as downloading large music

files and video from the Internet. Network reliability is determined by the level of user traffic and accessibility. In order to provide an acceptable level of reliability, bandwidth will be regulated according to user role and location. Wireless networking is to be considered supplemental access to the TBI network. Wired access is still the preferred medium for connectivity.

Usage Policy:

Terms, conditions and rules for using the TBI Wireless Network for students, faculty, guests, wireless classrooms and employees with personal laptops:

- All wireless users who have their own laptops will have access to the Internet, email, online courses, Library resources, and Banner Self Service. Wireless classroom access will be determined by the class requirements.
- Access to files on the network will not be available. This includes work related files located in user directories (Word, Excel, etc...). These files are usually located on your Z: or S: drive of your TBI desktop computer.
- Access to Printers will not be available.
- Usage will be in accordance with the student and faculty email and network usage policies.
- Students and faculty using personal equipment must ensure that equipment meets the required criteria (refer to Section D: Procedures and Guidelines).
- The college cannot be held legally responsible for connection failures, Internet service disruption, hardware failures, non-compliant software or denials of service.
- Above and beyond the normal network usage policy, wireless usage will be monitored to gauge bandwidth, system traffic and data transmission levels.
- All wireless users connecting to the TBI wireless network are warned against using file-sharing or "peer-to-peer" software such as eMule, KaZaA, torrent, LimeWire etc. for the illegal downloading of copyrighted material. Some of this software has licensing terms that purport to grant external agencies
- certain rights to use the individuals computing storage areas. Many users do not realize that these programs may run 'hidden' in the background and use an individual's Internet access and bandwidth. This could have serious effects on the performance of both the college network and the PC. Use of such software is monitored on the campus network and further action will be taken where the campus network or college owned PCs are being used for illegal transfer of copyright material.

Terms, conditions and rules for using the TBI Wireless Network for Employees:

- Each employee user will need a user ID and will be required to sign a Wireless Usage Policy.
- Employees may use their personal laptops but will be required to have it inspected by IT Services to insure compliance. Those employees will only have access to the public side of the wireless network.
- Staff will use their existing network account ID.
- The college cannot be held legally responsible for connection failures, Internet service disruption, hardware failures, non-compliant software or denials of service.
- Above and beyond the normal network usage policy, wireless usage will be monitored to gauge bandwidth, system traffic and data transmission levels.
- All employee users of the TBI wireless network are prohibited from using file-sharing or "peer-to-
- peer" software such as eMule, KaZaA, torrent, LimeWire etc. for the illegal downloading of copyrighted material. Some of this software has licensing terms that purport to grant external agencies certain rights to use the individuals computing storage areas. Many users do not realize that these programs may run
- 'hidden' in the background and use an individual's Internet access and bandwidth. This could have
- serious effects on the performance of both the College network and the PC. Use of such

software is monitored on the campus network and further action will be taken where the campus network or college owned PCs are being used for illegal transfer of copyright material.

D. PROCEDURES AND GUIDELINES:

In order to have access to the wireless network all wireless users must visit the following locations to complete the appropriate paper work: IT Services located on the 5th floor.

All wireless devices must meet the following criteria:

- A minimum of Windows XP Service Pack 2
- The latest Microsoft security updates
- Up to date anti-virus software
- A compatible 802.11 a/b/g wireless adapter
- An 802.1x compliant adapter
- Wireless adaptors or drivers from the above requirements listed may not work with the TBI Wireless infrastructure. Please refer to section D when purchasing a wireless laptop to ensure its components will meet TBI minimum requirements.

E. REFERENCES, INFORMATION AND HELPFUL LINKS:

Virus Prevention:

ANTI VIRUS SOFTWARE IS REQUIRED ON ALL LAPTOPS CONNECTED TO THE TBI WIRELESS NETWORK

Computer viruses have impacted a significant number of computers worldwide over the past few years. There are over 10,000 known computer viruses. Over 200 new viruses are being discovered every month. A computer virus is a (hidden) program, which invades your computer; much like a biological virus invades a living cell. A computer virus contains code that has the potential to cause damage and/or perform unwanted/unauthorized functions.

Here is a link for free anti-virus protection http://free.avg.com/us-en/homepage

Spyware Prevention:

ANTI SPYWARE SOFTWARE IS REQUIRED ON ALL LAPTOPS CONNECTED TO THE TBI WIRELESS NETWORK

Spyware is software that covertly gathers user information through the user's Internet connection without
his or her knowledge, usually for advertising purposes. Spyware applications are typically bundles as a hidden component of freeware or shareware programs that can be downloaded from the internet; however, it should be noted that the majority of shareware and freeware applications do not come with spyware. Once installed, the spyware monitors user activity on the Internet and transmits that information in the
background to someone else. Spyware can also gather information about e-mail addresses and even passwords and credit card numbers.

Aside from the questions of ethics and privacy, spyware steals from the user by using the computer's memory resources and also by eating bandwidth as it sends information back to the spyware's home base via the user's Internet connection. Because spyware is using memory and system resources, the applications running in the background can lead to system crashes or general system instability.

Here are links for free spyware protection
http://www.microsoft.com/downloads/details.aspx?FamilyID=435bfce7-da2b-4a6a-afa4-f7f14e605a0d&displaylang=en or
http://free.grisoft.com/doc/5390/lng/us/tpl/v5#avganti-spyware-free

Network Usage Guidelines

The following guidelines clarify Taylor Business Institute's (TBI) Computer and Network Policy. These guidelines address common situations but are not meant to be exhaustive. Questions about acceptable use of Taylor Business Institute's (TBI) computing and network resources should be directed to the Information Technology (IT) Department located on the 5 floor of the college.

1. **The Computer and Network Policy applies to all users and usage of the college- owned computers, data and voice networks.**

    a) This policy applies to all host computer systems, personal computers, software, data sets, and other resources which may be accessed by users of the Taylor Business Institute data or voice communications network.
    b) All network users, including TBI faculty, staff, students, and guests of the college are expected to comply as was agreed by their signature on the application for a network/e-mail account.
    c) By logging into the network, a user consents to these guidelines and all other policies and procedures implemented under the Computer and Network Policy.

2. **Limited personal use of computer and network resources is allowed, but priority is given to usage for college business and academic pursuits.**

    a) Users of the Taylor Business Institute data or voice network may access the Internet or make phone calls for personal purposes, however, the college is not responsible for the security and privacy of data or messages transmitted for such purposes.
    b) The College does not guarantee availability, reliability or capacity of Internet or voice connection for personal usage.
    c) Users may store a limited amount of personal data and documents not related to their work or study on a personal computer. If storage is overloaded, users may be asked to remove such personal data and documents.
    d) Users assume full responsibility for the legality of any personal data and documents stored.
    e) Users are cautioned that Internet surfing, the display of videos or the use of audio materials on a personal computer during work time is likely to distract from efficient work and may be outside the bounds of their department's acceptable practices.

3. **Users of computer and network resources will abide by TBI's code of conduct standards, copyright restrictions and other legal requirements.**

    a) Users may not use the TBI network to advertise or sell regulated goods such as pharmaceuticals or firearms.
    b) Users may not use the TBI network to harass or coerce another individual.
    c) Users may not utilize peer-to-peer upload/download software or services to obtain or distribute copyrighted material not specifically authorized to the service.

4. **Users may not modify the campus network wiring or configuration**.

    a) Network hubs, switches or wireless routers may not be added to an existing port.
    b) Personal computers may not be configured to serve as routers or gateways to other

networks, internal or external to Taylor Business Institute.

c) Network names of computers, printers and other network attached devices may not be changed.
d) Network wires may not be cut, spliced or moved from their installed location.

5. Users may not engage in activities which degrade network performance or which interfere with other users' access to computer and network resources.

a) Intentional spreading or creation of computer viruses is prohibited.
b) Overloading network services by using hacking tools, e-mail spamming or other means are prohibited. c. Overloading network storage areas with personal or unnecessary data is prohibited.
c) Initiation or propagation of e-mail chain letters is prohibited.
d) Users may not attempt to circumvent system security or information protection mechanisms.
e) Use of hacking techniques to uncover security loopholes or to circumvent network security and gain access to folders, databases, hardware, or other material on the network to which one is not authorized is will not be tolerated.
f) Any network user found to have hacking software or paraphernalia installed on a computer connected to the campus data network will face immediate termination of network access privileges and may be subject to further disciplinary action including termination and/or prosecution.
g) Any attempt to guess other user's passwords, access codes or encryption keys is forbidden.

6. Users must respect institutional data confidentiality and others' privacy.

a) Unauthorized monitoring of electronic communications is forbidden.
b) Attempts to gain unauthorized access to private information will be treated as violations of privacy, even if the information is publicly available through authorized means.
c) Searching through directories to find unprotected information is a violation.
d) Special access to information or other special computing privileges are to be used in performance of official duties only. Information obtained through special privileges is to be treated as confidential.

7. Users are responsible for all actions initiated from their login ID(s).

a) Upon hire TBI employees are issued a network Login user name and password as well as a TBI email address. Students are also given a TBI email address.
    - The employee's network login format will be their first initial followed by their last name (e.g. jdoe).
    - Employee and student email format will be firstname.lastname@tbiil.edu (e.g. john.doe@tbiil.edu).
    - This format will not be changed. Nicknames will not be used for network login or email.
b) Users should not share access to their personal login ID with others.

c) An IT Administrator will issue a password for the network and email logins. Employees and students are to change their passwords upon logging in for the first time. Passwords must be chosen in such a way that they cannot be easily guessed.

d) Workstations should be logged off or locked when left unattended.

e) Network storage is provided to each individual user and to many groups such as employees in a department or students enrolled in a class. Network storage may be used only to store material associated with a user's work or study.

f) TBI's network software will enforce storage size limits on network storage resources. Users are responsible for managing their stored data and documents within these size restrictions.

8. Users must comply with software licensing terms.

a. Software licensed to Taylor Business Institute may not be installed on a computer not owned by Taylor Business Institute.
b. Personal computer users may not install copyright protected software not licensed to the College on a College owned computer.
c. Personal computer users may install public domain or open source software on their computer, but are cautioned that installing such software may disrupt the efficient operation of the computer. If the computer requires service such software may be removed.

9. Access to network resources is provided only to those officially associated with Taylor Business Institute.

a. Withdrawn student accounts and stored data and documents will be deleted immediately upon receipt by the IT Administrator of official notification of the change in status.
b. Graduated student accounts and stored data and documents will be deleted between two and four weeks after their graduation.
c. Faculty, staff or contractor accounts will be disabled or deleted when a user ceases official association with Taylor Business Institute. All data and documents stored on personal computers or personal network folders will be deleted or copied to another location at the discretion of the departing individual's supervisor.
d. When faculty, staff or contractors are assigned a new position and/or responsibilities within Taylor Business Institute, access associated with the former position will be revoked and access associated with the new position must be requested (e.g. Alaquest privileges for an Education administrator may be revoked if that employee moves out of the Education Office).
e. No services will be provided to outside organizations or agencies that would normally be provided by other public or private agencies within the geographical areas of the campus without the prior approval of the campus president or authorized vice president designee.

10. The Information Technology (IT) Department manage all network resources.

a. Only the IT Department personnel or those authorized by the IT Administrator may be given physical access to College network servers, switches, routers and other equipment.

b. The IT Administrator may access user's files for the maintenance of networks and computer and storage systems (e.g., to create backup copies of data). The IT Administrator will not intentionally inspect the contents of data files or e-mail messages or disclose such contents to any person other than the owner, sender, or an intended recipient without the consent of the owner, sender, or an intended recipient unless required to do so by law or to investigate complaints regarding files or documents alleged to contain material contrary to Taylor Business Institute policies or applicable laws.

Appendix O: Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act)

CHAPTER 103—CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING

§7701. Congressional findings and policy

(a) Findings

The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of communication, relied on by millions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, and offer unique opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over half of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these messages are fraudulent or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(4) The receipt of a large number of unwanted messages also decreases the convenience of electronic mail and creates a risk that wanted electronic mail messages, both commercial and noncommercial, will be lost, overlooked, or discarded amidst the larger volume of unwanted messages, thus reducing the reliability and usefulness of electronic mail to the recipient.

(5) Some commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(6) The growth in unsolicited commercial electronic mail imposes significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment in infrastructure.

(7) Many senders of unsolicited commercial electronic mail purposefully disguise the source of such mail.

(8) Many senders of unsolicited commercial electronic mail purposefully include misleading information in the messages' subject lines in order to induce the recipients to view the messages.

(9) While some senders of commercial electronic mail messages provide simple and reliable ways for recipients to reject (or "opt-out" of) receipt of commercial electronic mail from such senders in the future, other senders provide no such "opt-out" mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(10) Many senders of bulk unsolicited commercial electronic mail use computer programs to gather large numbers of electronic mail addresses on an automated basis from Internet websites or online services where users must post their addresses in order to make full use of the website or service.

(11) Many States have enacted legislation intended to regulate or reduce unsolicited commercial electronic mail, but these statutes impose different standards and requirements. As a result, they do not appear to have been successful in addressing the problems associated with unsolicited commercial electronic mail, in part because, since an electronic mail address does not specify a geographic location, it can be extremely difficult for law-abiding businesses to know with which of these disparate statutes they are required to comply.

(12) The problems associated with the rapid growth and abuse of unsolicited commercial electronic mail cannot be solved by Federal legislation alone. The development and adoption of technological approaches and the pursuit of cooperative efforts with other countries will be necessary as well.

(b) Congressional determination of public policy

On the basis of the findings in subsection (a), the Congress determines that—

(1) there is a substantial government interest in regulation of commercial electronic mail on a nationwide basis;

(2) senders of commercial electronic mail should not mislead recipients as to the source or content of such mail; and

(3) recipients of commercial electronic mail have a right to decline to receive additional commercial electronic mail from the same source.

(Pub. L. 108–187, §2, Dec. 16, 2003, 117 Stat. 2699.)

EFFECTIVE DATE

Pub. L. 108–187, §16, Dec. 16, 2003, 117 Stat. 2719, provided that: "The provisions of this Act [see Short Title note below], other than section 9 [enacting section 7708 of this title], shall take effect on January 1, 2004."

SHORT TITLE

Pub. L. 108–187, §1, Dec. 16, 2003, 117 Stat. 2699, provided that: "This Act [enacting this chapter and section 1037 of Title 18, Crimes and Criminal Procedure, amending section 227 of Title 47, Telecommunications, and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003', or the 'CAN-SPAM Act of 2003'."

§7702. Definitions

In this chapter:

(1) Affirmative consent

The term "affirmative consent", when used with respect to a commercial electronic mail message, means that—

(A) the recipient expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the recipient's own initiative; and

(B) if the message is from a party other than the party to which the recipient communicated such consent, the recipient was given clear and conspicuous notice at the time the consent was communicated that the recipient's electronic mail address could be transferred to such other party for the purpose of initiating commercial electronic mail messages.

(2) Commercial electronic mail message

(A) In general

The term "commercial electronic mail message" means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

(B) Transactional or relationship messages

The term "commercial electronic mail message" does not include a transactional or relationship message.

(C) Regulations regarding primary purpose

Not later than 12 months after December 16, 2003, the Commission shall issue regulations pursuant to section 7711 of this title defining the relevant criteria to facilitate the determination of the primary purpose of an electronic mail message.

(D) Reference to company or website

The inclusion of a reference to a commercial entity or a link to the website of a commercial entity in an electronic mail message does not, by itself, cause such message to be treated as a commercial electronic mail message for purposes of this chapter if the contents or circumstances of the message indicate a primary purpose other than commercial advertisement or promotion of a commercial product or service.

(3) Commission

The term "Commission" means the Federal Trade Commission.

(4) Domain name

The term "domain name" means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) Electronic mail address

The term "electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part") and a reference to an Internet domain (commonly referred to as the "domain part"), whether or not displayed, to which an electronic mail message can be sent or delivered.

(6) Electronic mail message

The term "electronic mail message" means a message sent to a unique electronic mail address.

(7) FTC Act

The term "FTC Act" means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(8) Header information

The term "header information" means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message.

(9) Initiate

The term "initiate", when used with respect to a commercial electronic mail message, means to originate or transmit such message or to procure the origination or transmission of such message, but shall not include actions that constitute routine conveyance of such message. For purposes of this paragraph, more than one person may be considered to have initiated a message.

(10) Internet

The term "Internet" has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 nt).

(11) Internet access service

The term "Internet access service" has the meaning given that term in section 231(e)(4) of title 47.

(12) Procure

The term "procure", when used with respect to the initiation of a commercial electronic mail message, means intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one's behalf.

(13) Protected computer

The term "protected computer" has the meaning given that term in section 1030(e)(2)(B) of title 18.

(14) Recipient

The term "recipient", when used with respect to a commercial electronic mail message, means an authorized user of the electronic mail address to which the message was sent or delivered. If a recipient of a commercial electronic mail message has one or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, the new user shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(15) Routine conveyance

The term "routine conveyance" means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or provided the recipient addresses.

(16) Sender

(A) In general

Except as provided in subparagraph (B), the term "sender", when used with respect to a commercial electronic mail message, means a person who initiates such a message and whose product, service, or Internet web site is advertised or promoted by the message.

(B) Separate lines of business or divisions

If an entity operates through separate lines of business or divisions and holds itself out to the recipient throughout the message as that particular line of business or division rather than as the entity of which such line of business or division is a part, then the line of business or the division shall be treated as the sender of such message for purposes of this chapter.

(17) Transactional or relationship message

(A) In general

The term "transactional or relationship message" means an electronic mail message the primary purpose of which is—

(i) to facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(ii) to provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(iii) to provide—

(I) notification concerning a change in the terms or features of;

(II) notification of a change in the recipient's standing or status with respect to; or

(III) at regular periodic intervals, account balance information or other type of account statement with respect to, a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender;

(iv) to provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled; or

(v) to deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

(B) Modification of definition

The Commission by regulation pursuant to section 7711 of this title may modify the definition in subparagraph (A) to expand or contract the categories of messages that are treated as transactional or relationship messages for purposes of this chapter to the extent that such modification is necessary to aTBImodate changes in electronic mail technology or practices and aTBIplish the purposes of this chapter.

(Pub. L. 108–187, §3, Dec. 16, 2003, 117 Stat. 2700.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

The Federal Trade Commission Act, referred to in par. (7), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this titleand Tables.

The Internet Tax Freedom Act, referred to in par. (10), is title XI of Pub. L. 105–277, div. C, Oct. 21, 1998, 112 Stat. 2681–719, which is set out as a note under section 151 of Title 47, Telecommunications.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7703. Prohibition against predatory and abusive commercial e-mail

(a) Omitted

(b) United States Sentencing Commission

(1) Directive

Pursuant to its authority under section 994(p) of title 28 and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the sentencing guidelines and policy statements to provide appropriate penalties for violations of section 1037 of title 18, as added by this section, and other offenses that may be facilitated by the sending of large quantities of unsolicited electronic mail.

(2) Requirements

In carrying out this subsection, the Sentencing Commission shall consider providing sentencing enhancements for—

(A) those convicted under section 1037 of title 18 who—

(i) obtained electronic mail addresses through improper means, including—

(I) harvesting electronic mail addresses of the users of a website, proprietary service, or other online public forum operated by another person, without the authorization of such person; and

(II) randomly generating electronic mail addresses by computer; or

(ii) knew that the commercial electronic mail messages involved in the offense contained or advertised an Internet domain for which the registrant of the domain had provided false registration information; and

(B) those convicted of other offenses, including offenses involving fraud, identity theft, obscenity, child pornography, and the sexual exploitation of children, if such offenses involved the sending of large quantities of electronic mail.

(c) Sense of Congress

It is the sense of Congress that—

(1) Spam has become the method of choice for those who distribute pornography, perpetrate fraudulent schemes, and introduce viruses, worms, and Trojan horses into personal and business computer systems; and

(2) the Department of Justice should use all existing law enforcement tools to investigate and prosecute those who send bulk commercial e-mail to facilitate the commission of Federal crimes, including the tools contained in chapters 47 and 63 of title 18 (relating to fraud and false statements); chapter 71 of title 18 (relating to obscenity); chapter 110 of title 18 (relating to the sexual exploitation of children); and chapter 95 of title 18 (relating to racketeering), as appropriate.

(Pub. L. 108–187, §4, Dec. 16, 2003, 117 Stat. 2703.)

CODIFICATION

Section is comprised of section 4 of Pub. L. 108–187. Subsec. (a) of section 4 of Pub. L. 108–187 enacted section 1037 of Title 18, Crimes and Criminal Procedure, and amended analysis for chapter 47 of Title 18. The provisions of subsec. (b) of section 4 of Pub. L. 108–187 are also listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7704. Other protections for users of commercial electronic mail

(a) Requirements for transmission of messages

(1) Prohibition of false or misleading transmission information

It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message, or a transactional or relationship message, that contains, or is aTBIpanied by, header information that is materially false or materially misleading. For purposes of this paragraph—

(A) header information that is technically accurate but includes an originating electronic mail address, domain name, or Internet Protocol address the access to which for purposes of initiating the message was obtained by means of false or fraudulent pretenses or representations shall be considered materially misleading;

(B) a "from" line (the line identifying or purporting to identify a person initiating the message) that accurately identifies any person who initiated the message shall not be considered materially false or materially misleading; and

(C) header information shall be considered materially misleading if it fails to identify accurately a protected computer used to initiate the message because the person initiating the message knowingly uses another protected computer to relay or retransmit the message for purposes of disguising its origin.

(2) Prohibition of deceptive subject headings

It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message if such person has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that a subject heading of the message would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message (consistent with the criteria used in enforcement of section 45 of this title).

(3) Inclusion of return address or comparable mechanism in commercial electronic mail

(A) In general

It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message that does not contain a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that—

(i) a recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from that sender at the electronic mail address where the message was received; and

(ii) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

(B) More detailed options possible

The person initiating a commercial electronic mail message may comply with subparagraph (A)(i) by providing the recipient a list or menu from which the recipient may choose the specific types of commercial electronic mail messages the recipient wants to receive or does not want to receive from the sender, if the list or menu includes an option under which the recipient may choose not to receive any commercial electronic mail messages from the sender.

(C) Temporary inability to receive messages or process requests

A return electronic mail address or other mechanism does not fail to satisfy the requirements of subparagraph (A) if it is unexpectedly and temporarily unable to receive messages or process requests due to a technical problem beyond the control of the sender if the problem is corrected within a reasonable time period.

(4) Prohibition of transmission of commercial electronic mail after objection

(A) In general

If a recipient makes a request using a mechanism provided pursuant to paragraph (3) not to receive some or any commercial electronic mail messages from such sender, then it is unlawful—

(i) for the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of a commercial electronic mail message that falls within the scope of the request;

(ii) for any person acting on behalf of the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of a commercial electronic mail message with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that such message falls within the scope of the request;

(iii) for any person acting on behalf of the sender to assist in initiating the transmission to the recipient, through the provision or selection of addresses to which the message will be sent, of a commercial electronic mail message with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that such message would violate clause (i) or (ii); or

(iv) for the sender, or any other person who knows that the recipient has made such a request, to sell, lease, exchange, or otherwise transfer or release the electronic mail address of the recipient (including through any transaction or other transfer involving mailing lists bearing the electronic mail address of the recipient) for any purpose other than compliance with this chapter or other provision of law.

(B) Subsequent affirmative consent

A prohibition in subparagraph (A) does not apply if there is affirmative consent by the recipient subsequent to the request under subparagraph (A).

(5) Inclusion of identifier, opt-out, and physical address in commercial electronic mail

(A) It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message provides—

(i) clear and conspicuous identification that the message is an advertisement or solicitation;

(ii) clear and conspicuous notice of the opportunity under paragraph (3) to decline to receive further commercial electronic mail messages from the sender; and

(iii) a valid physical postal address of the sender.

(B) Subparagraph (A)(i) does not apply to the transmission of a commercial electronic mail message if the recipient has given prior affirmative consent to receipt of the message.

(6) Materially

For purposes of paragraph (1), the term "materially", when used with respect to false or misleading header information, includes the alteration or concealment of header information in a manner that would impair the ability of an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond

to a person who initiated the electronic mail message or to investigate the alleged violation, or the ability of a recipient of the message to respond to a person who initiated the electronic message.

(b) Aggravated violations relating to commercial electronic mail

(1) Address harvesting and dictionary attacks

(A) In general

It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message that is unlawful under subsection (a), or to assist in the origination of such message through the provision or selection of addresses to which the message will be transmitted, if such person had actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that—

(i) the electronic mail address of the recipient was obtained using an automated means from an Internet website or proprietary online service operated by another person, and such website or online service included, at the time the address was obtained, a notice stating that the operator of such website or online service will not give, sell, or otherwise transfer addresses maintained by such website or online service to any other party for the purposes of initiating, or enabling others to initiate, electronic mail messages; or

(ii) the electronic mail address of the recipient was obtained using an automated means that generates possible electronic mail addresses by combining names, letters, or numbers into numerous permutations.

(B) Disclaimer

Nothing in this paragraph creates an ownership or proprietary interest in such electronic mail addresses.

(2) Automated creation of multiple electronic mail accounts

It is unlawful for any person to use scripts or other automated means to register for multiple electronic mail accounts or online user accounts from which to transmit to a protected computer, or enable another person to transmit to a protected computer, a commercial electronic mail message that is unlawful under subsection (a).

(3) Relay or retransmission through unauthorized access

It is unlawful for any person knowingly to relay or retransmit a commercial electronic mail message that is unlawful under subsection (a) from a protected computer or computer network that such person has accessed without authorization.

(c) Supplementary rulemaking authority

The Commission shall by regulation, pursuant to section 7711 of this title—

(1) modify the 10-business-day period under subsection (a)(4)(A) or subsection (a)(4)(B), or both, if the Commission determines that a different period would be more reasonable after taking into account—

(A) the purposes of subsection (a);

(B) the interests of recipients of commercial electronic mail; and

(C) the burdens imposed on senders of lawful commercial electronic mail; and

(2) specify additional activities or practices to which subsection (b) applies if the Commission determines that those activities or practices are contributing substantially to the proliferation of commercial electronic mail messages that are unlawful under subsection (a).

(d) Requirement to place warning labels on commercial electronic mail containing sexually oriented material

(1) In general

No person may initiate in or affecting interstate commerce the transmission, to a protected computer, of any commercial electronic mail message that includes sexually oriented material and—

(A) fail to include in subject heading for the electronic mail message the marks or notices prescribed by the Commission under this subsection; or

(B) fail to provide that the matter in the message that is initially viewable to the recipient, when the message is opened by any recipient and absent any further actions by the recipient, includes only—

(i) to the extent required or authorized pursuant to paragraph (2), any such marks or notices;
(ii) the information required to be included in the message pursuant to subsection (a)(5); and
(iii) instructions on how to access, or a mechanism to access, the sexually oriented material.

(2) Prior affirmative consent

Paragraph (1) does not apply to the transmission of an electronic mail message if the recipient has given prior affirmative consent to receipt of the message.

(3) Prescription of marks and notices

Not later than 120 days after December 16, 2003, the Commission in consultation with the Attorney General shall prescribe clearly identifiable marks or notices to be included in or associated with commercial electronic mail that contains sexually oriented material, in order to inform the recipient of that fact and to facilitate filtering of such electronic mail. The Commission shall publish in the Federal Register and provide notice to the public of the marks or notices prescribed under this paragraph.

(4) Definition

In this subsection, the term "sexually oriented material" means any material that depicts sexually explicit conduct (as that term is defined in section 2256 of title 18), unless the depiction constitutes a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters.

(5) Penalty

Whoever knowingly violates paragraph (1) shall be fined under title 18, or imprisoned not more than 5 years, or both.

(Pub. L. 108–187, §5, Dec. 16, 2003, 117 Stat. 2706.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4)(A)(iv), was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7705. Businesses knowingly promoted by electronic mail with false or misleading transmission information

(a) In general

It is unlawful for a person to promote, or allow the promotion of, that person's trade or business, or goods, products, property, or services sold, offered for sale, leased or offered for lease, or otherwise made available through that trade or business, in a commercial electronic mail message the transmission of which is in violation of section 7704(a)(1) of this title if that person—

(1) knows, or should have known in the ordinary course of that person's trade or business, that the goods, products, property, or services sold, offered for sale, leased or offered for lease, or otherwise made available through that trade or business were being promoted in such a message;

(2) received or expected to receive an economic benefit from such promotion; and

(3) took no reasonable action—

(A) to prevent the transmission; or

(B) to detect the transmission and report it to the Commission.

(b) Limited enforcement against third parties

(1) In general

Except as provided in paragraph (2), a person (hereinafter referred to as the "third party") that provides goods, products, property, or services to another person that violates subsection (a) shall not be held liable for such violation.

(2) Exception

Liability for a violation of subsection (a) shall be imputed to a third party that provides goods, products, property, or services to another person that violates subsection (a) if that third party—

(A) owns, or has a greater than 50 percent ownership or economic interest in, the trade or business of the person that violated subsection (a); or

(B)(i) has actual knowledge that goods, products, property, or services are promoted in a commercial electronic mail message the transmission of which is in violation of section 7704(a)(1) of this title; and

(ii) receives, or expects to receive, an economic benefit from such promotion.

(c) Exclusive enforcement by FTC

Subsections (f) and (g) of section 7706 of this title do not apply to violations of this section.

(d) Savings provision

Except as provided in section 7706(f)(8) of this title, nothing in this section may be construed to limit or prevent any action that may be taken under this chapter with respect to any violation of any other section of this chapter.

(Pub. L. 108–187, §6, Dec. 16, 2003, 117 Stat. 2710.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7706. Enforcement generally

(a) Violation is unfair or deceptive act or practice

Except as provided in subsection (b), this chapter shall be enforced by the Commission as if the violation of this chapter were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Enforcement by certain other agencies

Compliance with this chapter shall be enforced—

(1) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), and bank holding companies, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision;

(2) under the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the Board of the National Credit Union Administration with respect to any Federally insured credit union;

(3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) by the Securities and Exchange Commission with respect to any broker or dealer;

(4) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) by the Securities and Exchange Commission with respect to investment companies;

(5) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) by the Securities and Exchange Commission with respect to investment advisers registered under that Act;

(6) under State insurance law in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of the Gramm-Bliley-Leach Act (15 U.S.C. 6701), except that in any State in which the State insurance authority elects not to exercise this power, the enforcement authority pursuant to this chapter shall be exercised by the Commission in accordance with subsection (a);

(7) under part A of subtitle VII of title 49 by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(8) under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act;

(9) under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association; and

(10) under the Communications Act of 1934 (47 U.S.C. 151 et seq.) by the Federal Communications Commission with respect to any person subject to the provisions of that Act.

(c) Exercise of certain powers

For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this chapter is deemed to be a violation of a Federal Trade Commission trade regulation rule. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this chapter, any other authority conferred on it by law.

(d) Actions by the Commission

The Commission shall prevent any person from violating this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this chapter. Any entity that violates any provision of that subtitle [1] is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that subtitle.[1]

(e) Availability of cease-and-desist orders and injunctive relief without showing of knowledge

Notwithstanding any other provision of this chapter, in any proceeding or action pursuant to subsection (a), (b), (c), or (d) of this section to enforce compliance, through an order to cease and desist or an injunction, with section 7704(a)(1)(C) of this title, section 7704(a)(2) of this title, clause (ii), (iii), or (iv) of section 7704(a)(4)(A) of this title, section 7704(b)(1)(A) of this title, or section 7704(b)(3) of this title, neither the Commission nor the Federal Communications Commission shall be required to allege or prove the state of mind required by such section or subparagraph.

(f) Enforcement by States

(1) Civil action

In any case in which the attorney general of a State, or an official or agency of a State, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates paragraph (1) or (2) of section 7704(a), who violates section 7704(d), or who engages in a pattern or practice that violates paragraph (3), (4), or (5) of section 7704(a), of this title, the attorney general, official, or agency of the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin further violation of section 7704 of this title by the defendant; or

(B) to obtain damages on behalf of residents of the State, in an amount equal to the greater of—

(i) the actual monetary loss suffered by such residents; or
(ii) the amount determined under paragraph (3).

(2) Availability of injunctive relief without showing of knowledge

Notwithstanding any other provision of this chapter, in a civil action under paragraph (1)(A) of this subsection, the attorney general, official, or agency of the State shall not be required to allege or prove the state of mind required by section 7704(a)(1)(C) of this title, section 7704(a)(2) of this title, clause (ii), (iii), or (iv) of section 7704(a)(4)(A) of this title, section 7704(b)(1)(A) of this title, or section 7704(b)(3) of this title.

(3) Statutory damages

(A) In general

For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful message received by or addressed to such residents treated as a separate violation) by up to $250.

(B) Limitation

For any violation of section 7704 of this title (other than section 7704(a)(1) of this title), the amount determined under subparagraph (A) may not exceed $2,000,000.

(C) Aggravated damages

The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant's unlawful activity included one or more of the aggravating violations set forth in section 7704(b) of this title.

(D) Reduction of damages

In assessing damages under subparagraph (A), the court may consider whether—

(i) the defendant has established and implemented, with due care, commercially reasonable practices and procedures designed to effectively prevent such violations; or

(ii) the violation occurred despite commercially reasonable efforts to maintain compliance the practices and procedures to which reference is made in clause (i).

(4) Attorney fees

In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

(5) Rights of Federal regulators

The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right—

(A) to intervene in the action;
(B) upon so intervening, to be heard on all matters arising therein;
(C) to remove the action to the appropriate United States district court; and
(D) to file petitions for appeal.

(6) Construction

For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;
(B) administer oaths or affirmations; or
(C) compel the attendance of witnesses or the production of documentary and other evidence.

(7) Venue; service of process

(A) Venue

Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28.

(B) Service of process

In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) maintains a physical place of business.

(8) Limitation on State action while Federal action is pending

If the Commission, or other appropriate Federal agency under subsection (b), has instituted a civil action or an administrative action for violation of this chapter, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this chapter alleged in the complaint.

(9) Requisite scienter for certain civil actions

Except as provided in section 7704(a)(1)(C) of this title, section 7704(a)(2) of this title, clause (ii), (iii), or (iv) of section 7704(a)(4)(A) of this title, section 7704(b)(1)(A) of this title, or section 7704(b)(3) of this title, in a civil action brought by a State attorney general, or an official or agency of a State, to recover monetary damages for a violation of this chapter, the court shall not grant the relief sought unless the attorney general, official, or agency establishes that the defendant acted with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, of the act or omission that constitutes the violation.

(g) Action by provider of Internet access service

(1) Action authorized

A provider of Internet access service adversely affected by a violation of section 7704(a)(1), (b), or (d) of this title, or a pattern or practice that violates paragraph (2), (3), (4), or (5) of section 7704(a) of this title, may bring a civil action in any district court of the United States with jurisdiction over the defendant—

(A) to enjoin further violation by the defendant; or

(B) to recover damages in an amount equal to the greater of—

(i) actual monetary loss incurred by the provider of Internet access service as a result of such violation; or

(ii) the amount determined under paragraph (3).

(2) Special definition of "procure"

In any action brought under paragraph (1), this chapter shall be applied as if the definition of the term "procure" in section 7702(12) of this title contained, after "behalf" the words "with actual knowledge, or by consciously avoiding knowing, whether such person is engaging, or will engage, in a pattern or practice that violates this chapter".

(3) Statutory damages

(A) In general

For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful message that is transmitted or attempted to be transmitted over the facilities of the provider of Internet access service, or that is transmitted or attempted to be transmitted to an electronic mail address obtained from the provider of Internet access service in violation of section 7704(b)(1)(A)(i) of this title, treated as a separate violation) by—

(i) up to $100, in the case of a violation of section 7704(a)(1) of this title; or

(ii) up to $25, in the case of any other violation of section 7704 of this title.

(B) Limitation

For any violation of section 7704 of this title (other than section 7704(a)(1) of this title), the amount determined under subparagraph (A) may not exceed $1,000,000.

(C) Aggravated damages

The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant's unlawful activity included one or more of the aggravated violations set forth in section 7704(b) of this title.

(D) Reduction of damages

In assessing damages under subparagraph (A), the court may consider whether—

(i) the defendant has established and implemented, with due care, commercially reasonable practices and procedures designed to effectively prevent such violations; or

(ii) the violation occurred despite commercially reasonable efforts to maintain compliance with the practices and procedures to which reference is made in clause (i).

(4) Attorney fees

In any action brought pursuant to paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action, and assess reasonable costs, including reasonable attorneys' fees, against any party.

(Pub. L. 108–187, §7, Dec. 16, 2003, 117 Stat. 2711.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (b)(1)(B), are classified to subchapters I (§601 et seq.) and II (§611 et seq.), respectively, of chapter 6 of Title 12, Banks and Banking.

The Federal Credit Union Act, referred to in subsec. (b)(2), is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended, which is classified generally to chapter 14 (§1751 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (b)(3), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see section 78a of this titleand Tables.

The Investment Company Act of 1940, referred to in subsec. (b)(4), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a–1 et seq.) of chapter 2D of this title. For complete classification of this Act to the Code, see section 80a–51 of this title and Tables.

The Investment Advisers Act of 1940, referred to in subsec. (b)(5), is title II of act Aug. 22, 1940, ch. 686, 54 Stat. 847, as amended, which is classified generally to subchapter II (§80b–1 et seq.) of chapter 2D of this title. For complete classification of this Act to the Code, see section 80b–20 of this title and Tables.

The Packers and Stockyards Act, 1921, referred to in subsec. (b)(8), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, as amended, which is classified generally to chapter 9 (§181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (b)(9), is Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 583, as amended, which is classified principally to chapter 23 (§2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

The Communications Act of 1934, referred to in subsec. (b)(10), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telecommunications. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

The Federal Trade Commission Act, referred to in subsec. (d), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this titleand Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

[1] So in original.

§7707. Effect on other laws

(a) Federal law

(1) Nothing in this chapter shall be construed to impair the enforcement of section 223 or 231 of title 47, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, or any other Federal criminal statute.

(2) Nothing in this chapter shall be construed to affect in any way the Commission's authority to bring enforcement actions under FTC Act for materially false or deceptive representations or unfair practices in commercial electronic mail messages.

(b) State law

(1) In general

This chapter supersedes any statute, regulation, or rule of a State or political subdivision of a State that expressly regulates the use of electronic mail to send commercial messages, except to the extent that any such statute, regulation, or rule prohibits falsity or deception in any portion of a commercial electronic mail message or information attached thereto.

(2) State law not specific to electronic mail

This chapter shall not be construed to preempt the applicability of—

(A) State laws that are not specific to electronic mail, including State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud or computer crime.

(c) No effect on policies of providers of Internet access service

Nothing in this chapter shall be construed to have any effect on the lawfulness or unlawfulness, under any other provision of law, of the adoption, implementation, or enforcement by a provider of Internet access service of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages.

(Pub. L. 108–187, §8, Dec. 16, 2003, 117 Stat. 2716.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7708. Do-Not-E-Mail registry

(a) In general

Not later than 6 months after December 16, 2003, the Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce a report that—

(1) sets forth a plan and timetable for establishing a nationwide marketing Do-Not-E-Mail registry;

(2) includes an explanation of any practical, technical, security, privacy, enforceability, or other concerns that the Commission has regarding such a registry; and

(3) includes an explanation of how the registry would be applied with respect to children with e-mail accounts.

(b) Authorization to implement

The Commission may establish and implement the plan, but not earlier than 9 months after December 16, 2003.

(Pub. L. 108–187, §9, Dec. 16, 2003, 117 Stat. 2716.)

§7709. Study of effects of commercial electronic mail

(a) In general

Not later than 24 months after December 16, 2003, the Commission, in consultation with the Department of Justice and other appropriate agencies, shall submit a report to the Congress that provides a detailed analysis of the effectiveness and enforcement of the provisions of this chapter and the need (if any) for the Congress to modify such provisions.

(b) Required analysis

The Commission shall include in the report required by subsection (a)—

(1) an analysis of the extent to which technological and marketplace developments, including changes in the nature of the devices through which consumers access their electronic mail messages, may affect the practicality and effectiveness of the provisions of this chapter;

(2) analysis and recommendations concerning how to address commercial electronic mail that originates in or is transmitted through or to facilities or computers in other nations, including initiatives or policy positions that the Federal Government could pursue through international negotiations, fora, organizations, or institutions; and

(3) analysis and recommendations concerning options for protecting consumers, including children, from the receipt and viewing of commercial electronic mail that is obscene or pornographic.

(Pub. L. 108–187, §10, Dec. 16, 2003, 117 Stat. 2716.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7710. Improving enforcement by providing rewards for information about violations; labeling

The Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce—

(1) a report, within 9 months after December 16, 2003, that sets forth a system for rewarding those who supply information about violations of this chapter, including—

(A) procedures for the Commission to grant a reward of not less than 20 percent of the total civil penalty collected for a violation of this chapter to the first person that—

(i) identifies the person in violation of this chapter; and

(ii) supplies information that leads to the successful collection of a civil penalty by the Commission; and

(B) procedures to minimize the burden of submitting a complaint to the Commission concerning violations of this chapter, including procedures to allow the electronic submission of complaints to the Commission; and

(2) a report, within 18 months after December 16, 2003, that sets forth a plan for requiring commercial electronic mail to be identifiable from its subject line, by means of compliance with Internet Engineering Task Force Standards, the use of the characters "ADV" in the subject line, or other comparable identifier, or an explanation of any concerns the Commission has that cause the Commission to recommend against the plan.

(Pub. L. 108–187, §11, Dec. 16, 2003, 117 Stat. 2717.)

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7711. Regulations

(a) In general

The Commission may issue regulations to implement the provisions of this Act (not including the amendments made by sections 4 and 12). Any such regulations shall be issued in accordance with section 553 of title 5.

(b) Limitation

Subsection (a) may not be construed to authorize the Commission to establish a requirement pursuant to section 7704(a)(5)(A) of this title to include any specific words, characters, marks, or labels in a commercial electronic mail message, or to include the identification required by section 7704(a)(5)(A) of this title in any particular part of such a mail message (such as the subject line or body).

(Pub. L. 108–187, §13, Dec. 16, 2003, 117 Stat. 2717.)

REFERENCES IN TEXT

This Act (not including the amendments made by sections 4 and 12), referred to in subsec. (a), is Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. Section 4 enacted section 7703 of this title, section 1037 of Title 18, Crimes and Criminal Procedure, and provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure. Section 12 amended section 227 of Title 47, Telecommunications. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7712. Application to wireless

(a) Effect on other law

Nothing in this chapter shall be interpreted to preclude or override the applicability of section 227 of title 47 or the rules prescribed under section 6102 of this title.

(b) FCC rulemaking

The Federal Communications Commission, in consultation with the Federal Trade Commission, shall promulgate rules within 270 days to protect consumers from unwanted mobile service commercial messages. The Federal Communications Commission, in promulgating the rules, shall, to the extent consistent with subsection (c)—

(1) provide subscribers to commercial mobile services the ability to avoid receiving mobile service commercial messages unless the subscriber has provided express prior authorization to the sender, except as provided in paragraph (3);

(2) allow recipients of mobile service commercial messages to indicate electronically a desire not to receive future mobile service commercial messages from the sender;

(3) take into consideration, in determining whether to subject providers of commercial mobile services to paragraph (1), the relationship that exists between providers of such services and their subscribers, but if the Commission determines that such providers should not be subject to paragraph (1), the rules shall require such providers, in addition to complying with the other provisions of this chapter, to allow subscribers to indicate a desire not to receive future mobile service commercial messages from the provider—

(A) at the time of subscribing to such service; and

(B) in any billing mechanism; and

(4) determine how a sender of mobile service commercial messages may comply with the provisions of this chapter, considering the unique technical aspects, including the functional and character limitations, of devices that receive such messages.

(c) Other factors considered

The Federal Communications Commission shall consider the ability of a sender of a commercial electronic mail message to reasonably determine that the message is a mobile service commercial message.

(d) Mobile service commercial message defined

In this section, the term "mobile service commercial message" means a commercial electronic mail message that is transmitted directly to a wireless device that is utilized by a subscriber of commercial mobile service (as such term is defined in section 332(d) of title 47) in connection with such service.

(Pub. L. 108–187, §14, Dec. 16, 2003, 117 Stat. 2718.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(3), (4), was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

§7713. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected.

(Pub. L. 108–187, §15, Dec. 16, 2003, 117 Stat. 2718.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of this title.

Appendix P: Whistleblower Protection Policy

Whistleblower policies are critical tools for protecting individuals who report activities believed to be illegal, dishonest, unethical, or otherwise improper. This sample policy is adapted from the National Center for Education Statistics (NCES) who adopted it from a document developed by the Fairbanks (Alaska) North Star Borough.

POLICY:

I. The organization will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact the Human Resources Director immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

II. Whistleblower protections are provided in two important areas: confidentiality and retaliation. Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their legal rights of defense.

III. Individuals protected include

a) the employee, or a person acting on behalf of the employee, who reports to a public body or is about to report to a public body a matter of public concern; or
b) the employee who participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern.

IV. The organization may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment.

V. The organization may not disqualify an employee or other person who brings a matter of public concern, or participates in a proceeding connected with a matter of public concern, before a public body or court, because of the report or participation, from eligibility to bid on contracts with the organization; receive land under a district ordinance; or receive another right, privilege, or benefit.

VI. The provisions of this policy do not

a) require the organization to compensate an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;
b) prohibit the organization from compensating an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;
c) authorize the disclosure of information that is legally required to be kept confidential; or
d) diminish or impair the rights of an employee under a collective bargaining agreement.

VII. Limitation to protections

a) A person is not entitled to the protections under this policy unless he or she reasonably believes that the information reported is, or is about to become, a matter of public concern; and reports the information in good faith.
b) A person is entitled to the protections under this policy only if the matter of public concern is not the result of conduct by the individual seeking protection, unless it is the result of conduct by the person that was required by his or her employer.
c) Before an employee initiates a report to a public body on a matter of public concern under this policy, the employee shall submit a written report concerning the matter to the organization's chief executive officer. However, the employee is not required to submit a written report if he or she believes with reasonable certainty that the activity, policy, or practice is already known to the chief executive officer; or that an emergency is involved.

VIII. Relief and penalties
a) A person who alleges a violation of this policy may bring a civil action and the court may grant appropriate relief.
b) A person who violates or attempts to violate this policy is also liable for a civil fine of not more than ten thousand dollars ($10,000.00).

PROCEDURES

I. If an employee has knowledge of or a concern of illegal or dishonest/fraudulent activity, the employee is to contact his/her immediate supervisor. All reports or concerns of illegal and dishonest activities will be promptly submitted by the receiving supervisor to the President, who is responsible for investigating and coordinating any necessary corrective action. Any concerns involving the President should be reported to the Board of Governors.
II. The whistleblower is not responsible for investigating the alleged illegal or dishonest activity, or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.
III. Examples of illegal or dishonest activities include violations of federal, state, or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to disciplinary action.

Supplemental information (Definitions)

I. "Whistleblower" is defined by this policy as an employee who reports, to one or more of the parties specified in this policy, an activity that he/she considers to be illegal, dishonest, unethical, or otherwise improper.
II. "Employee," or "public employee," means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied, for the district.
III. "Matter of public concern" means
a) a violation of a state, federal, or municipal law, regulation, or ordinance;
b) a danger to public health or safety; and/or
c) gross mismanagement, substantial waste of funds, or a clear abuse of authority.
IV. "Public body" includes an officer or agency of
a) the federal government;
b) the state;
c) a political subdivision of the state including a municipality or a school district; and
d) a public university in the state.

Appendix Q: Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) is a federal law that protects individuals from genetic discrimination in health insurance and employment. Genetic discrimination is the misuse of genetic information. This resource provides an introduction to GINA and its protections in health insurance and employment. It includes answers to common questions and examples to help you learn.

This online resource was created by Genetic Alliance, the Genetics and Public Policy Center at Johns Hopkins University, and the National Coalition for Health Professional Education in Genetics through funding by The Pew Charitable Trusts. May 2010.

Genetic Information

What is genetic information and why is it important?

The genetic information protected by the law includes family health history, the results of genetic tests, the use of genetic counseling and other genetic services, and participation in genetic research.

Why is genetic information important to me?

Genetic information helps you know and understand health conditions that run in your family, as well as your risk for developing certain health conditions or having a child with certain conditions. This information can help you make healthy lifestyle choices and important life and medical decisions. It also helps your doctor in providing you the best care possible.

How does GINA help me?

With GINA's protections, you can feel comfortable talking about family health history with your family and healthcare providers. You may choose to use genetic testing and other services to learn about health risks without fear of genetic discrimination.

GINA & Your Health Insurance

GINA makes it against the law for health insurers to request, require, or use genetic information to make decisions about:

- Your eligibility for health insurance
- Your health insurance premium, contribution amounts, or coverage terms

This means it is against the law for your health insurer to use a genetic test result or family health history as a reason to deny you health insurance, or decide how much you pay for your health insurance.

In addition, GINA makes it against the law for your health insurer to:

- Consider family health history or a genetic test result as a pre-existing condition
- Ask or require that you have a genetic test
- Use any genetic information they do have to discriminate against you, even if they did not mean to collect it

GINA & My Health Insurance (questions and examples)

Does GINA apply to my health insurer?

GINA's protections apply to *most* health insurers. GINA applies to the health insurance plan you receive through your employer (a group plan) as well as health insurance you purchase on your own (an individual plan) for you and your family. GINA also applies to Medicare supplemental policies for individuals who have insurance through Medicare.

The health insurance protections of GINA *do not* apply to

- Members of the US military who receive their care through the Tricare military health system
- Veterans who receive their care through the Veteran's Administration
- The Indian Health Service
- Federal employees who get care through the Federal Employees Health Benefits Plans These groups have policies in place that provide discrimination protections similar to GINA.

Does GINA mean that a health insurer can't raise my premiums or deny me coverage if I have already been diagnosed with a genetic condition?

No. GINA does not stop health insurers from basing their decisions about eligibility, coverage, or premiums on current symptoms or diagnosis of a health condition (also known as "current health status" or "manifest disease"). This is true even if the condition is a genetic disease or was diagnosed in part by a genetic test. The March 2010 Health Reform law will help individuals, including those diagnosed with conditions, get access to insurance coverage for healthcare.

Example:

Huntington disease provides a good example for understanding how GINA applies to those at risk to develop a condition, but not those who are diagnosed with a condition. Huntington disease affects the brain and results in uncontrolled movements, as well as emotional (mood) and thinking (cognition) problems. If a person inherits a mutation in the Huntington disease gene, they will develop the disease sometime in their life (usually by age 30 or 40). Until age 30 or 40, they may have no signs of the disease. There is a genetic test that can tell a person if they inherited a gene mutation that causes Huntington disease. A person can have this test before he or she has symptoms of the condition, and if they do, their insurer cannot use the information to make decisions about their eligibility, coverage, or premiums for health insurance. The genetic test result is protected by GINA. However, when a person begins to show signs and symptoms of Huntington disease and is diagnosed with the disease, GINA does not stop health insurers from using that information to make decisions about the person's eligibility or rates for health insurance.

I just had (or I am considering) a genetic test. Can my health insurer deny me health insurance or raise my premiums because of the results?

No. Under GINA, health insurers *cannot* use genetic information, including results of predictive genetic tests, to make eligibility and coverage decisions. Predictive genetic test results cannot be considered a pre-existing condition.

Example:

A woman has a family history of breast and ovarian cancer. She talks with her doctor about a genetic test to determine if she has a gene mutation that increases her risk of breast and ovarian cancer. She has testing and learns she has a mutation in the BRCA1 gene, confirming her increased risk to develop those cancers.

Her health insurer cannot request, require, or use her genetic test results to make decisions about her eligibility for coverage or the amount she pays for her health insurance.

Can health insurance companies discriminate against me if a family member has been diagnosed with a health condition?

No. GINA makes it against the law for health insurers to use information about diagnosed conditions in an individual's family members.

GINA defines family member as a first- (child, sibling, parent), second- (grandchild, uncle or aunt, niece or nephew, grandparent), third- (cousin, great grandparents, great grandchildren), or fourth-degree (second cousin, great-great grandparents, great-great grandchildren) relative.

Example:

Your doctor asks you about health conditions in your family. You share that your mother's mother (maternal grandmother) died of colon cancer, your mother has heart disease, your father and his father have high cholesterol, and your brother has hypothyroidism. Your doctor will use this information to help understand and talk with you about what conditions you may be at increased risk to develop, and what to do about those risks. This information cannot be used by your health insurer to discriminate against you.

Does GINA apply to other types of insurance?

As of the date this resource was written (May 2010), GINA's protections for insurance apply only to health insurance. They *do not* apply to life, long-term care, or disability insurance. Some state laws may apply to these types of coverage. Check with your state insurance commissioner's office for more information.

GINA & My Genetic Services (questions and examples)

Does GINA mean that my health insurer has to pay for my genetic test or genetic counseling?

No. Health insurers can still make decisions about whether or not they will pay for services based upon your medical need for those services.

Can my health insurance company ask me to have a genetic test or ask to see my genetic test results?

In general, it is against the law for health insurers to ask for, require, or obtain genetic information about applicants or the individuals that they cover. An exception is that your health insurer can ask for genetic information to make a decision about whether or not they will pay for a requested test, treatment, or procedure, in order to determine the medical need for the service. In these situations, GINA only allows the insurer to ask for the minimum amount of information they need to make a decision. Once they have the information, GINA prevents them from using the information to discriminate against you.

Example:

If you decide to have a genetic test because you have a family history of colon cancer, your health insurer may need to know that your family history meets certain criteria in order to pay for your test.

If you have the test and are found to have a mutation that increases your risk, and you need a treatment or procedure based on the test result, your insurer may ask for information about why you need the treatment.

In these examples, according to GINA, the insurer may ask for only the minimum amount of information required to determine if the test or treatment are medically necessary.

GINA & Your Job

GINA makes it against the law for employers to use your genetic information in the following ways:

- To make decisions about hiring, firing, promotion, pay, privileges or terms

- To limit, segregate, classify, or otherwise mistreat an employee

This means it is against the law for your employer to use family health history and genetic test results in making decisions about your employment.

It is also against the law for an employer to request, require, or purchase the genetic information of a potential or current employee, or his or her family members. There are a few exceptions to when an employer can legally have your genetic information. If an employer does have the genetic information of an employee, the employer must keep it confidential and in a separate medical file.

Common Questions About GINA and Employment

Does my employer have to comply with GINA?

GINA applies to all employers with 15 or more employees, regardless if it is a not-for-profit organization or a corporation.

GINA's protections in employment do not extend to the US military or employees of the federal government. In 2000, President Bill Clinton signed Executive Order 13145 into law, which protects federal employees from genetic discrimination in employment. The US military has its own policies in place that may protect members of the military from genetic discrimination.

When is it legal for my employer to know my genetic information?

There are some exceptions to GINA that determine when an employer can legally have your genetic information. Some of the more common situations may include:

- Inadvertent knowledge: In some cases, an employer may learn about an employee's genetic information accidentally. If he or she overhears a conversation about an employee's sick parent, for example, the employer has not violated GINA.
- Publicly available information: An employer may learn the genetic information of an employee or the employee's family members if it is available in the newspaper or other publicly available information sources. If the employer learns of an employee's genetic information this way, the employer has not violated GINA.
- Voluntary health services: Some employers offer voluntary health or genetic services, including employee wellness programs. If specific requirements are met and participation in the service is voluntary, then forms, questionnaires, or health care professionals treating employees as part of the service may request family health history or other genetic information.
- Family and Medical Leave Act (FMLA): Forms that employees must fill out as part of asking for time off from work to care for a sick family member may include questions about genetic information. Employees may need to provide this information for extended leave to be approved.
- In all the above instances, it is against the law for employers to use the genetic information collected to discriminate against employees.

If my employer finds or collects my genetic information legally, what measures must she take to ensure my information is kept private?

Under GINA and the Health Insurance Portability and Accountability Act (HIPAA), all medical information collected by an employer, including genetic information, must be kept in a confidential, separate medical record.

How GINA Works

GINA was signed into law on May 21, 2008 by President George W. Bush. It is now in effect. At the time this resource was written (April 2010), the federal agencies responsible for enforcing the law are finalizing the regulations that specify how the law will be enforced.

How will GINA be enforced?

The Department of Labor, the Department of the Treasury, and the Department of Health and Human Services all have specific responsibilities in enforcing the health insurance protections of GINA. The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing the employment protections of GINA.

Remedies for individuals who feel they have been discriminated against in either health insurance or employment include corrective action and monetary penalties. Under Title II of GINA, individuals may also have the right to pursue private litigation.

How does GINA interact with state law?

GINA provides a "floor" or minimum level of protection against genetic discrimination. If a state has a law against discrimination that is stronger than GINA, the state law applies. For example, some states don't allow health insurers to make decisions about whether or not a person qualifies for health insurance or how much they should pay for health insurance based upon current health status. Check with your state health insurance commissioner to learn about your state's protections against health insurance discrimination.

GINA requires that state health insurance regulations match GINA's protections as of May 21, 2009. If states do not offer GINA's level of protections, the federal government can step in and enforce GINA.

What if I got a genetic test before GINA was signed into law, or before it went into effect? Is that genetic information protected by GINA?

GINA protects you from genetic discrimination in employment and health insurance regardless of when you had a genetic test done, when you received the results, or when you used genetic counseling or other genetic services.

However, GINA is not retroactive. This means that GINA does not apply to acts of discrimination that occurred before GINA went into effect.

Example:

A woman had a genetic test that determined she has a mutation increasing her risk for breast and ovarian cancer. Regardless of when she had the test, if she were discriminated against by her health insurer or employer before GINA went into effect, GINA's protections would not apply. However, if the discrimination occurred after the law was in effect, the protections would apply.

Who should I contact if I feel I have been discriminated against?

- Health insurance discrimination: Start with your state insurance commissioner's office. GINA requires that state health insurance regulations match GINA's protections as of May 21, 2009 and that they enforce the law themselves. If states fail to provide GINA-level protections, the federal government will enforce these protections and fine the health insurer.
- Employment discrimination: Individuals first must file a claim with the Equal Employment Opportunity Commission (EEOC) in order to later file a claim in state or federal court. The

EEOC will assign an investigator to your case, contact your employer, and attempt to resolve the situation through mediation. If the EEOC finds reasonable cause for discrimination, it will attempt to resolve the matter through informal conciliation. If at the end of the process a meritorious claim is found to exist, the EEOC will give you a notice of Right to Sue or may actually file a civil suit on your behalf. Visit eeoc.gov for more information

GINA Terms and Definitions

Family Member

GINA defines family member as a first- (child, sibling, parent), second- (grandchild, uncle or aunt, niece or nephew, grandparent), third- (cousin, great grandparents, great grandchildren), or fourth-degree (second cousin, great-great grandparents, great-great grandchildren) relative.

Genetic Information

GINA defines genetic information as including the following:

An individual's genetic tests or the genetic tests of the individual's family members, and the manifestation of a disease or disorder in the individual's family members

Genetic information also includes the request or receipt of genetic services or participation in clinical research that includes genetic services, for both the individual and the individual's family members. Information regarding an individual's sex or age is NOT protected genetic information under GINA

Genetic Services

GINA defines genetic services as receipt of genetic testing, genetic counseling, genetic education, or participation in a research study.

Genetic Test

GINA defines a genetic test as the analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes.

Under GINA, a genetic test does not include the analysis of proteins or metabolites directly related to the manifestation of a disease that could reasonably be detected by a healthcare professional with appropriate training and expertise in the field of medicine involved.

Examples of tests covered by GINA:

Tests for BRCA1/BRCA2 (breast cancer) or HNPCC (colon cancer) mutations; tests for Huntington's disease mutations, carrier screening for conditions such as cystic fibrosis and fragile X syndrome, and classifications of genetic properties of an existing tumor to help determine treatment. Newborn screening tests for genetic conditions are covered by GINA, however the diagnosis of the genetic condition following confirmatory testing is not covered by GINA.

Examples of tests NOT covered by GINA:

Routine tests such as routine blood counts, cholesterol tests, and liver-function tests

Manifest Disease

In GINA, the term “manifest disease” means that an individual has been or could reasonably be diagnosed with a disease, disorder, or pathological condition by a health care professional not based mainly on genetic information (for example, the results of a diagnostic test). More specifically, a disease is “manifest” when an individual is experiencing signs or symptoms of the condition.

Additional Resources

About GINA

- GINA & You Information Sheet developed by Genetic Alliance, National Coalition for Health Professional Education in Genetics, and The Genetics and Public Policy Center at Johns Hopkins University, PDF available on www.GINAHelp.org at bottom of the homepage

- A Guide to the Genetic Information Nondiscrimination Act http://www.geneticfairness.org/ginaresource.html
- Genetics and Public Policy Center GINA Resources http://www.dnapolicy.org/gina/
- Equal Employment Opportunity Commission (EEOC) GINA Fact Sheet http://www.eeoc.gov/laws/types/genetic.cfm
- National Human Genome Research Institute (NHGRI) Genetic Discrimination Fact Sheet http://www.genome.gov/10002328
- GINA Resources for Healthcare Providers http://www.nchpeg.org/index.php?option=com_content&view=article&id=97&Itemid=120

State Resources

- National Conference of State Legislatures (NCSL) http://www.ncsl.org/
- National Association of Insurance Commissioners http://www.naic.org/state_web_map.htm

The GINA Legislation and Regulations

- The Genetic Information Nondiscrimination Act of 2008 http://www.gpo.gov/fdsys/pkg/PLAW-110publ233/pdf/PLAW-110publ233.pdf
- Title I: Document for Federal Regulations Regarding Insurance http://edocket.access.gpo.gov/2009/pdf/E9-22504.pdf
- The Departments of Health and Human Services, Labor, and the Treasury have published in the Federal Register its proposed regulations for Title I of the Genetic Information Non-Discrimination Act (GINA).
- Title II: Document for Federal Regulations Regarding Employment http://edocket.access.gpo.gov/2009/pdf/E9-4221.pdf
- The Equal Employment Opportunity Commission (EEOC) has published in the Federal Register its proposed regulations for Title II of the Genetic Information Non-Discrimination Act (GINA).

About This Resource

This online resource was created by Genetic Alliance, the Genetics and Public Policy Center at Johns Hopkins University, and the National Coalition for Health Professional Education in Genetics through funding by The Pew Charitable Trusts. May 2010.

Organizational Websites:

Genetic Alliance http://www.geneticalliance.org
Genetics and Public Policy Center http://www.dnapolicy.org
National Coalition for Health Professional Education in Genetics http://www.nchpeg.org