

TECHNOLOGY RESOURCES

CR
(LEGAL)

ELECTRONIC
TRANSACTIONS

The College District may agree with other parties to conduct transactions by electronic means. Any such agreement or transaction must be done in accordance with the Uniform Electronic Transactions Act (UETA), Business and Commerce Code Chapter 322, and 1 Administrative Code Chapter 203, Subchapter C. *Business and Commerce Code Chapter 322; 1 TAC 203.43-.46*

The Guidelines for the Management of Electronic Transactions and Signed Records, available on the Department of Information Resources (DIR) Web site and adopted by DIR based on the work and recommendations of the UETA Task Force, are applicable to institutions of higher education that send and accept electronic records and electronic signatures to and from other persons and to other institutions of higher education and state agencies that otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. *1 TAC 203.40-.41*

ELECTRONIC
SIGNATURES

The College District shall determine whether, and the extent to which, the College District will send and accept electronic or digital signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely on electronic or digital signatures. The College District may adopt rules and procedures governing the use of electronic or digital signatures.

To the extent of any conflict, this provision prevails over Business and Commerce Code Chapter 322, the UETA, and rules and guidelines adopted under that Chapter.

Education Code 51.9336

ELECTRONIC
PAYMENTS

The College District may make any payment through electronic funds transfer or by electronic pay card. *Education Code 51.012*

INTERAGENCY
CONTRACTS FOR
INFORMATION
RESOURCES
TECHNOLOGIES

An institution of higher education that proposes to receive information resources technologies under a contract from another state agency or institution of higher education shall comply with Administrative Code, Title I, Chapter 204, Subchapter C. *1 TAC 204.30-.32*

ACCESS TO
ELECTRONIC
COMMUNICATIONS

Except as otherwise provided in the Electronic Communication Privacy Act (ECPA), 18 U.S.C. 2510-22, a person commits an offense if the person:

ELECTRONIC
COMMUNICATION
PRIVACY ACT

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;

2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
 - a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication;
 - b. Such device transmits communications by radio or interferes with the transmission of such communication;
 - c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce;
 - d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or
 - e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication;
4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or
5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

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It shall not be unlawful for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

18 U.S.C. 2511(1), (2)(d)

STORED WIRE AND
ELECTRONIC
COMMUNICATIONS
AND
TRANSACTIONAL
RECORDS ACCESS
ACT

The College District must comply with the Stored Wire and Electronic Communications and Transactional Records Access Act, 18 U.S.C. 2701–12.

A person is prohibited from obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage by:

1. Intentionally accessing without authorization a facility through which an electronic communication service is provided; or
2. Intentionally exceeding an authorization to access that facility.

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(a), (c)

DEFINITIONS

'ELECTRONIC
COMMUNICATION'

"Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12)*

'ELECTRONIC
STORAGE'

"Electronic storage" means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

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Messages that have been sent to a person, but not yet opened, are in temporary, intermediate storage and are considered to be in electronic storage. See Steve Jackson Games, Inc. v. United States Secret Service, 36 F.3d 457 (5th Cir. 1994). Electronic communications that are opened and stored separately from the provider are considered to be in post-transmission storage, not electronic storage. See Fraser v. Nationwide Mut. Ins. Co., 352 F.3d 107 (3d Cir. 2004)

'ELECTRONIC
COMMUNICATIONS
SYSTEM'

"Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications and any computer facilities or related electronic equipment for the electronic storage of such communications. 18 U.S.C. 2510(14)

'ELECTRONIC
COMMUNICATIONS
SERVICE'

"Electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications. 18 U.S.C. 2510(15)