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601: Equal Employment Opportunity

Source: BOT 601.01

Bishop State Community College is an equal opportunity employer. It is the policy of the Alabama Community College System, including postsecondary community and technical colleges under the control of the Alabama Community College Systems Board of Trustees, that no employee or applicant for employment or promotion, on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment. Bishop State Community College will make reasonable accommodations for qualified disabled applicants or employees.

602: Nondiscrimination

Source: BOT 601.02

No employee or applicant for employment or promotion shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

603: Anti-Harassment/Discrimination/Retaliation

Source: BOT 601.04/620.02

Policy against Harassment and Discrimination

Introduction

1. The Alabama Community College System is committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.
2. Harassment can be defined as but is not limited to:
 - Disturbing conduct which is repetitive;
 - Threatening conduct;
 - Intimidating conduct;
 - Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
 - Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
 - Assault;

- Repeated contact solicited during non-traditional business hours which may be perceived as harassment by the recipient unless it is specifically associated with work related duties.
3. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority.
 4. Harassment of employees or students by non-employees is also a violation of this policy.
 5. This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources Director/Coordinator or President at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director/Coordinator or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director/Coordinator or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.
 6. This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program shall be utilized to assist all members of the community to understand, prevent and combat harassment. Each community and technical college is required to provide annual training related to harassment, including sexual harassment.
 7. Complaints or Reports concerning sexual harassment should be made, processed and addressed under Policy 620.03 - Sexual Harassment Complaint Procedures.

OR

8. To file a Complaint or report sexual harassment see Policy 620.03 - Sexual Harassment Complaint Procedures.

Sexual Harassment Complaints

Source: BOT 620.03

Each College shall adopt a Grievance Procedure for complaints of sexual harassment that is consistent with the requirements of 34 C.F.R. § [106.44](#) and §[106.45](#).

This policy is intended to cover complaints of sexual harassment occurring in a College's education programs or activities by an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in a College's educational programs or activities.

604: Employee Complaints

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

605: Hiring Practices and Procedures

1. Posting: The President of each institution shall post notices for all personnel vacancies,

full-time and part-time, temporary, and non-temporary, for all salary schedules, except those for President.

All vacancy notices shall be posted on the institution's website for a minimum of seven (7) days before the position is filled, and a minimum of fourteen (14) days when the vacancy is supervisory, managerial, or newly created.

2. **Notice of Vacancy:** The vacancy notice shall include, but is not limited to, the following:
 - A. Job description;
 - B. Title;
 - C. Required qualifications;
 - D. Salary schedule;
 - E. Amount of Pay;
 - F. Information on where to submit an application;
 - G. Information on any deadlines for applying;
 - H. A contact telephone number for questions;
 - I. Any other relevant information
3. **Internal Posting:** Internal postings are permitted to fill a current institutional position with a current institutional employee. These notices must be posted in accordance with Section I before the position is to be filled.
4. **Continuous Posting:** For adjunct instructors, clinical instructors, tutors, and part-time, on-call, or hourly employees only, a continuous vacancy notice may be posted on the institution's website and may state "open until filled." However, if a continuous vacancy notice has not been posted at least 7 days prior to hiring, these positions must be posted in accordance with Section I.
5. **Temporary/Interim Positions:** Temporary/interim positions may be selected at the discretion of the President but must be for a duration for one year or less. No extension beyond one year may be granted without the written approval of the Chancellor. Notices for temporary/interim positions must be posted in accordance with Section I.
6. **Hiring:** The President is responsible for all searches and documentation thereof and retains all hiring authority for positions at the college, except the Presidency.
7. **Transfers or Reorganizations:** Transfers or Reorganizations of existing personnel are not intended to be covered under this Policy.

606: Temporary Assignment

Source: BOT 602.03

The President or designee may assign employees to temporary assignments which require them to be absent from their regular duties. Employees on temporary assignment will receive their regular salary and may be allowed remuneration for their expenses in accordance with institution and Board of Trustee policy. Temporary assignments may not be made for the purpose of earning college credit.

607: Internal Employee Transfers

Source: BOT 602.04

The President is responsible for all internal College transfers and is responsible for complying with Alabama's Students First Act found at Alabama Code §16-24C-7.

The President has the authority to transfer or reassign any employee, at any time, as the needs of the college require, to any position or work location within the College, which the employee is qualified.

Transfers are appropriate as permitted under the Students First Act or when moving an existing College employee to a previously-existing College position.

Internal posting rules are appropriate and may be used for transfers.

Notice must be provided to affected employees as stated in the Students First Act.

Procedures for Lateral Transfer

In order to request the approval of a lateral internal transfer, the President sends a letter of request to the Chancellor with a detailed description of the transfer. The letter must include a narrative description and justification of the proposed changes. The following documents must also be included as attachments to the request letter:

- a. Lateral Internal Transfer form
- b. Current job description
- c. Proposed job description
- d. Notice of intent to transfer letter
- e. Internal position announcement
- f. Notice of transfer decision letter

Upon receiving the Chancellor's approval of the transfer, the employee must receive the notice of intent to transfer letter and the position must be posted internally for a minimum of fourteen (14) calendar days. The notice of intent to transfer letter requires a fifteen (15) calendar days waiting period which may occur simultaneously with the fourteen (14) calendar days of the internal posting. Once the initial fifteen (15) calendar days waiting period and posting period have expired, the employee must receive the notice of the transfer decision which also requires a fifteen (15) calendar days waiting period. The transfer will not be effective until such time as the Chancellor's approval is received and the required posting and notification processes have occurred.

Positions that have not been filled through a regular search process are not eligible for transfers. Positions or duties that do not currently exist at the institution are not eligible for transfers. Consult with Alabama Community College System Office Human Resources or the Office of the General Counsel for guidance prior to requesting the approval of a transfer

608: Reorganizations

Source: BOT 602.05

Reorganizations are modifications to positions that both currently exist at the institution and have been filled previously through a regular search process. Reorganizations may involve shifting duties that currently exist within positions at the College or adding new duties to a current position at the College. The reorganization may include changes of title, salary schedule placement, job duties, or level of responsibility, but it cannot create a fundamentally new position or an entirely new set of duties or responsibilities.

Reorganizations require written approval of the Chancellor before implementation, including any changes to salaries.

609: Offers of Employment

Source: BOT 603.01

The President may offer employment for one semester, two semesters, a summer term, or a full calendar year as appropriate to librarians, counselors, instructors, and other employees provided there is sufficient enrollment and funds are available.

610: Salary Schedule D - Summer Employment

Source: BOT 603.02

The summer term is a separate entity, distinct from the fall and spring semesters; therefore, certain guidelines are set up to insure an equitable procedure for selecting personnel for summer term employment.

Full-time instructors, counselors, and/or librarians employed on nine-month contracts are not automatically entitled to summer employment. However, in the event that summer employment is available, current full-time schedule D employees must be given the first option for such employment over part-time or temporary employees.

In considering which employees shall be offered summer employment, the institution must consider several factors:

- Enrollment;
- Funding;
- Qualifications of the employee under consideration;
- Status of the employee under consideration with regard to the College's summer employment policy;
- Areas taught by the employee under consideration in most recent academic year.

First priority for teaching will go to academic Directors/Division chairpersons because of the administrative duties expected of them in addition to their teaching.

The number of classes offered will be based on institutional/student needs.

Summer employment contracts for the College are based on the principal of seniority.

611: Campus Police – Retainment of Badge or Pistol

Source: BOT 606.07

Campus police shall retain badge and/or pistol in accordance with Alabama State law upon retirement, disability, or death.

Procedures:

All Alabama Police Officer Standards and Training (APOST) certified campus police employed by System institutions shall receive their badge and pistol, without cost, upon retirement in good standing from the institution.

The survivor of an APOST certified campus police officer who is killed in the line of duty while employed by a System institution shall receive the employee's badge.

All APOST certified campus police who are deemed disabled and eligible for retirement as a result of any injury received in the line of duty while employed by System institutions shall receive a retirement badge such as is provided to regularly retired officers.

612: Work Schedules, Duty Days, Holidays

Source: BOT 608.02

The College operates at least forty (40) hours per week. The President has the authority to determine work schedules and work days for all employees of the institution.

Procedures:

- 1) Employees shall be allowed the following official holidays on which days the College shall be closed:

New Year's Day

National Memorial Day

Labor Day

Thanksgiving Day

Christmas Eve

Martin Luther King/Robert E. Lee Birthday

Independence Day

Veterans Day

Day after Thanksgiving Day

Christmas Day

- 2) In addition, the President shall designate five other days on which the institution will be closed in the official, approved calendar of the institution.
- 3) The normal work week for full-time, non-instructional personnel is at least forty (40) hours, exclusive of lunch. Days that the College is officially open are duty days for full time, non-instructional employees of each institution.
- 4) The normal work week of a full-time instructor, librarian, or counselor shall be a minimum of 35 clock hours, exclusive of lunch and other regularly scheduled breaks. This does not mean that each instructor is to be on duty seven hours per day, but it does mean that each instructor is to have a regular schedule of instruction, office hours, advising, planning, and institutional duties.
- 5) Full-time instructors, librarians, and counselors employed on an academic year contract (fall and spring semesters) shall work the equivalent of 175 days or 1,225 hours. Full-time instructors, librarians, and counselors employed on a twelve-month contract shall work the equivalent of 229 days or 1,603 hours. Those employed full-time for the summer shall work the equivalent of 54 days or 378 hours.

613: Instructor Overload

Source: BOT 608.03

The President is authorized to approve overloads for faculty. Procedures:

- 1) A full-time instructor may be employed to teach a maximum of one additional course and or/lab per term for pay, if approved by the President.
- 2) Full-time technical program instructors may be employed to teach a maximum of 15 additional contact hours per week for pay, if approved by the President.
- 3) Overload course(s) must be taught outside the normal work week of the instructor, and the pay must be at the prevailing part-time rate of the College.
- 4) No full-time faculty member can be required to teach an overload.
- 5) Overloads will be at the discretion of the President, based on faculty desire, preparations required, non-instructional duties, and other considerations.

Note: Additional overloads may be approved by the President for extenuating circumstances. These approvals must be in writing.

614: Fair Labor Standards Act Compliance

Source: BOT 614.01

The College shall comply with the applicable provisions of the *Fair Labor Standards Act*.

Introduction:

- A) On November 13, 1985, the *Fair Labor Standards Amendments of 1985* were enacted. These amendments changed certain provisions of the *Fair Labor Standards Act* (FLSA) as they relate to employees of state and local governments, most notably non-excluded employees in education. After the decision by the U. S. Supreme Court in *Garcia v. San Antonio Metropolitan Transit Authority, et al. (Garcia)*, 105 S.Ct. 1005 (1985) many state and local government employers and representatives of their employees identified several areas in which they believed they would be adversely affected by immediate application of FLSA. This legislation responds to these concerns by amending certain FLSA provisions with respect to employees of state and local governments. The effective date of the amendments adopted on November 13, 1985, was April 15, 1986.
- B) These guidelines addressing the issue of overtime compensation only apply to those employees who come under the overtime provisions of the *Fair Labor Standards Act* (FLSA).
- C) For the purposes of these guidelines, the normal workweek constitutes the period of time between 12:01 a.m. Sunday through 12:00 a.m. the following Sunday.
- D) For your convenience, relevant provisions of the *United States Code* and the *Code of Federal Regulations* are cited following each of Parts I through X hereof.

(References: 29 USCA sec. 203, as amended; 29 USCA sec. 207, as amended, 29 USCA sec. 213; 29 CFR 553.2-.3; 29 CFR 778.100: 29 CFR 778.105)

Definition of Nonexempt Employee:

Nonexempt employees are employees whose positions do not meet the FLSA tests for exemption from the overtime provisions, and the employee must be compensated for overtime. The FLSA includes provisions that are applicable to all employers employing covered employees, including the requirements relating to the posting of notices, the preservation and location of records, and the record keeping requirements for employers of employees to whom both the minimum wage provisions or the minimum wage provisions and the overtime pay provisions of the Act apply. Nonexempt employees perform work, other than that performed by bona fide executive, administrative, or professional employees (including academic administrative personnel) and the activities directly and closely related to such work. Where it is more difficult to determine the status of a particular employee, a careful analysis of the employee's duties that are directly and closely related to the work described as executive, administrative, or professional will usually be necessary in arriving at a satisfactory determination of the employee's status. Job descriptions and employment conditions should be periodically reviewed to ensure that the status of an employee is current with the provisions of the Act.

- A) When a Nonexempt employee may be required to work overtime: A nonexempt employee may, upon mutual agreement of the employee and institution, work more than forty (40) hours during a workweek.
- B) A nonexempt employee may be required to work more than forty (40) hours in any workweek if (a) the institution directs the employee to do so, and (b) an "emergency condition" exists. For purposes of this procedure, an "emergency condition" exists if in the opinion of the President one or more of the following is present:
- 1) A situation which endangers or potentially will endanger the physical, mental, or emotional health or safety of property for which the institution is ultimately responsible, and the performance of overtime work would or reasonably may be expected to contribute to the reduction of said danger or perceived danger;
 - 2) A situation in which the performance of necessary overtime work will increase the effectiveness of registration, enrollment, orientation, graduation, or commencement activities, but under such circumstances that a given employee shall not be required to work overtime unless the institution has previously taken reasonable action to obtain the services of all other qualified employees who were willing and able to voluntarily perform services of the nature of the work required of the employee;
 - 3) A situation in which the performance of overtime work will or may reasonably be expected to significantly contribute to the success of institution goals or efforts to obtain institution or program accreditation from recognized accreditation agencies or organizations, but under such circumstances a given employee shall not be required to work overtime unless the institution has previously taken reasonable action to have the work performed during normal working hours and determined that reasonably good planning would not have ensured the timely performance of the work so as to avoid an "emergency" concerning accreditation; or
 - 4) A situation in which the performance of overtime work is reasonably necessary in order for the institution to respond to the legal directives of governmental agencies or bodies which are "external" to the State Board of Education, Department of Postsecondary Education, or any System institution; i.e., a situation where there is a need for assistance in retrieving court-ordered documents.
- C) As an alternative to requiring an employee to work more than forty (40) hours during a workweek in which an emergency condition exists, the President or his/her designee may adjust the schedule of one or more employees so as to require such employee(s) to work a greater number of work hours than normal for one or more workdays and a lesser than normal number of work hours for one or more other workdays during the workweek in which the emergency condition exist.

(Reference: 29 USCA sec. 207 (a) 29 CFR 778.102)

Nonexempt Employees – Holidays and Weekends:

- A) Any employee whose workweek does not ordinarily include a Sunday and who works on a Sunday shall be compensated at the rate of one and one-half (1½) times his or her normal rate for each hour worked on the given Sunday. This rate shall apply whether or not the workweek exceeds forty (40) hours.

- B) Any employee who works on a holiday on which the employee would ordinarily be entitled to be off shall be compensated at the rate of two (2) times his or her normal rate for each hour worked on the holiday. Provided that, if the employee shall work the holiday and take off another day during the same workweek as an alternative to taking the holiday off, then the employee shall be entitled to only his or her normal rate of pay for all hours actually worked or taken as an alternative holiday during the subject workweek. In a situation where an employee is required by the respective institution to work on a holiday on which the employee would ordinarily be entitled to be off, it shall be the discretion of the employee to take an alternative day off during the same workweek, unless the employee is disallowed by the employing institution to take an alternative holiday due to an emergency condition as defined by Section II. hereof.

(References: 29 CFR 778.201; 29 CFR 778.203)

(Source: BOT 610.01 Sec. 9)

Use of Compensatory Time Off:

An employee who has earned compensatory time off and requests to use such time shall be permitted to use such time within a “reasonable period” subsequent to the request if the granting of such request does not “unduly disrupt” the operations of the institution (recommend within the next month). Mere inconvenience is not considered to be unduly disruptive. However, a request to use compensatory time at the beginning of an academic quarter or semester, or to use such time during a period of final examinations or grades, may be unduly disruptive regardless of when the request is made.

(Reference: 29 USCA sec. 207(o), as amended) **Employees Working Two or More Types of Jobs:**

- A) In a situation where an employee's normal employment involves two or more different types of nonexempt work with the same institution, the hours worked in both types of work shall count toward the determination of whether the employee has worked more than forty (40) hours in any workweek.

- B) In the event the different assignments are subject to different rates of pay, then the rate of pay for those hours worked over forty (40) shall be calculated on the basis of one and one-half (1½) times a “regular hourly rate” consisting of the weighted average of the hourly rates for both (or all) types of work assignments, or, in the alternative, the employee and the institution may agree in advance that any overtime work shall be compensated on the basis of the one and one-half (1½) times the appropriate rate for the type of work performed after the forty-hour point is reached.

- C) The above provision shall not apply where an employee voluntarily chooses to work, on an occasional, temporary, or sporadic basis, a job in addition to, and different from, his or her normal work assignment. For example, if a bookkeeper works forty hours in his or her regular job then voluntarily works an additional fifteen hours during the same week painting the gymnasium, the fifteen hours spent painting would not be considered overtime, and the employee would be compensated at whatever rate is appropriate for that job. On the other hand, if a secretary is called upon to work as part of a registration team in addition to her normal forty hour workweek, that work assignment would be considered subject to overtime, even though occasional, if it consisted of clerical activities. The rationale for considering the secretary's additional hours as overtime is that they fail to pass the test with respect to being different in nature from the employee's normal duties, since both sets of activities would be clerical in nature.

(References: 29 CFR 778.115; 29 CFR 778.419)

Averaging Hours Prohibited:

In computing hours worked, each workweek stands alone. Hours worked in two or more workweeks may not be averaged for purposes of computing hours worked in a workweek.

(Reference: 29 CFR 778.104-.105)

Working Extra Hours in a Day:

An employee is not necessarily entitled to overtime pay (that is, pay at one and one-half times the normal rate), either in the form of pay or compensatory time off at one and one-half times the normal rate of compensation, for hours worked in a day beyond those normally worked in such day. However, under those circumstances described in this procedure, a nonexempt employee may be entitled to overtime compensation for hours worked during a workweek in excess of forty (40).

(Reference: 29 (CFR 77.102)

(Source: BOT 610.01 Sec. 9)

Options for Compensation:

- A) When a President or an authorized designee has determined that a need for overtime work exists, he/she shall make a request to the respective employee or employees to work overtime (for a given day or days or for the workweek). Before an employee shall agree to perform such overtime work, the President/designee shall make the employee aware of which types of compensation and/or alternative scheduling shall be available to the employee. The employee shall make it known to the President/designee which of the options presented by the President/designee the employee has selected regarding how such overtime will be treated, and the employee's selection shall be honored by the respective institution.

1) The employee will receive compensatory time at one and one-half times the rate of actual overtime hours worked for the workweek. For example: if an employee works four hours of overtime, the employee will receive six hours of compensatory time which can be used at employee's discretion. (See also, use of compensatory time off.)

2) Once 80 hours of overtime is reached the employee will receive overtime pay at one and one-half times the employee's normal hourly rate for each hour of overtime work performed for the workweek. For example: if an employee's normal hourly rate computes to \$5.00 per hour, the employee will receive \$7.50 for each hour of overtime work performed.

3) If an employee works hours beyond the normal number of hours for a given workday or workdays, the employee may choose to decrease the number of hours worked in another workday or workdays in that same workweek on an hour-for-hour basis, so long as such reduction does not cause an undue disruption to the normal operation of the institution and so long as the total number of hours worked during the week is not less than that which would have ordinarily been worked by the employee during a workweek. The employee shall nevertheless be entitled appropriate overtime compensation in the event that the total number of work hours for the workweek exceeds forty (40).

B) However, except in emergency conditions, as defined in Section II hereof, the President/designee cannot require the employee to adjust his or her work schedule so as to use such additional work hours during the same workweek as the overtime work are performed. This option shall be at the sole discretion of the employee, subject to the exceptions stated above. No employee shall ever be compelled or forced to adjust his or her work schedule as described above except during an emergency condition as described in Section II hereof.

(References: 29 USCA sec.207 (o); 29 CFR 778.100; 29 CFR 778.113)

Leave and Holidays:

Paid time off attributable to a holiday, or to sick, annual, personal leave, or other forms of paid leave is to be treated the same with respect to computing the total number of hours worked during a workweek. Hours taken off for a holiday or as sick, annual, personal, or other paid leave will be counted as hours worked in determining whether or not forty (40) work hours were exceeded during a given workweek.

Compensatory Time Off:

If an employee receives entitlement to compensatory time off in lieu of overtime pay in cash, the employee shall be permitted to use accrued compensatory time within a reasonable period after it is requested if to do so would not unduly disrupt the operations of the employing institution.

- A) EXEMPT FT EMPLOYEES: Bishop State Community College will grant compensatory time to exempt full-time classified employees (not full-time instructors) when that classified employee physically works over 45 hours in one week. Compensatory time must be pre-approved by the President, **in advance**. Physical work hours do not include hours awarded for paid leave. Exempt full-time classified employees may be awarded straight compensatory time: one hour for every one hour physically worked over 45 hours. The supervisor of the exempt full-time classified employee must keep track of all compensatory time earned, and the employee must use the time with supervisor approval within sixty days of it being accrued, else it is forfeited. Any accrued compensatory time for exempt full-time classified employees is forfeited upon transfer to another position or upon separation from the college. When exempt full-time classified employees do not work 40 hours each week, they are required to take compensatory time or appropriate accrued leave to make up for their failure to work 40 hours. Full-time exempt classified employees are required to work during the college's regular business hours unless the employee has express permission from the supervisor to work outside regular business hours.
- B) NON-EXEMPT FT EMPLOYEES: Non-exempt full-time employees are not permitted to work over 40 hours in one week, unless expressly required and approved by a supervisor. Non-exempt full-time employees who work over 40 hours without the express requirement and approval of their supervisor will be disciplined. Non-exempt full-time employees are entitled to overtime pay unless compensatory time is awarded instead when they physically work over 40 hours in one week (physical work hours do not include any paid leave time). It is the policy of ACCS that all institutions and entities shall award compensatory time rather than overtime to non-exempt full-time employees physically working over 40 hours in one week. Supervisors and non-exempt employees have a duty to work together to ensure that the employee does not work over 40 hours each week, absent emergency. In emergency situations where it is necessary for non-exempt employees to work over 40 hours in one week (and this has been required and approved by the supervisor), non-exempt employees must be given one and one-half hour for every hour physically worked over 40 in compensatory time, meaning if the employee works 44 hours in one week, then the employee receives 6 hours (4 x 1.5) in compensatory time. The supervisor of the non-exempt full-time employee must keep track of compensatory time and the non-exempt employee must use the time with supervisor approval within a reasonable period of it being accrued (recommend within the next month). Supervisors are responsible for ensuring that compensatory time is being taken by non-exempt full-time employees so that overtime is not required to be paid. Non-exempt full-time employees may not accrue more than 80 hours of compensatory time, and any time over and above 80 hours in compensatory time will be required to be paid as overtime. Compensatory time for full-time non-exempt employees will be converted to overtime and paid at the time of separation at the College. Compensatory time will be taken within 90 days.
- C) Payment for accrued compensatory time upon termination of employment shall be calculated at the average regular rate of pay for the final three (3) years of employment, or the final regular rate received by the employee, whichever is higher.

(Reference: 29 USCA sec. 207(o))

Lectures, Meetings, and Training Programs:

The following is excerpted from 29 CFR 785 of the Federal regulations adopted to carry out the FLSA.

785.27 General.

Attendance at lectures, meetings, training programs, and similar activities need not be counted as working time if the following four criteria are met:

- (a) Attendance is outside of the employee's regular working hours;
- (b) Attendance is in fact voluntary;
- (c) The course, lecture, or meeting is not directly related to the employee's job, and;
- (d) The employee does not perform any productive work during such attendance.

785.28 Involuntary attendance.

Attendance is not voluntary, of course, if it is required by the employer. It is not voluntary in fact if the employee is given to understand or led to believe that his present working conditions or the continuance of his employment would be adversely affected by nonattendance.

785.29 Training directly related to employee's job.

The training is directly related to the employee's job if it is designed to make the employee handle his job more effectively as distinguished from training him for another job, or to a new or additional skill. For example, a stenographer who is given a course in stenography is engaged in an activity to make her a better stenographer.

Time spent in such a course given by the employer or under his auspices is hours worked. However, if the stenographer takes a course in bookkeeping, it may not be directly related to her job. Thus, the time she spends voluntarily in taking such a bookkeeping course, outside of regular working hours, need not be counted as working time. Where a training course is instituted for the bona fide purpose of preparing for advancement through upgrading the employee to a higher skill, and is not intended to make the employee more efficient in his present job, the training is not considered directly related to the employee's job even though the course incidentally improves his skill in doing his regular work.

785.30 Independent training.

Of course, if an employee on his own initiative attends an independent school, college or independent trade school after hours, the time is not hours worked for his employer even if the courses are related to his job.

785.31 Special Situations.

There are some special situations where the time spent in attending lectures, training sessions and courses of instruction is not regarded as hours worked. For example, an employer may establish for the benefit of his employees a program of instruction which corresponds to courses offered by independent bona fide institutions of learning. Voluntary attendance by an employee at such courses outside of working hours would not be hours worked even if they are directly related to his job, or paid for by the employer.

Travel Time

The following is excerpted from 29 CFR 785 of the Federal regulations adopted to carry out the FLSA

785.31 Home to work: ordinary situation.

An employee who travels from home before his regular workday and returns to his home at the end of the workday is engaged in ordinary home to work travel which is a normal incident of employment. This is true whether he works at a fixed location or at different job sites. Normal travel from home to work is not work time.

785.36 Home to work in emergency situations.

There may be instances when travel from home to work is overtime. For example, if an employee who has gone home after completing his day's work is subsequently called out at night to travel a substantial distance to perform an emergency job for one of his employer's customers, all time spent on such travel is working time. The Divisions are taking no position on whether travel to the job and back home by an employee who receives an emergency call outside of his regular hours to report back to his regular place of business to do a job is working time.

785.37 Home to work on special one-day assignment in another city.

A problem arises when an employee who regularly works at a fixed location in one city is given a special one-day work assignment in another city. For example, an employee who works in Washington, D.C., with regular working hours from 9 a.m. to 5 p.m. may be given a special assignment in New York City, with instructions to leave Washington at 8 a.m. He arrives in New York at 12 noon, ready for work. The special assignment is completed at 3 p.m., and the employee arrives back in Washington at 7 p.m. Such travel cannot be regarded as ordinary home-to-work travel occasioned merely by the fact of employment. It was performed for the employer's benefit and at his special request to

meet the needs of the particular and unusual assignment. It would thus qualify as an integral part of the "principal" activity which the employee was hired to perform on the workday in question; it is like travel involved in an emergency call (described in Section 785.36), or like travel that is all in the day's work (see Section 785.38). All the time involved, however, need not be counted. Since, except for the special assignment, the employee would have had to report to his regular work site, the travel between his home and the railroad depot may be deducted, it being in the "home-to-work" category. Also, of course, the usual meal time would be deductible.

785.38 Travel that is all in the day's work.

Time spent by an employee in travel as part of his principal activity, such as travel job site to job site during the workday, must be counted as hours worked. Where an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and to carry tools, the travel from the designated place to the work place is part of the day's work, and must be counted as hours worked regardless of contract, custom, or practice. If an employee normally finishes his work on the premises at 5 p.m. and is sent to another job which he finishes at 8 p.m. and is required to return to his employer's premises arriving at 9 p.m., all of the time is working time. However, if the employee goes home instead of returning to his employer's premises, the travel after 8 p.m. is home-to-work travel and is not hours worked. (*Walling v. Mid-Continent Pipe Line Co.*, 143F. 2d 308 (C.A. 10, 1944))

785.39 Travel away from home community.

Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly worktime when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. Thus, if an employee regularly works from 9a.m. to 5 p.m. from Monday through Friday, the travel time during these hours is worktime on Saturday and Sunday as well as on the other days. Regular meal period time is not counted. As an enforcement policy the Divisions will not consider as worktime that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

785.40 When private automobile is used in travel away from home community.

If an employee is offered public transportation but requests permission to drive his car instead, the employer may count as hours worked either the time spent driving the car or the time he would have had to count as hours worked during working hours if the employee had used the public conveyance.

785.41 Work performed while traveling.

Any work which an employee is required to perform while traveling must, of course, be counted as hours worked. An employee who drives a truck, bus, automobile, boat, or airplane, or an employee who is required to ride therein as an assistant or helper, is working while riding, except during bona fide meal periods or when he is permitted to

sleep in adequate facilities furnished by the employer.

615: Emergency Shelter Duty and Pay Provision

Source: BOT 606.08

The President or President's designee may assign employees to assist in managing and maintaining college facilities when such facilities are activated to provide shelter to disaster evacuees in accordance with applicable Federal Emergency Management Agency and Alabama Department of Emergency Management shelter regulations.

Employees assigned to emergency shelter duty shall, upon certification by the president, be paid:

- A. For non-exempt employees, the normal rate of pay up to 40 hours in the workweek and non-exempt employees shall be paid 1.5 times the normal rate of pay for time physically worked over 40 hours during the workweek when assigned to duty at an emergency shelter.
- B. For exempt employees, the normal rate of pay up to 45 hours during the workweek, and exempt employees (except Presidents and those on Salary Schedule B) shall be awarded hour for hour compensatory time for physically working over 45 hours during the workweek when assigned to duty at an emergency shelter.

616: Conflict of Interest – Personal Gain

Source: BOT 615.01

An employee is prohibited from using his or her official position and influence for personal gain or that of his or her family or associates, or from engaging in a conflict of interest.

Employees must not conduct any outside employment, business activity, personal activity, or political activity during College working hours nor use any College property, equipment or facilities for any private enterprise or political activity unless approved by the President furthermore, employees shall not use any College property for personal gain.

617: Conflict of Interest – Secondary Employment

Source: BOT 615.01

Employees of the College may not engage in any outside employment which would: (1) disrupt or interfere with operation of the College or the employee's performance and job responsibilities at the College, (2) directly compete with the College, (3) impose additional financial burden upon the College, or (4) violate the Alabama Code of Ethics for public employees (as set forth in the Code of Alabama).

Employees are required to complete the *Notification of Secondary Employment* form and submit the form to the President for approval prior to entering into agreement of secondary employment. Secondary employment is the term used to describe any additional employment in which a College employee is engaged outside of Bishop State Community College and it may be paid or unpaid employment. It is the responsibility of the employee to notify the College by submitting a revised *Notification of Secondary Employment* form if the status of previously approved secondary employment changes.

Form 616.02: Notification of Secondary Employment

618: Personnel Record Information

Source: BOT 616.01

Federal and state laws govern public access to records maintained by governmental entities. Those laws shall be followed. To the extent permissible by law, each College may maintain sensitive or otherwise confidential information in employee or applicant files.

Official personnel records for all Bishop State Community College faculty, staff, and administration are maintained in the Human Resources Office. Files are confidential and released only when employees have given written permission, pursuant to lawful subpoenas, or court orders

Information may be added to the personnel file to clarify or supplement materials previously placed in the personnel file. Employees may answer or object in writing to any material in the personnel file, and the answer or objection shall be attached to the appropriate material that is the subject of the answer or objection.

The college may establish a reasonable charge for researching open records requests or as otherwise necessary.

Changes in status such as address, marital status payroll deductions, etc., shall be reported to the Business Office.

619: Abandonment of Position

Source: BOT 618.01

Any employee who is absent from work for three (3) consecutive workdays without approval shall be considered to have abandoned the position and to have resigned from the College.

620: Employee Grievance

Source: BOT 620.01

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement or complete an Employee Grievance Form within 10 calendar days from the date of the alleged incident. This policy does not apply and cannot be used against a President.

The employee must submit their written statement or completed Employee Grievance Form to his/her direct supervisor, unless the direct supervisor is the alleged offender. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify the Title IX Coordinator, Human Resources Director, and/or President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days or as otherwise agreed. The supervisor or other person appointed to address the grievance must then make a written report of findings/decision and provide to the employee within 60 calendar days of receipt of the grievance. The employee must, within 5 calendar days of the written report, provide specific written objections to the report of findings/decision to the supervisor or other appointed person, which will be considered a request for appeal. Failure to timely provide the specific written objections is a waiver of the employee's right to appeal the findings/decision.

All appeals will be sent to the President or his/her designee, and the President or his/her designee will convene a three person grievance committee to hear the appeal within 30 calendar days. The President or his/her designee will appoint one person to sit on the grievance committee, and the President will allow both the aggrieved and accused to select an employee of the College to sit on the grievance committee (excluding the President and his/her designee). Should the aggrieved or accused fail to select a member of the grievance committee in the time period required by the President or his/her designee or the selected employee does not agree to participate as a member of the grievance committee in the time required by the President or his/her designee, then the President or his/her designee will select the grievance committee member. The President shall have discretion to require the aggrieved and/or accused to select substitute employees to sit on the grievance committee when it reasonably appears that their selected employees may have a conflict of interest, close relationship, or other situation calling into question their neutrality.

The grievance committee will hold a hearing and allow the aggrieved employee to present the grievance and the accused will have an opportunity to respond within 45 days of the appeal. The grievance committee will also have access to the original grievance, report of the supervisor/other designee, and appeal notice by the employee. The grievance committee will provide its findings and decision following the hearing in a

timely manner. Either party will have 10 calendar days from receipt to file a written appeal to the grievance committee decision. If timely appealed, the President will issue a final decision based on the original grievance, report of the supervisor/other designee, appeal notice by the employee, and grievance committee decision.

NOTE: If the last day for filing notice of appeal falls on either Saturday, Sunday, or a legal holiday, aggrieved will have until 5:00 p.m. the first working day.

621: Criminal Background Checks

Source: BOT 623.01

A criminal background check shall be conducted through a vendor selected by the Chancellor on all new hires and volunteers at each institution. A criminal background check may also be conducted for selected internal candidates or if the institution has reasonable suspicion that a current employee or volunteer has been convicted of a felony or a crime involving moral turpitude. Individuals convicted of a felony or crime involving moral turpitude will not be eligible for employment or volunteering except with the Chancellor's approval.

Procedures:

- 1) Employment or volunteer service shall be contingent upon an acceptable criminal background check.
- 2) Each new hire or current employee convicted of a felony or crime involving moral turpitude must obtain a recommendation from the President for the Chancellor's approval that the new hire or current employee is suitable for employment. Factors to be considered in determining whether the individual is suitable include, but are not limited to:
 - a) The proximity or remoteness in time of the conduct
 - b) The risk of harm to persons or property of the institution
 - c) The nature of the crime and likelihood of recurrence
 - d) The nature of the job
 - e) Any extenuating circumstances
- 3) Within five (5) calendar days, an employee convicted of a felony or a crime involving moral turpitude must report the conviction to the President. An unreported conviction will be subject to disciplinary measures for failure to report.
- 4) Each institution shall require vendors with regular contact with students to perform background checks of their employees.
- 5) Each institution will develop procedures to ensure compliance with this policy.

622: Reduction in Force

Source: BOT 624.01

This policy states the conditions under which and the means by which the College may implement a reduction-in-force (RIF) action should such an action become necessary and appropriate under Alabama's Students First Act of 2011 found in Alabama Code § 16-24C-6(h)(3).

A reduction-in-force (RIF) is defined as:

Layoffs or other personnel actions that are unavoidable reductions in the workforce beyond normal attrition due to extraordinary circumstances such as but not limited to decreased student enrollment, shortage of revenues, programs or courses are impractical or economically unreasonable, or changes in academic mission, administrative or ministerial function that necessitates significant organizational changes.

The President of the College must submit a written request for approval of a RIF action to the Chancellor of the Alabama Community College System, indicating the reason for the RIF, the current employee roster of the affected organizational unit with employee classifications, and how the employee roster is proposed to be affected and the manner in which the unit and employee(s) will be affected. Before proceeding with the RIF, the President must obtain written approval to proceed with the proposed RIF action.

The College shall submit its RIF Policy and Guidelines to the Chancellor at the time a RIF is requested. If a RIF is approved by the Chancellor, the President shall promptly notify all employees affected by the action of its implementation.

Guidelines:

1. **Purpose of Guidelines.** The following Guidelines state the conditions under which, and the means by which, the College will implement a reduction-in-force (RIF) action should such an action become necessary and appropriate under Alabama's Students First Act of 2011 found in Alabama Code § 16-24C-6(h)(3).
2. **Listing of Organizational Units.** For the purpose of these Guidelines, the College has designated the following organizational units:
 - a. President's Office
 - b. Operations
 - c. Business Office/Finance
 - d. Instructional Services (Academic)
 - e. Career Technical
 - f. Student Services
3. **Listing of Each Position within Each Organizational Unit.** At the College level, each employee will be identified by organizational unit of assignment, plus full-time or part-time status, permanent or temporary status, salaried or hourly status, salary schedule, date of appointment to current position, date first employed with the College, and source of funding for the position. **Conditions Under which a RIF May**

be Taken by the College. A reduction-in-force action is defined as:

Layoffs or other personnel actions that are unavoidable reductions in the workforce beyond normal attrition due to extraordinary circumstances such as but not limited to decreased student enrollment, shortage of revenues, programs or courses are impractical or economically unreasonable, or changes in academic mission, administrative or ministerial function that necessitates significant organizational changes.

A RIF may be proposed for any of the reasons set forth by the President of the College. Not every release of an employee shall be considered to be a reduction-in-force.

Reduction-in-force decisions will be made without regard to the employee's race, color, sex, religion, national origin, age, or for any other unlawful reasons, including discrimination against any employee covered by the *Americans with Disabilities Act of 1990*.

4. Reduction-In-Force Determination. Upon determination by the President that a RIF is warranted, the following factors will be considered in determining those employees who will be affected by the action:
 - a. Temporary and/or part-time employees performing the same duties as non-temporary, full-time personnel will be released first. The exception to this would be adjunct faculty members who are in the midst of teaching a semester course.
 - b. If need exists to remove employees beyond those who are temporary and/or part-time, those employees who are on probationary status, performing the same job as persons who are on non-probationary status, will be released before those who are non-probationary.
 - c. The following factors will be considered, should the action warrant release of full-time, non-probationary employees:
 - i. The requirements of any applicable court order or consent decree.
 - ii. Seniority at the College in the respective employee classification taking into consideration minimum qualifications for the respective position. An "employee classification" is a designation by which a group of employees at a given institution having the same or substantially the same type of duties and functions will be identified. (Examples: "clerk-typist," "secretary," "cafeteria worker," "accountant," "security guard," "counselor," "mathematics instructor," and "maintenance worker.")

- iii. Seniority at the College in the respective organizational unit.
 - iv. Seniority in general at the College. Level of education acquired consistent with position requirements.
- 5. Request to the Chancellor. The President of the College must submit a written request for approval of a RIF action to the Chancellor of the Alabama Community College System indicating the reason for the RIF, the current employee roster of the affected organizational unit with employee classifications, and how the employee roster is proposed to be affected and the manner in which the unit and employee(s) will be affected. Before proceeding with the RIF, the President must obtain written approval to proceed with the proposed RIF action. The College's RIF Policy and Guidelines shall be presented to the Chancellor at the time a RIF is requested.
- 6. Retraining of Released Employees. In order to assist released employees in retraining for other job opportunities, any former employee who was eligible for the Alabama Community College System's tuition assistance program prior to release by the College as part of a reduction-in-force action shall retain eligibility for the College's tuition assistance program for a period of twelve months after the effective date of release.
- 7. Placement and Rehiring. The following procedures apply regarding placement and rehiring for employees released due to the RIF implementation.
 - a. The College's Human Resources office will provide to the employee(s) released the following assistance:
 - i. Information regarding unemployment benefits
 - ii. COBRA information
 - iii. TRS information
 - iv. Information regarding opportunities via the *Alabama Community College System Employment Opportunities* site at <http://www.accs.cc>
 - b. If the College reopens the same position in the organizational unit that has been previously affected by a RIF within a two-year period from the date the employee was released, the College must offer the released employee the first opportunity to return in the reverse order in which they were released, but the return order will always be consistent with the needs of the College.
 - i. Full-time, non-probationary employees will be rehired first with those last released being the first to return.

- ii. Full-time, probationary employees will then be rehired, to be followed by part-time employees. If the need still exists after the above have returned to work, temporary employees will be reinstated.
- iii. If multiple employees were released at the same time from the same position in an organizational unit, and there are multiple released employees interested in the position that has reopened, then the President or his/her designee shall offer the position to the former employee whom the President deems to best meet the needsoftheCollege.
- c. If a released employee affected by a reduction-in-force declines reemployment into the same position in the organizational unit previous held when offered, the released employee will forfeit any right to preferential reemployment at the College based on prior reduction-in-force.
- d. There is no requirement for the College to transfer or find alternative placements or position within the College for employees who are released pursuant to this policy.

Exceptions to the Guidelines. Should Bishop State Community College impose a reduction-in-force action and the President determines that a full-time, non-probationary employee who is not the senior person in a given job classification or occupational area possesses a certain license, certification, or job skill, the loss of which would be severely detrimental to the operation of the College, the President may request review and approval by the Chancellor of an exception to the general guidelines relating to the release of full-time personnel on continuing service status. This exception shall not be available for part-time, temporary, or probationary employees.

623: Faculty and Staff Appointment

Source: Code of Alabama 16-60-111.4; 16-60-111.7 and 16-22-15

The President shall appoint the faculty and staff according to qualifications approved by the Board of Trustees and such other policies as may have been adopted by the Board of Trustees.

A full-time consenting employee may be transferred from one college to another or from the Alabama Community College system Office to a college, with the written agreement of both the transferring and receiving Presidents or Chancellor, and with the approval of the Chancellor. Transfer requests will apply only to positions for lateral moves and will conform to the *Alabama Community College System Uniform Guidelines for Recruitment and Selection*.

Procedures for Lateral Transfer Between Colleges

1. The receiving college must submit a *Request To Fill A Position by Lateral Transfer*

- form to the Chancellor for approval.
2. If approved, the position must be advertised by sending notice to each two- year college and the Alabama Community College System for posting. Each institution must post the position(s) to employees on the same salary schedule and rank placement.
 3. The position announcement must be posted at least 14 days.
 4. The employee wishing to transfer must send a written request for transfer to the President of the current employing institution.
 5. If no one else applies, the receiving institution submits the *Request for Approval of Lateral Transfer*, signed by both Presidents to the Chancellor for approval.
 6. If others do apply, the President must interview all candidates for the position. The President also has the option of completing the process through the search committee process.
 7. Under no circumstances may the Lateral Transfer process be used to circumvent the *Students First Act*.

A Lateral Transfer between institutions may not be completed and is not official until final approval from the Chancellor is received.

624: Letter of Appointments: Instructional and Non-Instructional

All classified employees and instructors must acknowledge receipt of any Letter of Appointment (LOA) presented to the employee by the College by personally signing and returning the LOA within five (5) business days of receipt. If the employee does not agree with the salary schedule, rank, step, salary or other placement issues referenced in the LOA, the employee may not strike through anything in the LOA, but may note his/her specific disagreement at the bottom of the LOA or by an attached letter. Failure to timely sign and return a LOA as stated herein will serve as grounds for disciplinary action.

Instructional

The President of Bishop State Community College may offer a letter of appointment to full-time faculty, counselors and librarians for the nine-month academic year, as appropriate, provided there is sufficient enrollment and availability of funds. Employment during the nine-month academic year does not guarantee employment during the summer term.

Part-Time Faculty

A letter of appointment for part-time instructors is limited to semester –to semester. Neither non-probationary status, nor seniority is attained through part-time employment. However, a part-time instructor may be offered a letter of appointment for respective subsequent semesters if the instructor received satisfactory student and supervisor evaluations and provided there are sufficient funds and enrollment to support the issuance of a letter of appointment.

Non- instructional

The President of Bishop State Community College has the authority to offer a letter of appointment to any full-time or part-time non-instructional employee as appropriate,

provided there is sufficient enrollment and availability of funds.

Adjunct Faculty

Adjunct faculty members are employed to teach specific classes and are compensated on the basis of credit or contact hours taught. They are given orientation and direct supervision by the Division Chair. Adjunct faculty are issued a *Letter of Appointment* on an as-needed, semester-by-semester basis.

625: Positions: Vice President

Source: SBE 604.01

A community college with recognized academic and technical divisions may include the position of Vice President on its staff.

626: Administrative Positions

Source: SBE 604.02

The Chancellor shall issue guidelines for appointing administrative and support positions, along with titles and suggested job descriptions.

627: Qualifications of Personnel

Source: SBE 605.01

The President and other administrative officers directly responsible to the President must possess credentials, experience, and/or demonstrated competence appropriate to their areas of responsibility. The Chancellor shall issue guidelines on qualifications and experience required for the Presidents and administrative officers. Appointments to such positions must be made in accordance with the guidelines.

628: Faculty: General

The instructional faculty is organized into divisions, each with a chairperson who is responsible in turn to the appropriate dean. Members of the faculty are responsible, individually and collectively to the appropriate dean.

629: Faculty Qualifications

See Appendices

630: Faculty: Adjunct and Part-time

Source: Memorandum 2015-EXE-008, LGL-042, 045

If a college chooses to employ a part-time employee for more than 29 hours per week, then mandatory healthcare coverage under the Affordable Care Act (ACA) will be triggered, and the college will have to provide that individual with insurance.

Adjuncts are no longer permitted to exceed 9 credit hours each semester, and may not exceed 17 combined class and non-class time duties per normal work week, at any one ACCS college. Adjuncts teaching at multiple colleges may not exceed a combined total of 12 hours (combined) per semester. Part-time employees are limited to work no more than 19 hours per week at any one ACCS college, and not to exceed a total of 29 hours of work per week at multiple colleges.

