



## Prohibited Community College Contracts Boycotts, Firearms Discrimination, and Foreign-Owned Companies<sup>1</sup>

This document addresses certain restrictions on contracts that community colleges may have with for-profit companies or sole proprietors, including prohibitions from laws passed during the 2021 Regular Session of the Texas Legislature that became effective on or before September 1, 2021. The new legislation includes Senate Bill 13, prohibiting contracts with companies that boycott certain energy companies; Senate Bill 19, prohibiting contracts with companies that discriminate against firearm entities or firearm trade associations; and Senate Bill 2116, prohibiting contracts with certain foreign-owned companies in relation to critical infrastructure.

### Prohibited Contracts Generally

**Q: Which types of contracts are now prohibited for community colleges?**

A: Community colleges are prohibited from contracting with:

1. companies that boycott Israel,
2. companies that boycott certain energy companies,
3. companies that discriminate against a firearm entity or firearm trade association, and
4. certain foreign-owned companies in contracts related to critical infrastructure.

Tex. Gov't Code § 2271.002(b); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.002(b)); Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.002(b)); Act of June 18, 2021, 87th Leg., R.S., S.B. 2116, § 3 (codified at Tex. Gov't Code § 2274.0102)).

**Q: What is a company?**

A: A *company* is defined differently for the prohibitions listed above, but it generally means a for-profit entity or business association and, in the case of the prohibitions regarding energy companies and foreign-owned companies, also includes a sole proprietorship. Tex. Gov't Code §§ 808.001(2), 809.001(2), 2271.001(2); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.001(2)); Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.001(2)); Act of June 18, 2021, 87th Leg., R.S., S.B. 2116, § 3 (codified at Tex. Gov't Code § 2274.0101(1)).

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<sup>1</sup> An electronic version of this document is available on TASB College eLaw at [tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-prohibited-community-college-contracts.pdf](http://tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-prohibited-community-college-contracts.pdf).

**Companies That Boycott Israel or Energy Companies or That Discriminate Against Firearms**

**Q: *What does it mean to boycott Israel?***

A: *Boycott Israel* means to take any action to intentionally inflict economic harm on, limit commercial relations with, or penalize Israel or an individual or entity doing business in Israel or an Israeli-controlled territory. The term does not include actions made during the ordinary course of business. Tex. Gov't Code §§ 808.001(1), 2271.001(1).

**Q: *What does it mean to boycott energy companies?***

A: *Boycott energy companies* means to take any action to intentionally inflict economic harm on, limit commercial relations with, or penalize a company because the company either engages in certain fossil fuel-based energy activities and does not commit or pledge to meet environmental standards beyond applicable federal or state law, or does business with such a company. The term does not include actions made during the ordinary course of business. Tex. Gov't Code § 809.001(1); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.001(1)).

**Q: *What does it mean to discriminate against a firearm entity or firearm trade association?***

A: To *discriminate against a firearm entity or firearm trade association* means to refuse to engage in trade of goods and services with the entity or association or to refrain from continuing or terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. The term does not include: (1) established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories, (2) an action taken to comply with law or a directive by a regulatory agency, or (3) for any traditional business reason that is specific to the customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.001(3)).

**Q: *May a community college contract with a company that either boycotts Israel or energy companies or discriminates against a firearm entity or firearm trade association?***

A: No. A community college must include in any contract with a company for goods and services a written verification from the company that the company does not and, during the term of the contract, will not boycott Israel, boycott energy companies, or discriminate against a firearm entity or firearm trade association. Tex. Gov't Code § 2271.002(b); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.002(b)); Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.002(b)).

**Q: *Do the prohibitions on contracting with companies that boycott Israel or energy companies or that discriminate against a firearm entity or firearm trade association apply to all contracts?***

A: No. A contract between a community college and a company is only subject to the prohibitions if the contract's value is \$100,000 or more, the company has ten or more full-time employees, and the contract involves the expenditure of public funds. Tex. Gov't Code § 2271.002(a); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.002(a)); Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.002(a)).

**Q: *What qualifies as a written verification? Must it be notarized?***

A: The written verification may be an unsworn declaration. An unsworn declaration must be written and require the person signing to declare under penalty of perjury that the declaration is true. It is not required to be notarized. Tex. Civ. Prac. & Rem. Code § 132.001.

**Q: *Does the verification need to be a separate addendum or can it be a provision in the contract?***

A: Unless the entire contract is signed under penalty of perjury, as required by an unsworn declaration, a provision within a contract may not be sufficient to satisfy the requirement that the contract contain a written verification. Community college contracts for goods and services should always be reviewed by the college's attorney before being signed. The community college's attorney will determine how best to comply with the requirement under each specific set of circumstances. Tex. Gov't Code § 2271.002(b); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.002(b)); Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.002(b)).

**Q: *If a community college purchases goods or services through a purchasing cooperative, will the cooperative require the verification? If so, does this satisfy the law?***

A: Maybe. It will depend on the purchasing cooperative. The law states that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company stating that the company does not and will not boycott Israel, boycott energy companies, or discriminate against a firearm entity or firearm trade association. After a community college selects a vendor from a cooperative, the law applies to the contract between the college and the vendor. If the cooperative requires vendors to complete the

verification and the verification becomes part of the contract between the college and the vendor, then the contract satisfies the law. Tex. Gov't Code § 2271.002(b); Act of June 14, 2021, 87th Leg., R.S., S.B. 13, § 2 (codified at Tex. Gov't Code § 2274.002(b)); Act of June 14, 2021, 87th Leg., R.S., S.B. 19, § 1 (codified at Tex. Gov't Code § 2274.002(b)).

### **Critical Infrastructure Contracts with Foreign-Owned Companies**

**Q: *What contracts are prohibited with foreign-owned companies?***

A: A community college may not enter into a contract or other agreement relating to critical infrastructure in Texas with a foreign-owned company if the company would, under the contract or agreement, be granted direct or remote access to or control of critical infrastructure in Texas. This prohibition does not apply to access specifically allowed by the college for product warranty and support purposes. Act of June 18, 2021, 87th Leg., R.S., S.B. 2116, § 3 (codified at Tex. Gov't Code § 2274.0102(a)).

**Q: *What is a foreign-owned company?***

A: A *foreign-owned company* means a company where citizens of China, Iran, North Korea, Russia, or a country designated by the Texas Attorney General either own the company or hold or control a majority of ownership interest of the company. A company is also foreign-owned if a company or other entity that is owned or controlled by citizens of such a country owns the company or holds or controls a majority of ownership interest of the company, or if the company is headquartered in such a country. Act of June 18, 2021, 87th Leg., R.S., S.B. 2116, § 3 (codified at Tex. Gov't Code § 2274.0102(a)(2)).

**Q: *What is critical infrastructure?***

A: *Critical infrastructure* means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility. Act of June 18, 2021, 87th Leg., R.S., S.B. 2116, § 3 (codified at Tex. Gov't Code § 2274.0101(2)).

### **Other Issues**

**Q: *How are the contracting prohibitions enforced?***

A: The contracting prohibitions, as set out in Texas Government Code chapters 2271 and 2274, do not explicitly provide for a means of enforcement.

**Q: What TASB Policies apply to this topic?**

A: See TASB Policies CF(LEGAL) and CM(LEGAL) will address this law in the context of purchasing and construction, respectively.

**Q: Where can I get more information on this topic?**

A: Community college representatives may contact Community College Services to discuss these or other legal issues at 800.580.1488 or [colleges@tasb.org](mailto:colleges@tasb.org).

For more information on community college law topics,  
visit TASB Community College eLaw online at [colleges.tasb.org/elaw](https://colleges.tasb.org/elaw).

*This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the college's own attorney in order to apply these legal principles to specific fact situations.*

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