



SPALDING NICHOLS
-LAMP LANGLOIS-

VIRTUAL
2025
PUBLIC SECTOR
SEMINAR

APRIL 17TH
8:30 AM (CT)



THIS PROGRAM IS ELIGIBLE FOR 4.5 CPE CREDITS. TO EARN FULL CREDIT FOR THIS PROGRAM, YOU MUST BE IN ATTENDANCE FOR AT LEAST 225 MINUTES AND ANSWER AT LEAST 14 POLLING QUESTIONS.

***WHITLEY PENN DOES NOT REQUIRE THAT PARTICIPANTS ANSWER POLLING QUESTIONS CORRECTLY TO OBTAIN CREDIT AND USES 3 POLLING QUESTIONS PER ONE HOUR OF CPE.**

HOUSEKEEPING ITEMS

- CPE Items – 3 Poll Questions throughout each presentation (total of 14). Must answer all to get full credit! Bonus polls available.
- Survey to follow at the end of the program from LCVista portal.
- Please submit your questions in the Q&A feature – Q&A Session at the end of the program.
- Presentation Materials & recording will be sent to registrants and available on our Events page on our website: <https://www.whitleypenn.com/events-and-sponsorships/>

AGENDA

- **8:30AM-10:10AM:** Welcome, Single Audit & GASB Update | Celina Cereceres & Lupe Garcia
- **10:10AM- 11:00AM:** Legislative Update | Sarah Langlois SNLL
- **11:00AM – 11:05AM:** Break
- **11:05AM – 11:55AM:** Employment Law | Paul Lamp SNLL
- **11:55AM-12:30PM:** Q&A with *All* Presenters

THANK YOU TO OUR PARTNER!



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ABOUT SNLL

Spalding Nichols Lamp Langlois is comprised of veteran school lawyers serving both urban and rural school districts across the State of Texas. With a combined 125+ years of experience representing schools, community colleges, charter schools and other governmental entities, the attorneys at SNLL are an integral component to the Texas public school landscape.

The firm maintains operations in Houston, Lufkin, Austin and Waco. SNLL attorneys handle matters for client districts across the state. The firm has been approved as litigation counsel by insurance companies for school districts and community colleges, including United Educators, Texas Association of School Boards Risk Management Fund, Texas Political Subdivisions and Summit Risk. The firm's attorneys routinely handle litigation matters in practically all areas of school law, including employment, special education, and bus/vehicle accidents.

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- Construction
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- Energy
- Estate & Gift Planning
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- Financial Institutions
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- Manufacturing, Distribution & Logistics
- Nonprofit
- Private Equity & Investment Funds
- Professional Services
- **Public Sector**
- Real Estate & Construction
- Restaurant, Entertainment, Retail & Hospitality
- Technology
- Transportation
- Veterinary

UP NEXT:

SINGLE AUDIT & GASB UPDATE

CELINA CERECERES, AUDIT PARTNER

LUPE GARCIA, AUDIT PARTNER



Single Audit and GASB Update



AGENDA



Single Audit Update



GASB No. 101 – Compensated Absences



GASB No. 102 – Certain Risk Disclosures



GASB No. 103 – Financial Reporting Model Improvements

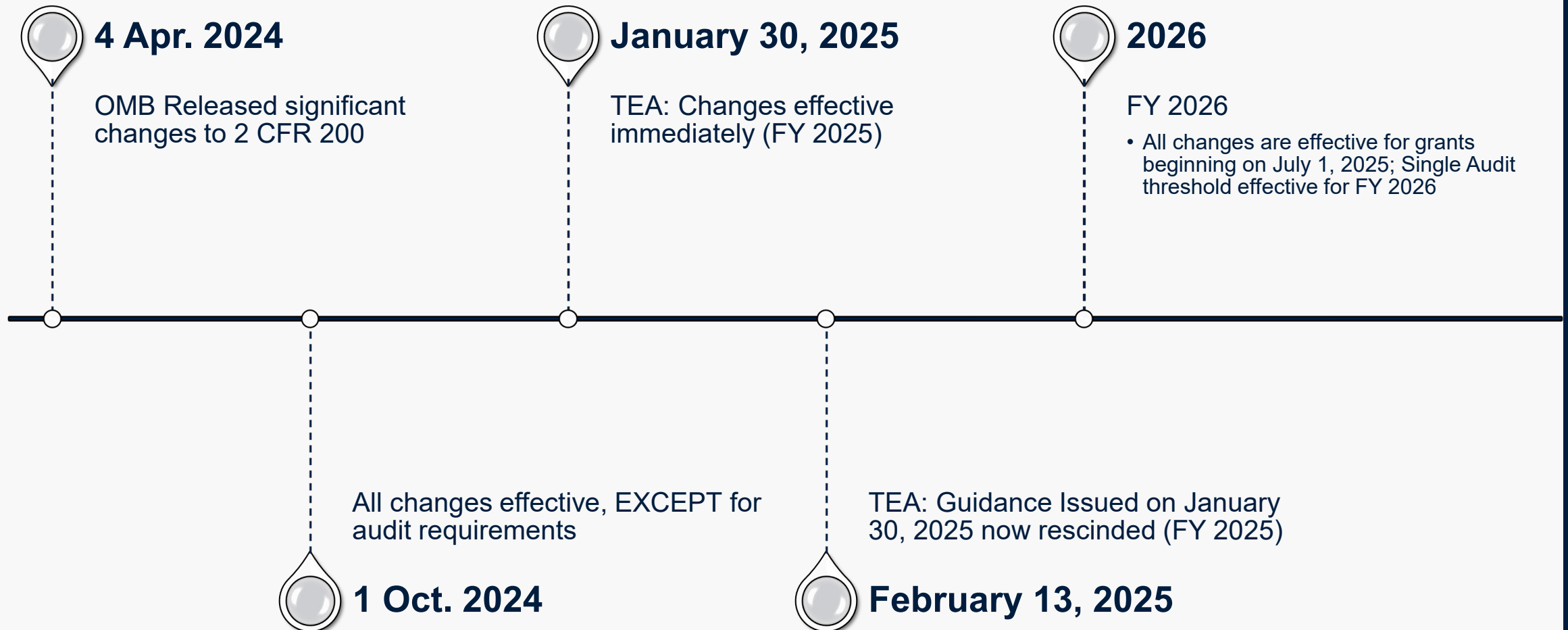


GASB No. 104 - Disclosure of Certain Capital Assets

Overview

Uniform Guidance

Timeline (Charter Schools and ISDs)





January 30, 2025

Implement it all!

All I say, even the audit
threshold for Single
Audit.

A brown, scruffy dog, possibly a Weimaraner, is sitting in a bathroom. The dog has long, wavy fur and is looking towards the camera. In the background, there is a white bathtub, a glass shower door, and a small black stool.

February 13, 2025

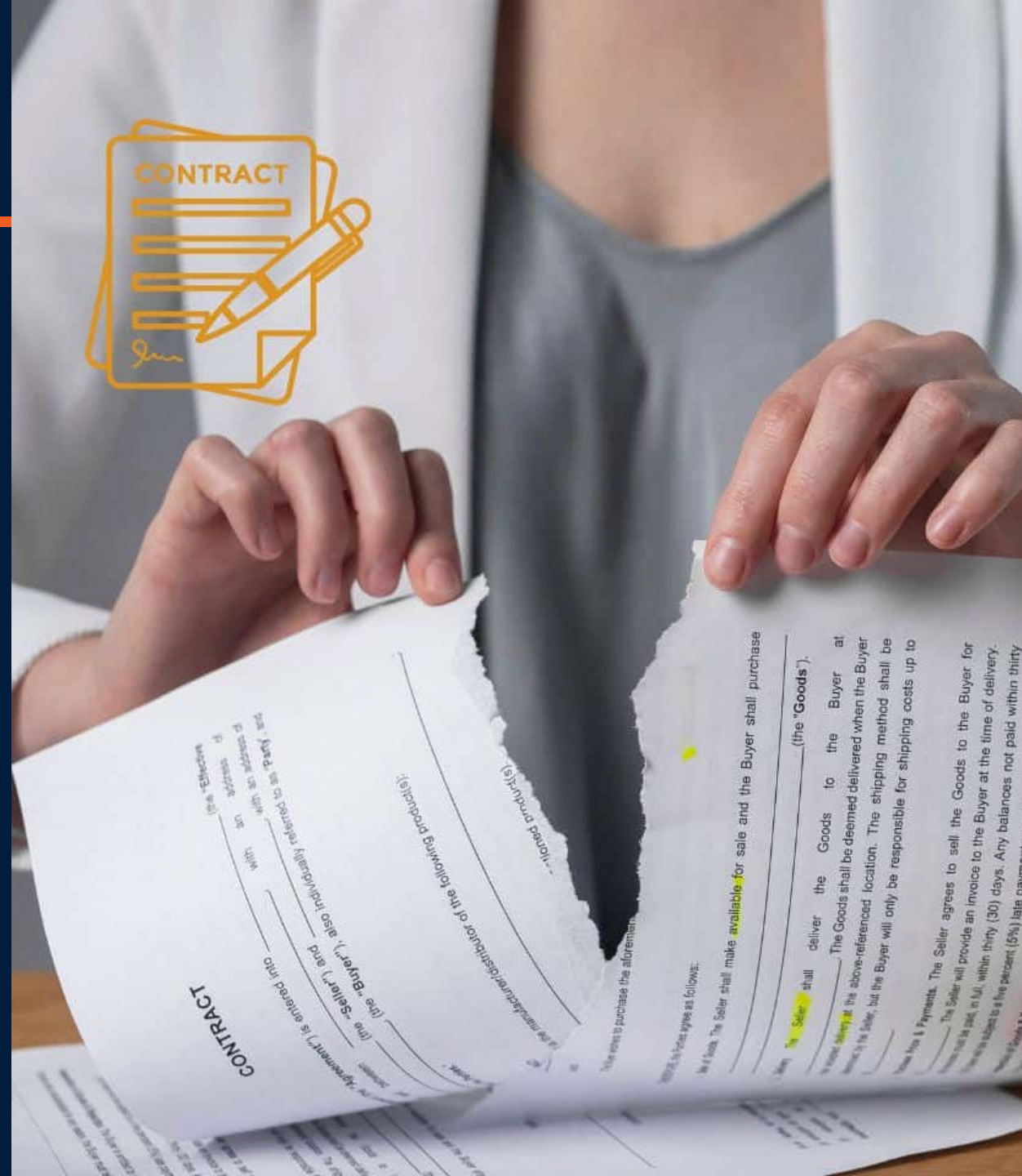
Rescinded the January 30, 2025, *To the Administrator Addressed* (TTAA). The letter was notified LEAs that the 2 CFR 200 changes would be effective for grants beginning on July 1, 2025.

Everything came to a screeching halt after this guidance was issued.

February 13, 2025

TEA's TTAA Letter

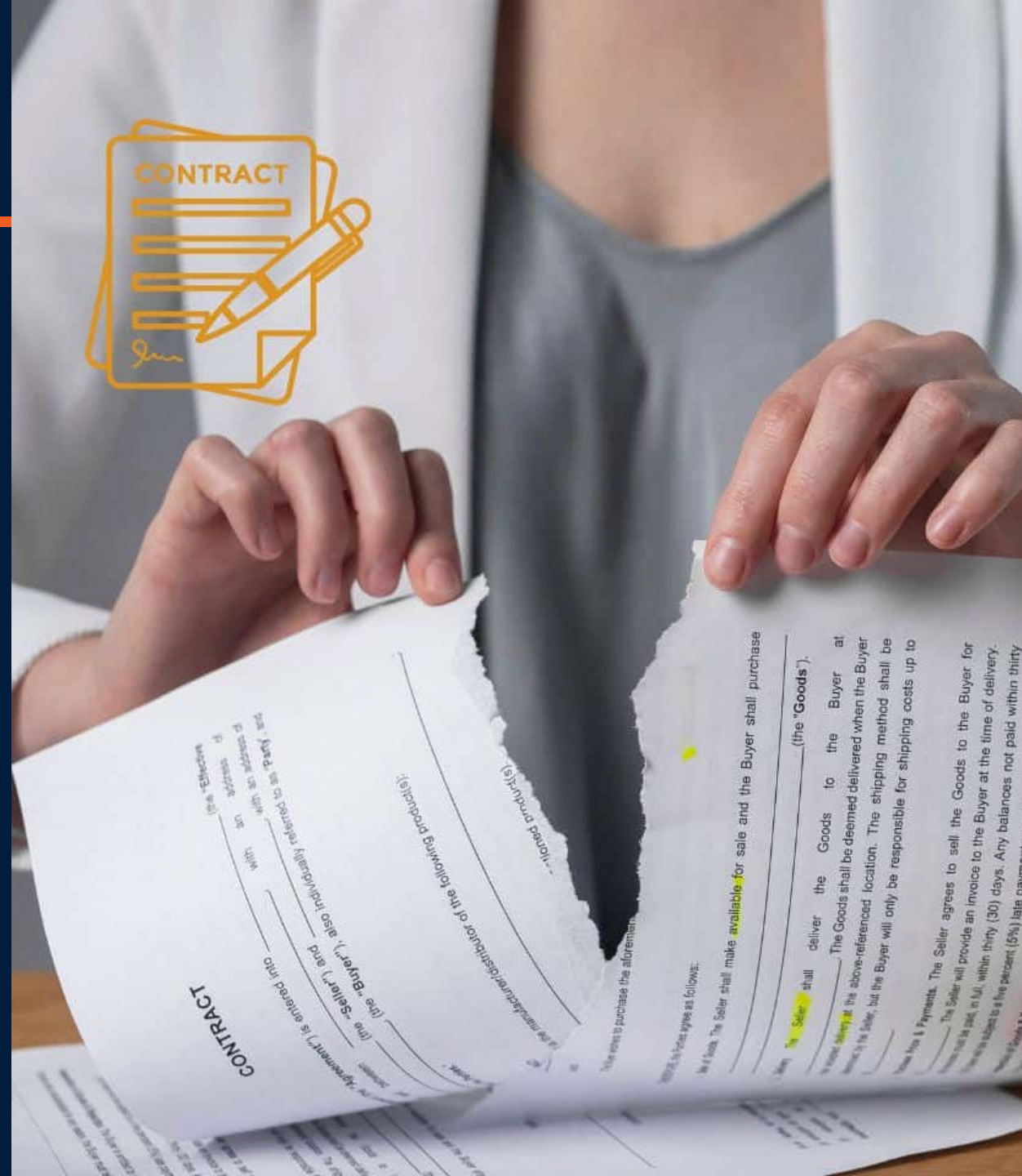
All federal grant rules and regulation changes go into effect July 1, 2025, unless the Local Educational Agency (LEA) has received a separate new federal grant award on or after October 1, 2024. LEAs should continue to create, revise, and/or update all applicable grant policies and procedures to align to the implementation of all the federal grant changes for a July 1, 2025, implementation as previously explained in TEA guidance and trainings.



February 13, 2025

TEA's TTAA Letter

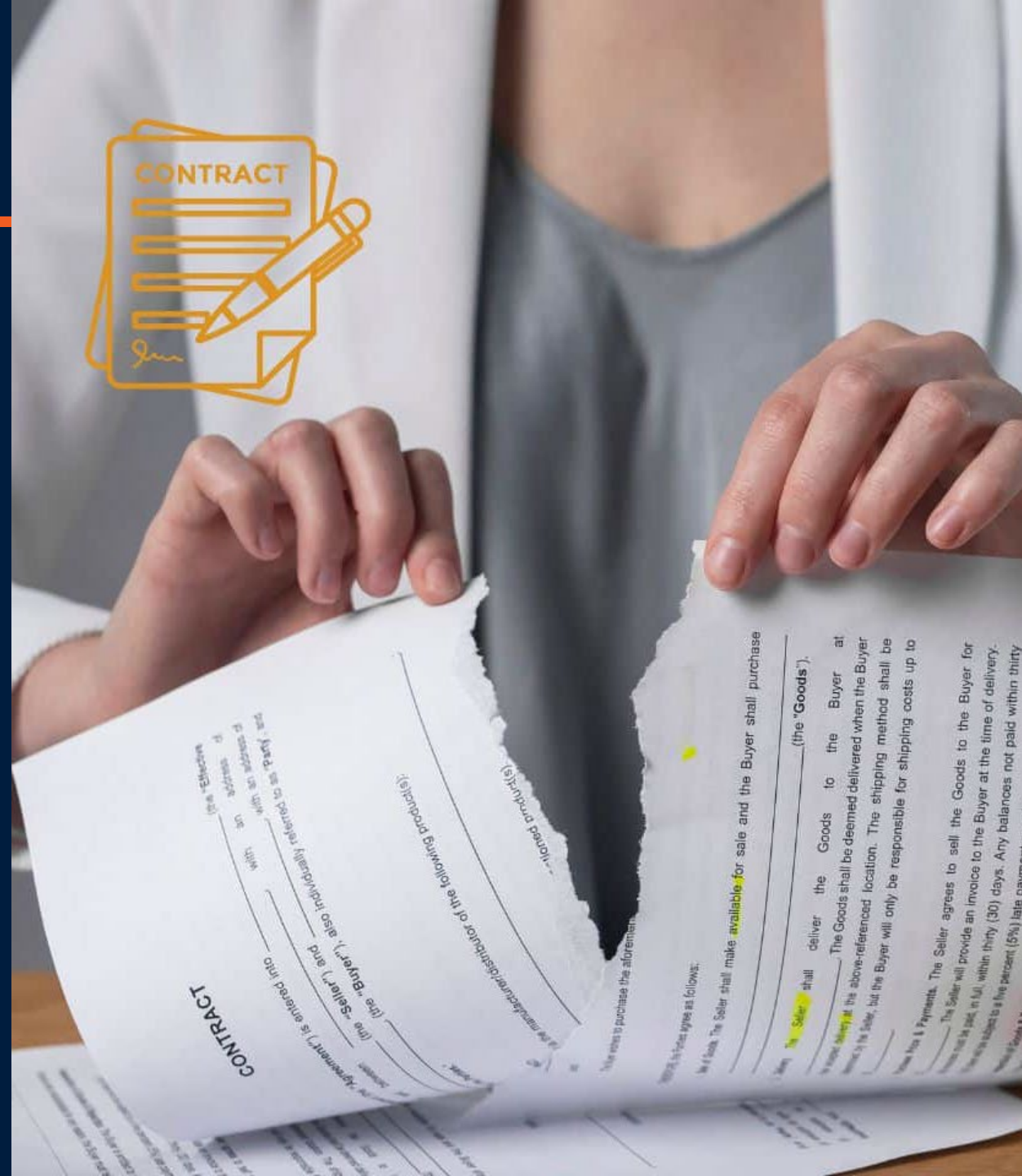
On July 1, 2025, this letter will supersede current Financial Accountability System Resource Guide (FASRG) rules 1.2.4.3 Capitalization of Assets referring to the \$5,000 threshold per unit cost for capitalized assets. The FASRG will be updated to reflect this change in April of 2026. The new per-unit cost will be increased to \$10,000 to align with the federal changes outlined in this letter.



February 13, 2025

TEA's TTAA Letter

In addition, the required federal audit threshold of \$750,000 total federal grant funds expended during the grantee's fiscal year increasing to \$1,000,000 will not go into effect until the grantee's next fiscal year which covers most of the 2025-2026 grant year.



Changes to Uniform Guidance: Effective Date

Effective Date	Election to Apply Early
October 1, 2024	Federal agencies may elect to apply the final guidance to Federal awards issued prior to October 1, 2024, but they are not required to do so.

Equipment Purchases and Supplies

Capital asset recognition threshold has increased from \$5,000 to \$10,000.



Make sure to properly budget for capital assets in the application and record them properly in the general ledger.



Unused supplies at the end of the grant exceeding \$10,000 – may be retained or sold.



Increased threshold from \$5,000 to \$10,000. Clarified that the requirements for unused supplies apply to the aggregate value of all supply types, and not just like-item supplies. Included a definition of “unused supplies.”

Grant-Funded Capital Assets

Equipment \$10,000 or less may be retained

Equipment \$10,000 or more retain or sell

- Federal share must be paid back
- Retain \$1,000 to cover expenses of sale
- 200.313(f) added (f) - ***Equipment retention.***
When included in the terms and conditions of the Federal award, the Federal agency may permit the recipient to retain equipment or authorize a pass-through entity to permit the subrecipient to retain equipment, with no further obligation to the Federal Government unless prohibited by Federal statute or regulation.)

The capitalization threshold not only affects your grants and single audit, but also your financial statements

Example Scenarios

1. If the aggregate net value of the assets with individual net values between \$5,000 and \$10,000 **IS** material, then you would remove them and restate net position.
2. If the net value of the assets with a value between \$5,000 and \$10,000 is **NOT** material, then you can remove them and expense them
3. If the net value of assets between \$5,000 and \$10,000 is **NOT** material, you can leave them on your listing. However, we should include in the MRL and formal communication that the adjustment was passed due to materiality and accounting burden. It's not a bad thing to report, but when the amount is above our trivial threshold yet below materiality, we need to include it in the representation letter as a passed adjustment.

2 CFR 200.501 Audit Requirements

- Scheduled of Expenditures of Federal Awards equal or exceed \$1,000,000 will be subject to a Single Audit
- The SEFA must be reconciled to the financial statements (revenue)
 - Revenues and expenditures must net to zero, unless fund balance is allowed
- Applies to 12/31/2025 year ends and fiscal years 2026
- Type A threshold: \$1,000,000 (previously \$750,000)
- Type B threshold: \$250,000 (previously \$187,500)

Equipment Purchases and Supplies

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Make sure to properly budget for capital assets in the application and record them properly in the general ledger.

Unused supplies at the end of the grant exceeding \$10,000 – may be retained or sold.

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The capitalization threshold not only affects your grants and single audit, but also your financial statements

Scenarios for Each LEA:

1. If the aggregate net value of the assets with individual net values between \$5,000 and \$10,000 **IS** material, then you would remove them and restate net position.
2. If the net value of the assets with a value between \$5,000 and \$10,000 is NOT material, then you can remove them and expense them
3. If the net value of assets between \$5,000 and \$10,000 is NOT material, you can leave them on your listing. However, we should include in the MRL and formal communication that the adjustment was passed due to materiality and accounting burden. It's not a bad thing to report, but when the amount is above our trivial threshold yet below materiality, we need to include it in the representation letter as a passed adjustment.

Single Audit

2 CFR 200.501 Audit Requirements

Scheduled of Expenditures of Federal Awards equal or exceed \$1,000,000 will be subject to a Single Audit

The SEFA must be reconciled to the 5900s

Applies to fiscal year end audit June 30, 2026 and August 31, 2026.

Type A threshold: \$1,000,000 (previously \$750,000)

Type B threshold: \$250,000 (previously \$187,500)

CSLFRF Obligation Deadlines and Consequences

Notice to Recipients of Coronavirus State and Local Fiscal Recovery Funds U.S. Department of the Treasury Compliance Reviews and Related Recoupment Efforts March 25, 2025

- Treasury intends to monitor recipients' methods of obligating funds by 12/31/2024, deadline.
- Treasury will recoup funds that recipients obligated or expended impermissibly, as well as to recapture those funds not spent by the 12/31/2024 deadline.
 - Information document request or
 - Financial Instructions to Return Unobligated Funds
 - Amount owed by the recipient
 - Date by which funds be repaid
 - Direct the recipient to Pay.gov for repayment options
 - Noncompliance with repayment will result in debt and the Treasury will follow standard debt collection policy and procedures (interest and penalties will accrue)



GASB No. 101 Compensated Absences

GASB No. 101 Compensated Absences

Objective:

The statement aims to improve the recognition and measurement guidance for compensated absences, ensuring financial statements provide better information to users¹.

Recognition and Measurement:

- Liabilities for compensated absences must be recognized for both unused leave and leave that has been used but not yet paid or settled.
- Unused leave must meet three criteria: it is attributable to services already rendered, it accumulates, and it is more likely than not to be used or paid.

GASB No. 101 Compensated Absences

Effective FY 2025

Leave = results in an employee receiving one or more of the following

Cash payments and settlements can occur during employee's service or at termination of employment

Supersedes Statement No. 16 - Absences for which employees will be paid, such as vacation, sick leave, and sabbatical leave

(1) Cash payments (through payroll) for leave time used for time off

(2) Other cash payments (cash settlements) for leave time; or

(3) Noncash settlements, such as conversion for health benefits

GASB No. 101 is Retroactive

- Apply GASB No. 100 for restating net position (Government-Wide and Proprietary Funds)
- Comparative financial statements
 - Calculate the compensated absence liability for FY 2023, 2024 and 2025

GASB No. 100- Accounting Changes and Error Corrections (continued)



Changes in accounting principles and error corrections be reported retroactively by restating prior periods.



Changes in accounting estimates be reported prospectively by recognizing the change in the current period.



Changes to and within the financial reporting entity be reported by adjusting beginning balances of the current period.



Identify which line item on the financial statements were affected.

GASB No. 100- Accounting Changes and Error Corrections (continued)

Exhibit 1 Classification of Accounting Changes with Examples		
Accounting Change	Events that qualify	Events that do not qualify
Reporting Entity	<ul style="list-style-type: none"> ■ Move ongoing operations from a fund ■ Add or remove a component unit ■ Change in determination of major funds ■ Change in presentation of component unit (blended or discrete presentation) 	<ul style="list-style-type: none"> ■ Creation of new fund as a result of providing new services/operations ■ Removing a fund in which operations have concluded ■ Acquisitions or disposal of operations of a discretely presented component unit
Accounting Principle	<ul style="list-style-type: none"> ■ Implementation of a new GASB pronouncement ■ Change from one generally accepted accounting method to another generally accepted method 	<ul style="list-style-type: none"> ■ Change from an accounting method that is not generally accepted to a generally accepted method
Accounting Estimate	<ul style="list-style-type: none"> ■ A change in methodology used to make an accounting estimate ■ A change made to the inputs for estimation, as a result of new information, experience or change in circumstances 	<ul style="list-style-type: none"> ■ Change in estimate resulting from conditions that existed at the date of the financial statements that management should have known and considered as of the date the financial statements are issued
Error Correction	<ul style="list-style-type: none"> ■ Mathematical and posting errors or misuse of facts that existed at the financial statement date ■ Change from an accounting method that is not generally accepted to a generally accepted method ■ Change in estimate resulting from conditions that management should have known and considered as of the date the financial statements are issued 	<ul style="list-style-type: none"> ■ Items that would otherwise qualify as corrections but are immaterial

<https://www.cpajournal.com/2023/05/29/gasb-issues-statements-100-and-101/>

GASB No. 100- Accounting Changes and Error Corrections (continued)

Exhibit 2 Presentation in Comparative Financial Statements		
Accounting Change	Comparative Financial Statements	Notes to the Financial Statements
Reporting Entity	<ul style="list-style-type: none"> ■ No restatement of prior period financial statements ■ The cumulative effect is calculated as if the change occurred on the first day of the year. The cumulative effect on periods prior to the year of change should be reported as a restatement of beginning residual equity in the year of the change 	<ul style="list-style-type: none"> ■ Describe the nature of the change to or within the reporting entity ■ Describe the reason for the change (unless the change is as the result of a quantitative threshold test for major funds) ■ Disclose the effects on beginning residual equity
Accounting Principle	<ul style="list-style-type: none"> ■ Restate the financial statements for all periods presented ■ The cumulative effect on periods prior to the earliest period restated should be reported as a restatement of beginning residual equity of the first year presented 	<ul style="list-style-type: none"> ■ Identify the financial statement line items affected by the change ■ Identify the reason for the change, including an explanation of why the new principle is preferable, or identify the new GASB pronouncement requiring the change ■ Report the effects on beginning residual equity
Accounting Estimate	<ul style="list-style-type: none"> ■ No restatement or cumulative effect presented ■ The change in accounting estimate should be prospectively recognized beginning in the reporting period in which the change occurs 	<ul style="list-style-type: none"> ■ Describe the nature of the estimate and identify the financial statement line items affected by the change ■ Describe the reason for the change in measurement methodology and why the new method is preferable, unless the change is required by a GASB pronouncement
Error Correction	<ul style="list-style-type: none"> ■ Restate the financial statements for all periods presented ■ The cumulative effect on periods prior to the earliest statements presented should be reported as a restatement of beginning residual equity of the first year presented 	<ul style="list-style-type: none"> ■ Describe the nature of the error and correction and identify the financial statement line items affected by the error ■ Report the effect of the error correction on the change in net position, fund balance, or fund net position ■ Report the effects on beginning residual equity

<https://www.cpajournal.com/2023/05/29/gasb-issues-statements-100-and-101/>

GASB No. 100- Accounting Changes and Error Corrections (continued)

Exhibit 3 Presentation in RSI and SI	
Accounting Change	RSI and SI (including MD&A)
Reporting Entity	<p>Financial information included in the RSI and SI should conform to the entity reported in the comparative financial statements</p> <p>Because the financial statements are not restated for changes in the reporting entity, RSI or SI information should not be restated for periods prior to the period of change</p>
Accounting Principle	<p>The financial information contained in the RSI and SI should be restated for all periods for which financial statements are presented</p> <p>RSI or SI information should not be restated for periods prior to those of the comparative financial statements</p>
Accounting Estimate	<p>Prior periods are not affected by changes in accounting estimate, so no changes should be made to prior-year RSI and SI financial information.</p>
Error Correction	<p>Financial information included in the RSI and SI should be restated for all periods for which financial statements are presented</p> <p>If the error affects periods earlier than those appearing in the comparative financial statements, the RSI and SI financial information should be restated for all periods affected by the error (if practicable)</p>

GASB No. 101 Highlights

- Key Change: governments need to recognize a liability for cash payments to employees for leave time that will be used for time off.
- Prior to GASB No. 101, governments only recognized a liability when earned leave could be settled for cash or other compensation, not when it was expected to be used as leave.
- Required to estimate how much of the accumulated unused leave, more than likely than not, will be paid to employees when they take time off in future.

GASB NO. 101 Compensated Absences

Challenges in Implementation

1. Transition from GASB 16 to GASB 101:

- A. **Conceptual Shift:** Moving from a rules-based approach to a conceptual framework requires a change in mindset and understanding. This shift can be difficult for organizations accustomed to the previous standards.
- B. **Policy Updates:** Organizations need to update their policies and procedures to align with the new standards, which can be time- consuming.

2. Data Collection and Analysis:

- A. **Historical Data:** Gathering and analyzing historical data on leave usage, payments, and forfeitures is essential but can be challenging, especially if records are incomplete or inconsistent.
- B. **Estimations:** Accurately estimating the likelihood of leave being used or paid requires robust data and sound judgment.

GASB NO. 101 Compensated Absences

Challenges in Implementation

3. System and Process Changes:

- A. **Software Updates:** Financial and HR systems may need updates to accommodate the new requirements, which can involve significant time and resources.
- B. **Training:** Staff need training on the new standards and processes to ensure accurate implementation and reporting.

4. Financial Impact:

- A. **Increased Liabilities:** The new standard may result in higher reported liabilities for compensated absences, impacting financial statements.
- B. **Salary-Related Payments:** Including additional costs such as payroll taxes and pension contributions in the liability calculations can complicate the calculation.

5. Disclosure Requirements:

Net Change Reporting: Transitioning to reporting the net change in compensated absence liabilities instead of gross additions and deductions requires adjustments in financial reporting practices.

What Is Considered a Compensated Absence?

Various forms, not just vacation and annual leave, but also sick leave, paid time off, holidays, jury duty leave, military leave, bereavement leave, unrestricted sabbatical leave, and others (see Paragraph 3 of GASB No. 101).



When do we Have a Compensated Absence Liability for Unused Leave?

- Does the absence accumulate from one year to the next?
- Is the absence attributable to services already rendered?
- Is it more likely than not to be either paid or settled through other means?



When do we Have a Compensated Absence Liability for Unused Leave?

How should governments evaluate if payment or settlement is more likely than not?

- Likelihood of using time off is 50% or more.
- Their employment policies or contract terms regarding compensated absences.
- If any leave time that has been earned is or will become eligible for use or settlement in a future period.

Types of Leave and Measurement

Types of Leave

- Specific types like parental leave, military leave, and jury duty leave are recognized only when the leave commences.

Measurement

- Generally, uses the employee's pay rate as of the financial statement date.
- Includes salary-related payments directly associated with leave payments.

Disclosure

- Governments can disclose the net change in the liability for compensated absences instead of gross increases and decreases.

Charles Hall Example

Measurement Amount

Use the employee's pay rate as of the date of the financial statements to compute the compensated absence liability. If Joe Johnson's pay rate is \$30 per hour on June 30, 2025, and \$35 per hour on June 30, 2026, use \$30 per hour for the June 30, 2025, financial statements and \$35 per hour for the June 30, 2026, financial statements.

Charles Hall Example

Leave that Has Been Used

Report a liability for used leave that has yet to be paid or settled through other means. If thirty people were on vacation the last week of the fiscal year (June 30, 20X5) but the government makes those payments in July, recognize the compensated absence liability for this on June 30, 20X5. Why not accrue such amounts as accrued salaries? Because the liability is related to leave.

Holidays

Do not accrue holidays in compensated absences. (The GASB board says, “The benefit of recognizing them before they are used would be minimal.” So, they chose to provide this exception to the general recognition approach.)

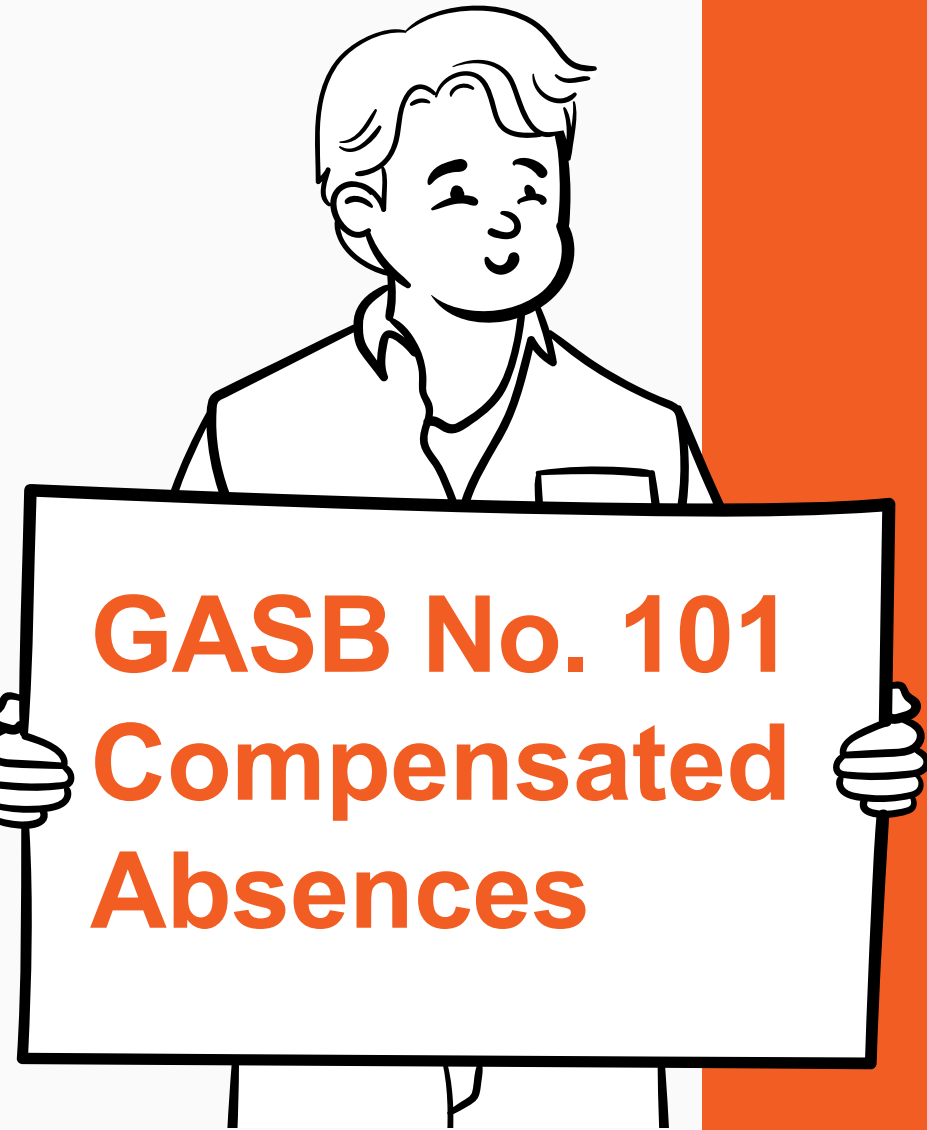
GASB 101 Literally

LEAVE TYPE	RECOGNITION OF UNUSED LEAVE AND ASSOCIATED SALARY-RELATED PAYMENTS AS COMPENSATED ABSENCES
GENERAL	
All earned, accumulating leave that is more likely than not to be paid or settled other than as DB PEB and that is not included in any of the below exceptions (e.g., vacation/annual leave, sick leave, paid time off, and sabbatical leave during which the employee is not required to perform any duties for the employer)	When leave is earned
EXCEPTIONS	
Earned, accumulating leave that is more likely than not to be settled through <i>conversion to defined benefit</i> pension or other postemployment benefits	Not recognized*
Earned, accumulating leave that is more likely than not to be paid or settled (other than as DB PEB) that is <i>dependent upon the occurrence of a sporadic event that affects a small proportion of employees in a particular reporting period</i> (e.g., military leave, parental leave, jury duty) is recognized as a liability as soon as the leave has begun. ▪ Neither sick leave nor unrestricted sabbatical leave may be recognized in this manner	When leave <i>commences</i> **
Unlimited leave and holiday leave taken on a specific date	When leave <i>is taken</i> †

* See footnote 3.

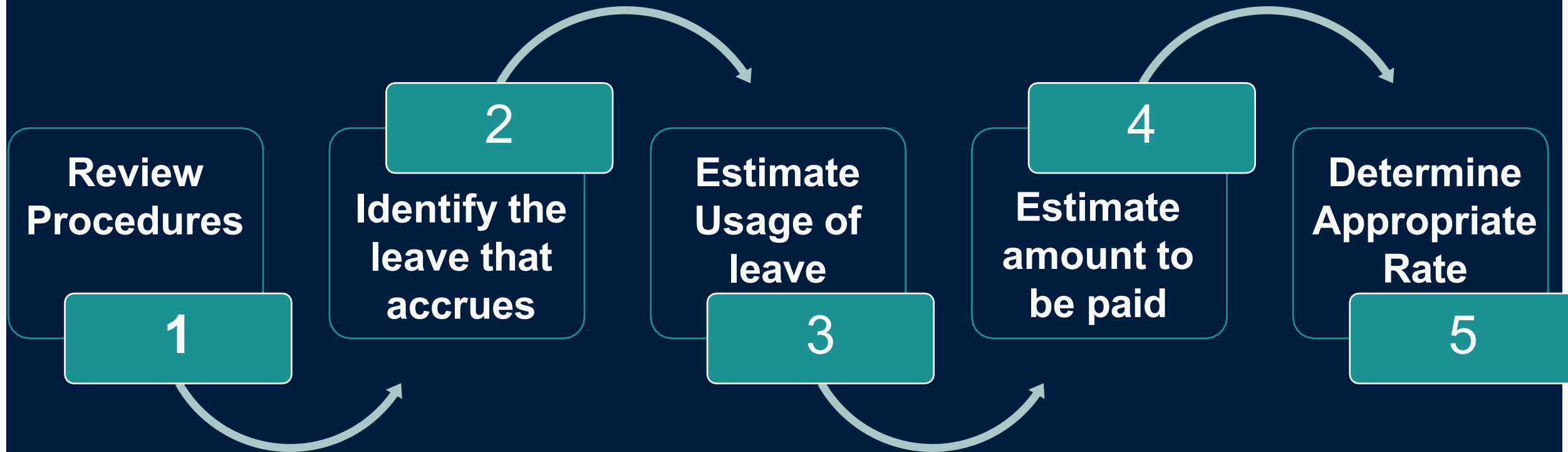
** For example, if parental leave of three months is more likely than not to be paid, and a qualifying employee begins parental leave on June 1, a government with a June 30 fiscal year end would report a liability for the remaining two months of leave in financial statements dated June 30 because the leave had already begun.

† For example, if an employee becomes eligible to take January 1 off as a holiday by being an active employee as of close of business on December 31, a government with a December 31 fiscal year end would not report a liability for the holiday leave because it has not yet been taken.



- Governmental Fund Financial Statements – only that which is due and payable at year-end and also actual payouts for certain accumulated compensated absences.
- Government-wide Financial Statements and Proprietary Fund Financial Statements – compensated absences that are not due and payable along with the salary-related payments.

Compensated Absences Liability



	Days Paid	Dollars Paid
Recognition	Liabilities are recognized for the number of days of leave that have been used but not yet paid.	Liabilities are recognized for the dollar amount of leave that has been used but not yet paid.
Measurement	# of Days Leave X Employee Pay Rate as of the F/S Date.	Actual cash payment or noncash settlement to be made.
Key Differences	Time value of leave.	Monetary value of the leave.

Approaches Discussed By GFOA GAAFR (Blue Book)

GFOA Summary of The Days Paid Approach

- Develop trends based on the historical use of sick leave.
- Representative sample of active employees to determine the # of sick days used in the past 5 years and their hourly pay rate at the end of the reporting period, unless
 - Some or all of the leave is more likely than not to be paid a rate different from the employee's pay rate at the time the payment is made,
 - The leave is not attributable to a specific employee at the end of the FY or
 - Some or all of the leave is more likely than not to be settled through noncash means other than conversion to defined benefit OPEB.

GFOA Days Paid Out Example

Sick Leave Policy

- Employees earn 1 day of sick leave for each month worked, which can be carried over to future fiscal years.
- Employees, with **service years of 10 or more**, are **paid in cash for 30 percent** of their unused sick leave, **maximum of 150 days**, upon termination of employment, at their hourly rate at the time of termination.
- The government does not contribute to the defined contribution plan for amounts paid out at termination.
- Sick leave policy is consistent for all government employees, no significant “classes” of employees.

GFOA Days Paid Out Example (continued)

Inputs

- Average days used annually for a sample of active employees, as a percentage of days earned.
- Average hourly rate for sampled employees.
- Percentage applicable for salary-related payments.
- The aggregate “sick leave bank,” the total accumulated days for the entire active employee population.
- Number of days paid out and the total days accrued at the date of termination for a sample of former employees.

GFOA Days Paid Approach Example

- Calculate the amount more likely than not to be used by the aggregate employee group or separate it by groups of employee.

- Calculate the amount estimated to be paid out at termination for the aggregate employee group.

Historical days of leave used	A	B	C	D	E	F (Sum A thru E)	G (F/5 years)		Calculated
	Days used						Average annual		Average
SAMPLE	20X1	20X2	20X3	20X4	20X5	Total days used	use (days)	Annual salary	Hourly rate
Active employee 1	5	4	5	3	3	20	4.0	\$ 55,000.00	\$ 26.44
Active employee 2	4	3	4	4	4	19	3.8	60,000.00	28.85
Active employee 3	2	5	2	3	2	14	2.8	110,000.00	52.88
Active employee 4	8	9	7	7	8	39	7.8	115,000.00	55.29
Active employee 5	6	12	8	9	7	42	8.4	120,000.00	57.69
Active employee 6	4	4	3	4	3	18	3.6	65,000.00	31.25
Active employee 7	7	2	3	3	2	17	3.4	70,000.00	33.65
Active employee 8	8	2	5	4	5	24	4.8	45,000.00	21.63
Active employee 9	3	3	4	4	2	16	3.2	85,000.00	40.87
Active employee 10	4	5	4	6	4	23	4.6	82,000.00	39.42
						Average	4.6		
Average days used (12 days awarded per year)							38.67% H		
								Average hourly rate	\$ 38.80

	For leave that is used	For leave that is paid out
Social Security (6.2%)	6.20%	6.20%
Medicare (1.45%)	1.45%	1.45%
457b DC plan (5%)	5.00%	0.00%
Total % of salary related payments	12.65%	7.65%

Calculation related to sick leave to be used								
	L	M (H above)	N (LxM)	O (Nx8 hours)	P (I above)	Q (OxP)	R (Q x.1265)	S (Q+R)
	Total sick leave accrued at FYE (days)	% use as leave	More likely than not Sick leave to be used (days)	Sick leave for use (hours)	Average hourly rate at FYE	Liability for sick leave for use	Salary-related liability related to sick leave for use	Total Liab for Sick Leave to be used
Aggregate Employee Group	1,527	38.67%	590	4,720	\$ 38.80	\$ 183,136	\$ 23,167	\$ 206,303

GFOA

Days Paid

Approach Example

- Calculate the amounts of leave to be used.
- Amount estimated to be used.
- Now we bring in the actual balances.

GFOA Days Paid Approach Example (continued)

Average employee years of service upon termination

SAMPLE	Years of service	Eligible for sick payout (>= 10 years)	Days paid out at termination	Accumulated (unused) days as of date of termination
Former employee #1	32	YES	150	163
Former employee #2	6	NO	-	50
Former employee #3	23	YES	100	100
Former employee #4	20	YES	150	179
Former employee #5	18	YES	85	85
Totals			485	577

% of days paid at termination to total days accumulated

84%

Previously Calculated:

1,527 days in the sick leave bank;

590 days were MLTN to be used

Maximum sick leave days for payout is 937.

MLTN days to be paid out =
787 (937*84%)

- Calculate the amounts of leave to be paid out.
- Who and how much is eligible to be paid out at termination?

GFOA Days Paid Approach Example (continued)

Calculation of sick leave to be paid out					
U (Tx84%)	V (Ux8 hours)	W(VxP)	X (Wx30%)	Y (Xx.0765)	Z (X+Y)
More likely than not - Sick leave for payout (days)	Sick leave for payout (hours)	Sick leave for payout (\$)	Sick leave for pay, capped at 30%	Salary-related liability related to sick leave payout	Total Liability for Sick Leave to be paid out
787	6,296	\$ 244,285	\$ 73,286	\$ 5,606	\$ 78,892

- Sick Leave pay was capped at 30% of balance per policy.
- Added salary related liabilities.
- Amount of leave to be paid out at FYE - \$78,892.
- Total liability on financial statements - \$285,195 (\$206,303+\$78,892).

Total Compensated Absences at Year End

Aggregate leave bank

Estimate % use as leave

\$ Rate applied to leave for use

Add salary related payments

Liability for leave to be **used**

Available for leave payout

MLN for leave payout

Apply hourly rate at FYE

Leave pay cap % and max, if any

Add salary-related payments

Liability for leave to be **paid**

A	B	C = AXB	D	E = CXD	F	G = E + F
Sick Leave Accrued Hours at 12.31.24	% used	MLTN to Be Used	Average Rate	Amount To Accrue	Salary-Related liabilities	Total Liability for Sick Leave to be Used
59,772	(1) 72%	(2) 42,879	\$ 43.63	\$ 1,870,888.54	\$ 274,085.17	\$ 2,144,973.71



Note: Total Sick leave was \$2,786,691.78

(1) We ensured that the total amount accrued by employee did not exceed 480 hours. Any amounts in excess, are removed from this total








Salary-Related Payments

SS and Medicare	\$ 143,123
Defined Contributions	130,962

Amount Earned and Used Per Year	(2)
2024 Earned	22,991.46
2024 Taken	19,534.51
% of Amt Earned Used	84.96%
2023 Earned	20,743.66
2023 Taken	16,419.35
% of Amt Earned Used	79.15%
2022 Earned	20,998.25
2022 Taken	15,723.65
% of Amt Earned Used	74.88%
2021 Earned	20,422.50
2021 Taken	12,892.60
% of Amt Earned Used	63.13%
2020 Earned	21,612.72
2020 Taken	12,223.84
% of Amt Earned Used	56.56%
	71.74%
Last 5 years	



https://cpahalltalk.com/compensated-absences/

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as applicable.

Leave – Defined Benefit

Do not include salary-related payments for defined benefit pensions or defined benefit OPEB when measuring liabilities for compensated absences. Such amounts are recognized in the government's pension or OPEB liabilities.

The liability for compensated absences concerns only the direct cost of paying employees for leave, not the additional expenses related to the defined benefit pension plan. **By keeping these calculations separate, the government avoids double-counting pension-related expenses already accounted for under the pension plan's liabilities.**



Recap – Reports Needed

- Leave liability as of FY 2024 and 2025 (2023 for comparative statements)
- Amounts earned for the last five years
- Amounts used for the last five years
- Develop your estimates based on historical data



GASB NO. 102 – CERTAIN RISK DISCLOSURES

Effective Date is for fiscal years beginning on or after June 15, 2024 and all reporting periods thereafter (not retroactive).

Key Impacts on Governments

- Improved Risk Transparency
- Enhanced Decision-Making
- Proactive Risk Management
- Timely information

Government must have activities that:

- Risk Identification
- Potential Impact
- Mitigation Strategies

GASB Statement No. 102: Certain Risk Disclosures



- **Objective:** To provide users of government financial statements with essential information about risks related to a government's vulnerabilities due to certain concentrations or constraints
- **Key Points:**
- **Concentration:** Defined as a lack of diversity related to a significant inflow or outflow of resources.
- **Constraint:** A limitation imposed by an external party or formal action of the government's highest decision-making authority.
- **Disclosure Requirements:** Governments must disclose information about concentrations or constraints that make them vulnerable to substantial impacts. This includes:
 - Descriptions of the concentration or constraint.
 - Events associated with the concentration or constraint that could cause substantial impact.
 - Actions taken by the government to mitigate the risk.
- **Effective Date:** For fiscal years beginning after June 15, 2024 (FY 2025)

GASB Statement No. 102: Certain Risk Disclosures

Three (3) conditions must be met:

1. Known to the government prior to the issuance of the financial statements
2. The concentration or constraint makes the reporting unit vulnerable to a risk of a substantial impact and
3. An event or events associated with the concentration or constraint that could cause a substantial impact has occurred, begun to occur, or more likely than not to occur within 12 months of the date the financial statements are issued.

GASB NO. 103 FINANCIAL REPORTING MODEL IMPROVEMENTS

- Issued April 2024
- Objective: To improve key components of the financial reporting model to enhance its effectiveness in providing information that is essential for decision making and assessing a government's accountability.
- Effective for fiscal years beginning after June 15, 2025, and all reporting periods thereafter.
- Earlier application is encouraged.
- All changes are reported as a change in accounting principle (see GASB No. 100).

GASB NO. 103: AREAS OF FOCUS

- Management's Discussion and Analysis
- Unusual and infrequent items
- Proprietary fund statements
- Information about major component units in basic financial statements
- Budgetary comparison information
- Financial trends information in the statistical section

MANAGEMENT'S DISCUSSION AND ANALYSIS

The basic financial statements will continue to be preceded by MD&A, which is required supplementary information (RSI), in the five following categories:

- Overview of the Financial Statements
- Financial Summary
- Detailed Analysis
- Significant Capital Asset and Long-term Financing Activity
- Currently Knowns Facts, Decisions, or Conditions

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

MD&A should:

- Be written in a manner that can be understood by users who may not have a detailed knowledge of governmental accounting and financial reporting
- Include explanations and interpretations that help users understand the information provided

Current Year Balances and Results of Operations Compared to the Prior Year:

- The analysis should assist users in understanding why balances and results of operations reported in the current year's financial statements changed from the prior year rather than simply presenting the amounts or percentages by which they change

- If possible, unnecessary duplication should be avoided
- Certain explanations may be relevant to the discussion in multiple sections of MD&A
- Those explanations may be repeated after they have been presented initially, but that is not required
- Determining whether to repeat explanations within multiple sections of MD&A is a matter of professional judgment
- For example, a change in the tax rate may affect the results of operations in both the government-wide financial statements and fund financial statements

Note: If a letter of transmittal is presented in the introductory section of an ACFR, governments are encouraged not to duplicate information contained in MD&A

MD&A – DISCRETELY PRESENTED COMPONENT UNITS



- MD&A should focus on the primary government.
- Information included in MD&A should distinguish between that of the primary government and its discretely presented component units.
- Determining whether to discuss matters related to a discretely presented component unit is a matter of professional judgment and should be based on the nature and significance of the individual component unit's relationship to the primary government.
- If appropriate, the reporting entity's MD&A should refer users to the component unit's separately issued financial statements.

MD&A – DETAILED ANALYSES

- Refer to the analysis of significant capital asset and long-term financing activity rather than duplicating information.
- The analysis should explain why those changes from the prior year occurred and indicate the magnitude of those changes.
- The analysis should include facts, decisions, or conditions about which the user may not be aware, with the understanding that not all users may be from the government's geographical area.

MD&A – DETAILED ANALYSES (continued)

The analysis should explain a discussion of significant policy changes that significantly affected operating results for the year.

- Examples: Changes in tax rates or fees, the imposition of a hiring freeze.

The analysis should explain important economic factors that significantly affected operating results for the year.

- Examples: Changes in the tax or employment bases.

MD&A – BUDGETARY ANALYSIS

- **No longer will be part of the MD&A**
- The GASB concluded that the discussion of variances should be presented as notes to RSI so that the analysis of variances would be presented closer to the variances themselves.
- The MD&A should focus on information in the basic financial statements, and budgetary comparison information is not part of the basic financial statements.

MD&A – CURRENTLY KNOWN FACTS, DECISIONS, OR CONDITIONS

What is expected to have a significant effect on financial position or expected to produce significant differences from current-period results of operations?

Examples that should be included, if applicable, include:

- Trends in relevant economic and demographic data.
- Relevant factors used to develop the subsequent year's budget that will provide an indication of how results of operations are expected to change in the subsequent year.

MD&A – CURRENTLY KNOWN FACTS, DECISIONS, OR CONDITIONS (continued)

Examples that should be included, if applicable, include:

- Expected changes in budgetary net position or fund balance.
- Actions taken related to pension, OPEB, capital asset improvement plans, leases, SBITAs, and other long-term financings that will affect a subsequent period.
- Actions other parties have taken that will affect the government in a subsequent period.
- The above list is not an all-inclusive list; describe and include others as appropriate.

SPECIAL AND EXTRAORDINARY ITEMS

Current GAAP (Not GASB Statement No. 103)

- Special items are significant transactions or other events within the control of management that are either unusual in nature or infrequent in occurrence.
- Extraordinary items are transactions or other events that are both unusual in nature and infrequent in occurrence.

UNUSUAL OR INFREQUENT ITEMS

- Transactions and other events that are unusual in nature or infrequent in occurrence.
- Present inflows and outflows related to unusual or infrequent items individually as the last presented flow(s) of resources prior to the net change in resource flow.
- Disclose in notes to financial statements the program, function, or identifiable activity to which an unusual or infrequent item is related, if applicable.
- Disclose in notes to financial statements whether that item is within the control of management.

PROPRIETARY FUND FINANCIAL STATEMENTS

- Defines proprietary fund operating revenues and expenses and nonoperating revenues and expenses (including defining subsidies).
- Definitions will assist governments of all sizes by providing clearer guidance on how to classify revenues and expenses, which will increase the consistency and comparability of that information.

PROPRIETARY FUND FINANCIAL STATEMENTS (continued)

***Nonoperating revenues and expenses are:**

- Subsidies received and provided
- Contributions to permanent and term endowments
- Revenues and expenses related to financing
- Resources from the disposal of capital assets and inventory, and
- Investment income and expenses

*Unless transactions constitute the proprietary fund's principal ongoing operations.

PROPRIETARY FUND FINANCIAL STATEMENTS (continued)

What are operating revenues and expenses?

Revenue and expenses other than nonoperating revenues and expenses.

PROPRIETARY FUND FINANCIAL STATEMENTS (continued)

What is a subsidy?

- Resources received from another party or fund
 1. for which the proprietary fund does not provide goods and services to the other party or fund and
 2. that directly or indirectly keep the proprietary fund's current or future fees and charges lower than they would be otherwise.
- Resources provided to another party or fund
 1. for which the other party or fund does not provide goods and services to the proprietary fund and
 2. that are recoverable through the proprietary fund's current or future pricing policies.
- All other transfers.

PROPRIETARY FUND FINANCIAL STATEMENTS (continued)

- Noncapital subsidies are presented separately after Operating Expenses and included in Total Operating Income (Loss).

Operating revenues (detailed)

Total operating revenues

Operating expenses (detailed)

Total operating expenses

Operating income (loss)

Noncapital subsidies (detailed)

Total noncapital subsidies

Operating income (loss) and noncapital subsidies

Other nonoperating revenues and expenses (detailed)

Total other nonoperating revenues and expenses

Income (loss) before unusual or infrequent items

Unusual or infrequent items (detailed)

Increase (decrease) in fund net position

Fund net position—beginning of period

Fund net position—end of period

MAJOR COMPONENT UNITS

- Present each major component unit separately in the reporting entity's statements of net position and activities.
- If readability of financial statements is reduced, combining statements of major component units should be included.

STATISTICAL SECTION (WHEN AN ACFR IS PREPARED)

- Applicable to governments engaged only in business-type activities or only in business-type and fiduciary activities.
Examples: Colleges and universities, toll road authorities, water authorities, etc.
- Should present revenues by major source for their business-type activities, distinguishing between:
 - Operating
 - Noncapital subsidy, and
 - Other nonoperating revenues and expenses

BUDGETARY COMPARISON INFORMATION

- Budgetary comparison schedules should be presented as RSI for the general fund and each major special revenue fund that has a legally adopted annual budget.
- Present separate columns for the variances between:
 - Original and final budget amounts and
 - Final budget amounts and actual results.
- Explanations for significant variations between original and final budget amounts and final budget amounts and actual results should be presented in notes to RSI.

GASB No. 104

- Disclosure of Certain Capital Assets

GASB No. 104 Disclosure of Certain Capital Assets

Objective: To provide users of government financial statements with essential information about certain types of capital assets

Key Points:

Capital Assets Disclosure: Requires separate disclosure of certain types of capital assets in the notes to financial statements, including:

- Lease assets recognized in accordance with Statement No. 87.
- Intangible right-to-use assets recognized in accordance with Statement No. 94.
- Subscription assets recognized in accordance with Statement No. 96.
- Other intangible assets.

Capital Assets Held for Sale: Requires additional disclosures for capital assets held for sale, including:

- Ending balance of capital assets held for sale.
- Historical cost and accumulated depreciation by major class of asset.
- Carrying amount of debt for which the capital assets held for sale are pledged as collateral.

Effective Date: For fiscal years beginning after June 15, 2025 (FY 2026)

GASB No. 104 Disclosure of Certain Capital Assets

Lease assets, by major class of underlying asset,

- Intangible right-to-use assets relating to P3's recognized by governmental operators, by major class,
- SBITAs, and
- Other intangible assets, by major class of asset. If there are intangible assets that represent a right-to-use asset, they will be required to be separately displayed from other assets in that major class

GASB-104 will not be required to be implemented until fiscal years beginning after June 15, 2025 (FY 2026). For June 30th governments, this means transition will occur on July 1, 2025. However, it will require a **retroactive application** to all periods presented in the basic financial statements, as practicable. As a reminder, the provisions of GASB Statement No. 100, Accounting Changes and Error Corrections applies to GASB-10

GASB No. 104 Disclosure of Certain Capital Assets

Principles

The government has decided to pursue the sale of the asset, *and*

It is *probable* (likely to occur) that the sale will be finalized (closed) within one year of the financial statement date.

Factors to Consider in Making Decision

- Is the asset available for *immediate sale* in its current condition?
- Is there a program to find a buyer perhaps including a bid?
- Are the market conditions favorable for selling that asset? And,
- Are there regulatory approvals needed to sell the asset, including from grantors?

UP NEXT:

LEGISLATIVE UPDATE

SARAH LANGLOIS, ATTORNEY



SPALDING NICHOLS
-LAMP LANGLOIS-



Spring Public Sector Seminar 2025 Legislative Update & Effects of Tariffs on Governmental Purchasing & Contracting



SPALDING NICHOLS
-LAMP LANGLOIS-

SARAH LANGLOIS, PARTNER
Spalding Nichols Lamp Langlois, Houston Office

Tariffs & Governmental Entity Purchasing

DISCLAIMER



dis·claim·er

/diˈsklāmə/

noun

a statement that denies something, especially responsibility.



Similarity?





Tariffs have three goals. The first is that, like any tax, tariffs raise funds for the U.S. government. Second, because tariffs only apply to imports, they can be used to redistribute money from consumers towards domestic producers. Third, tariffs can affect the global market, strategically shifting global prices or as a sanction against foreign exporting firms or exporting countries.

Tracking Trump's First 100 Days ›

The Trump administration's previous actions on North American tariffs

- March 31 Said there would be no exemptions for tariffs set to begin on April 2 ›
- March 29 Said he 'couldn't care less' if car prices went up in response to his tariffs ›
- March 26 Announced 25 percent tariffs on imported cars and car parts ›
- March 24 Threatened 25 percent tariffs against any country that buys Venezuelan oil ›
- March 13 Warned other countries that they should not retaliate against the tariffs the United States is putting on their exports ›
- March 12 Allowed sweeping tariffs on foreign steel and aluminum to take effect ›
- March 11 Notified Canada that its citizens would need to register when crossing the border into the United States ›
- March 11 Walked back plans to double metal tariffs on Canada after escalating threats ›
- March 6 Suspended many of the tariffs imposed on Canada and Mexico ›

- March 5 Accused Prime Minister Justin Trudeau of Canada of imposing tariffs on the U.S. "to stay in power" ›
- March 4 Imposed 25 percent tariffs on all imports from Canada and Mexico and a 10 percent tariff on all imports from China, sending shock waves through the economy ›
- March 1 Ordered an increase in U.S. lumber production ›
- Feb. 27 Said that tariffs on Mexico and Canada would go into effect on March 4 ›
- Feb. 3 Delayed tariffs on Canada ›
- Feb. 3 Delayed tariffs on Mexico ›
- Feb. 1 Officially announced tariffs on imports from Canada ›
- Feb. 1 Officially announced tariffs on imports from Mexico ›
- Jan. 21 Promised to impose tariffs on Canada and Mexico ›

Reciprocal Tariff

- 10% tariff on all countries, effective April 5
- Reciprocal higher tariffs on countries with which the U.S. has the largest trade deficits, effective April 9

April 2, 2025



Reciprocal Tariff

- **Goods not subject to reciprocal tariffs** include:
 - steel, aluminum, cars and car parts already subject to Section 232 tariffs;
 - copper, pharmaceuticals, semiconductors, and lumber;
 - goods that may become subject to future Section 232 tariffs;
 - bullion; energy; and selected vitamins and minerals
- For **Canada and Mexico**, goods compliant with the U.S. Mexico Canada Agreement (USMCA) will continue to see a 0% tariff/enter duty-free
 - non-USMCA compliant goods = 25% tariff
 - non-USMCA compliant energy and potash from Canada = 10% tariff.



Donald Trump is shown holding a sign titled "Reciprocal Tariffs" which displays a table comparing tariffs on various countries. The table has three columns: Country, Tariffs Charged in the U.S.A. (Current Tariffs), and U.S.A. Reciprocal Tariffs. The countries listed are China, European Union, Vietnam, Taiwan, Japan, India, South Korea, Thailand, Switzerland, Indonesia, and Malaysia. The current tariffs are shown in blue boxes and the reciprocal tariffs are shown in yellow boxes.

Country	Tariffs Charged in the U.S.A. (Current Tariffs)	U.S.A. Reciprocal Tariffs
China	67%	54%
European Union	39%	10%
Vietnam	98%	46%
Taiwan	68%	32%
Japan	46%	24%
India	52%	26%
South Korea	50%	23%
Thailand	22%	36%
Switzerland	61%	31%
Indonesia	64%	31%
Malaysia	64%	31%



Reciprocal Tariffs

Country	Tariffs Charged to the U.S.A. Including Currency Manipulation and Trade Barriers	U.S.A. Discounted Reciprocal Tariffs
China	67%	34%
European Union	39%	20%
Vietnam	90%	46%
Taiwan	64%	32%
Japan	46%	24%
India	52%	26%
South Korea	50%	25%
Thailand	72%	36%
Switzerland	61%	31%
Indonesia	64%	32%
Malaysia	47%	24%
Cambodia	97%	49%
United Kingdom	10%	10%
South Africa	60%	30%
Brazil	10%	10%
Bangladesh	74%	37%
Singapore	10%	10%
Israel	33%	17%
Philippines	34%	17%
Chile	10%	10%
Australia	10%	10%
Pakistan	58%	29%
Turkey	10%	10%
Sri Lanka	88%	44%
Colombia	10%	10%



Reciprocal Tariffs

Country	Tariffs Charged to the U.S.A. Including Currency Manipulation and Trade Barriers	U.S.A. Discounted Reciprocal Tariffs
Peru	10%	10%
Nicaragua	36%	18%
Norway	30%	15%
Costa Rica	17%	10%
Jordan	40%	20%
Dominican Republic	10%	10%
United Arab Emirates	10%	10%
New Zealand	20%	10%
Argentina	10%	10%
Ecuador	12%	10%
Guatemala	10%	10%
Honduras	10%	10%
Madagascar	93%	47%
Myanmar (Burma)	88%	44%
Tunisia	55%	28%
Kazakhstan	54%	27%
Serbia	74%	37%
Egypt	10%	10%
Saudi Arabia	10%	10%
El Salvador	10%	10%
Côte d'Ivoire	41%	21%
Laos	95%	48%
Botswana	74%	37%
Trinidad and Tobago	12%	10%
Morocco	10%	10%

90-day Pause

April 9, 2025

- Pause on all reciprocal tariffs...except China
- Countries subject to the pause = 10% tariff during 90-day pause while engage in country-by-country negotiations

"I thought that people were jumping a little bit out of line, they were getting yippy," Trump told reporters on Wednesday after the reversal. Although, he added, "nothing's over yet."

- China = 125% tariff? Nope: 145%

President Trump has added 145% tariff to China, the White House has clarified.



Tech Exemptions | April 11, 2025

- Temporary exemptions from reciprocal tariffs for electronics such as smartphones, laptops, harddrives, computer processors, BUT these are included in the semiconductor tariffs, which are expected to be announced in 1-2 months

“NOBODY is getting ‘off the hook’ for the unfair Trade Balances, and Non Monetary Tariff Barriers, that other Countries have used against us, especially not China which, by far, treats us the worst!” Trump posted on Truth Social.

“There was no Tariff ‘exception’ announced on Friday. These products are subject to the existing 20% Fentanyl Tariffs, and they are just moving to a different Tariff ‘bucket.’ The Fake News knows this, but refuses to report it,” he continued.

USMCA Exemption Continues for Canada & Mexico

- **Goods from Canada and Mexico that are compliant with U.S.-Mexico-Canada Agreement will continue to be tariff-free.**
 - Existing fentanyl-based tariffs will continue
- White House: Exempted goods “will continue to see a 0% tariff, non-USMCA compliant goods will see a 25% tariff, and non-USMCA compliant energy and potash will see a 10% tariff.”
 - 4.10.2025: U.S. tariffs on goods imported from Mexico and Canada will **not** be affected by the 90-day pause on tariffs
- Approx. 40% of goods that enter the U.S. are USMCA-complaint
- **Product-specific rules of origin** with minimum requirements for use of North American inputs and manufacturing
 - Estimated that agricultural and resource sectors will largely be unaffected by the tariffs
 - Electronics, rope/rubber products, toys likely non-compliant



| As of today...

\$ **Base global tariffs: 10%**

\$ **China tariffs: 145%**

\$ **Blanket steel and aluminum tariffs: 25%**

\$ **Auto and auto parts tariffs: 25%**

USMCA compliant: 0%

\$ **Non-USMCA compliant: 25%**

Non-USMCA compliant energy & potash: 10%



Potential Effects of Tariffs

- Higher Costs on Imported Goods
- Supply Chain Disruptions
- Disrupt financial markets
- Contribute to unemployment, lower incomes
- Inflation
- Recession
- U.S.'s long-term economic alliances



Wall Street leaders warn of harsh economic consequences from Trump's tariffs

APRIL 7, 2025 · 1:37 PM ET

JPMorgan Chase CEO Jamie Dimon, who runs the largest U.S. bank and is one of the most powerful leaders on Wall Street, on Monday warned that the tariffs will raise prices, slow economic growth, and hurt the country's global standing.

"The quicker this issue is resolved, the better because some of the negative effects increase cumulatively over time and would be hard to reverse," Dimon wrote in his annual letter to shareholders. "In the short run, I see this as one large additional straw on the camel's back."



JPMorgan Chase CEO Jamie Dimon, pictured at a meeting in October, warned Monday that tariffs will raise prices, slow economic growth and hurt the country's global standing.

Kevin Dietsch/Getty Images

Tariffs & Gov't Entity Purchasing

**SUPPLEMENTAL TERMS AND CONDITIONS
FOR BID PROPOSALS**

Tariffs. Extenuating circumstances may result in an unexpected price increase from the vendor or require Gordon to procure Product from an alternate source who may not honor the negotiated Product Cost. In addition, interruptions in the labor market and inflation make it impossible for Gordon to tender a competitive mark-up on the Product Cost without significant risk of providing the Products at a loss due to future changes. Accordingly, and notwithstanding anything to the contrary in the RFP, Contract or otherwise, the Product prices contained in the Bid Proposal are offered conditionally on Gordon's ability to (i) immediately pass through any newly imposed costs or expenses that increase Product Cost including, but not limited to, tariffs, duties and trade embargos.

Vendors' Responses to Tariffs: Qualifying Bids/Proposals / Conditional Pricing

April 4, 2025

Dear Valued Customer,

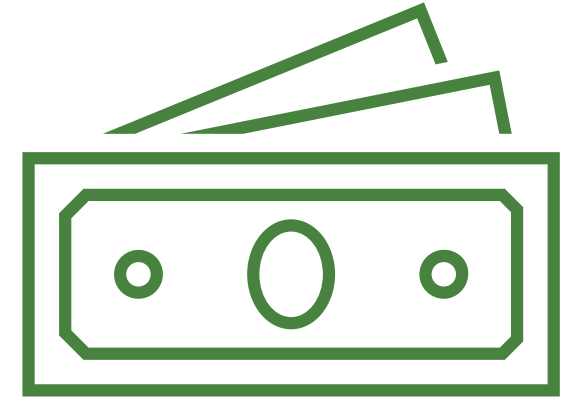
The U.S. Government has announced tariffs of 10-20% on goods imported from several countries, including the paper products we supply to the U.S. market. These tariffs will take effect on Tuesday, April 8th, at 12:01 AM EST.

Some mill partners will list tariffs as separate line items on invoices, while others may increase prices directly. A few of our partners have not yet clarified their approach. Due to the tariff's impact, we will pass the cost on to our customers, following U.S. Customs and Border Protection guidelines and the practices of our supply partners. We will promptly update you if the timing or amount changes.

We understand the challenges this may pose for your business and remain hopeful for a quick resolution. If you have any questions, please do not hesitate to reach out to your sales representative.

Who Bears the Burden of Increased Costs due to Tariffs?

- Look at your current contracts' terms and conditions!
 - **Fixed-price contract** = vendor bears the risk of increased costs, including those caused by tariffs, and cannot unilaterally demand price adjustments
 - *unless* escalation clause is included in the contract
 - **Cost-plus contracts** = usually passed on to Buyer, unless have already entered into a GMP capping project (for example, CMaR construction projects)
- What about force majeure clauses? What about commercial impracticability?
 - Courts view cost fluctuations as foreseeable risks – force majeure/commercial impracticability intended to deal with unexpected, drastic changes
- Price Change Clause? Tied to CPI? Some other index?



Can refuse vendors' request/notice that prices are increasing due to tariffs?



- Legally, yes, if a fixed-price contract
- *BUT*, practically, not going to fly

So, do we just accept the increased prices?...it depends



- Federal v. state/local
- Current contract v. future procurements/contracts

Federal Acquisition Regulations



- **FAR 52.229-3** – **requires a contract price to be increased** “by the amount of any after-imposed Federal tax” so long as the vendor warrants that the newly imposed tax was not included in the contract price, any contingency reserve, or “otherwise”
 - “**After-imposed tax**” = “any new or increased Federal excise tax or duty . . . that the Contractor is required to pay or bear as a result of . . . administrative action **taking effect after the contract date.**” FAR 52.229-3(a)
 - Only applies to tariffs vendor pays directly
 - “No adjustment shall be made in the contract price under this clause unless the amount of the adjustment **exceeds \$250.**” FAR 52.229-3(f)
- **FAR 52.216-4** – economic price adjustment clause for fixed-price contracts
 - Only if included in contract (check those federal grant flow-down clauses!)
 - Limitations:
 - No increase for goods required to be delivered/services performed before increase’s effective date
 - No increase for any change that would not result in a net change of at least 3% of the then-current total contract price
 - Aggregate of the increases in any contract unit price shall not exceed 10% of the original price

**BUT, for school districts, no word yet from TEA
or TDA whether either will allow use of these
FAR regulations**



Going forward...

- **Current contracts** – review to determine if includes escalation clause or price adjustment clause
 - Follow the clause: require notice and documentation

Pricing Changes

All prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. In the event Proposer's prices will be adjusted or escalated upon a renewal (if any) of the fixed-price contract awarded pursuant to this RFP, Proposer must indicate such in its proposal. Indicate any list price adjustment Vendor intends on providing during the Term of this Contract and on what it is based. For example: CPI, MSRP, Price List, Website Pricing. Vendor agrees to promptly lower the proportionate price of any product purchased through this Contract following a reduction in the price the Vendor is paying suppliers. All pricing submitted to ISD in Vendor's proposal shall include the administrative fee to be remitted to ISD by Vendor. It is Vendor's responsibility to keep all pricing up-to-date and on file with ISD. For all pricing changes, including at renewal and during the Term, all price changes shall be presented to ISD for acceptance or rejection by ISD, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for products and/or services provided under this Contract must be approved, in writing, by ISD prior to taking effect.

The following documentation shall be provided to support a request for a price change:

- a. justification for change/increase
- b. terms and conditions
- c. market conditions
- d. manufacturers'/distributors' impact, if any

All price decreases shall be allowed for all products and/or services.

- Don't allow "across-the-board" increases (i.e., all line items will be increased by 25%) – require documentation that the item is actually subject to a tariff that is imposed on the vendor (see slide re USMCA)
- If federally funded, include condition that any price increase(s) are subject to approval by federal awarding/pass-through agency [TEA/TDA/etc.] and are not guaranteed by gov't entity.

Going forward...

- **To-be-procured contracts – line-item disclosure of tariffs** in bids/proposals / disclosure of tariffs and include **tariff-specific provision** in contract terms and conditions that:
 - Allows for recovery of increased costs solely and directly due to tariffs (not bidding mistakes, vague supply chain issues, other market conditions)
 - Requires vendor to provide prior written notice of a proposed price increase for acceptance or rejection by gov't entity
 - Requires vendor to provide documentation (including from suppliers) to verify subject to tariff
 - Establishes a formula or index linked to the applicable tariff rates and/or establishes a baseline price and specifies threshold for increase (i.e., a __% increase triggers process)
 - Outlines a structured process for submitting and approving price increases
 - Requires reduction of prices if/when tariff is reduced/eliminated/exempted



Purchasing & Procurement Center's 5 steps for procurement professionals to resist unjustified price increases

- **Step 1: Ask for the “Why” Behind the Hike** – Don’t respond emotionally. Respond with data. When a price increase comes in, your first question should be: **“Can you show me the breakdown?”** – **Ask:**

- What’s driving the increase?
- Which raw materials or logistics costs changed?
- How much of the increase is permanent vs temporary?

Suppliers often expect pushback, so many won’t provide details unless asked. If the increase is vague (“due to inflation”), ask for **cost drivers by percentage**. If they can’t provide it, you’re probably looking at a **margin play**, not a necessity.

- **Step 2: Pull Out the Contract (Yes, the Fine Print)** – Time to wear your legal-reading glasses. What does your contract say about price revisions? Many strategic sourcing agreements include clauses that:

- Lock pricing for a certain period
- Require X days’ notice
- Allow adjustments only under specific conditions

If there’s no clause? Time to **include one in the next contract**. Use this opportunity to push for structured renegotiation terms.

Purchasing & Procurement Center's 5 steps for procurement professionals to resist unjustified price increases

- **Step 3: Use Their Competition (Tactfully)** – Suppliers aren't the only ones with leverage—you've got options too. Before jumping to "we'll go elsewhere," try this: **"We've received better quotes from comparable suppliers. Can you match or beat them?"** This keeps the tone collaborative instead of combative. Benchmarking also shows you've done your homework—price hikes won't fly when you've got **real alternatives** on the table.
 - Pro tip: don't bluff unless you're willing to move. Suppliers can smell it from a mile away.
- **Step 4: Offer Something in Return (But Only If It's Worth It)** – If the increase is partly justified but still painful, consider a **win-win counteroffer**:
 - Longer contract in exchange for price freeze
 - Early payment terms for better unit cost
 - Higher volume commitment for fixed pricingDon't concede for free. If they want a price bump, make sure you're **getting more value** too.
- **Step 5: Internal Framing—Get Ahead of the "Just Approve It" Crowd** – Sometimes the toughest battle isn't with the supplier—it's with your own team. Here's how to present your findings internally:
 - Show side-by-side cost driver comparisons
 - Use market index data (e.g., steel, resin, freight)
 - Estimate long-term cost impact if approved
 - Recommend your counterstrategy
 - When leadership sees your approach is structured and fact-based, they're more likely to back your play.

Executive Order re FAR



Sec. 4. Reforming the Federal Acquisition Regulation. Within 180 days of the date of this order, the Administrator, in coordination with the other members of the Federal Acquisition Regulatory Council (FAR Council), the heads of agencies, and appropriate senior acquisition and procurement officials from agencies, shall take appropriate actions to amend the FAR to ensure that it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests.

Sec. 5. Aligning Agency Supplements to the FAR.

(a) Within 15 days of the date of this order, each agency exercising procurement authority pursuant to the FAR shall designate a senior acquisition or procurement official to work with the Administrator and the FAR Council to ensure agency alignment with FAR reform and to provide recommendations regarding any agency-specific supplemental regulations to the FAR. The Administrator, the FAR Council, and each agency designee under this subsection shall collaborate to identify and appropriately address FAR provisions that are inconsistent with the policy objectives described in section 2 of this order.

(b) Within 20 days of the date of this order, the Director of the Office of Management and Budget, in consultation with the Administrator, shall issue a memorandum to agencies that provides guidance regarding implementation of this order. That memorandum shall ensure consistency and alignment of policy objectives and implementation regarding changes to the FAR and agencies' supplemental regulations to the FAR.

(c) The memorandum issued pursuant to subsection (b) of this section shall propose new agency supplemental regulations and internal guidance that promote expedited and streamlined acquisitions. With respect to such proposals, the Administrator shall direct the appropriate agency and its subordinate agencies to adhere to the ten-for-one requirement



➤ **PRESIDENTIAL ACTIONS**

Sec. 6. Regulatory Sunset. In amending the FAR under section 4 of this order, the Administrator, in coordination with the FAR Council, shall:

- (a) identify all FAR provisions not required by statute that will remain in the FAR;
- (b) consider amending the FAR such that any provisions identified in accordance with subsection (a) of this section will expire 4 years after the effective date of the final rule promulgated in accordance with section 4 of this order unless renewed by the FAR Council; and
- (c) consider whether any new FAR provision not required by statute that is promulgated after the effective date of the final rule promulgated in accordance with subsection (b) of this section should include a provision stating that it will expire 4 years after its effective date unless renewed by the FAR Council.



➤ **PRESIDENTIAL ACTIONS**

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department, agency, or the head thereof; or
 - (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.
- (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Texas Legislative Session

89th Regular Legislative Session



- > **9,000** bills filed as of March 14, 2025
- Legislature cannot pass bills until after **March 14** (60-day mark in the session)
- Regular sessions constitutionally limited to **140 days**
- Texas Legislative Reference Library: only about **21% of bills** introduced during a regular session have ultimately passed both Senate and House since 2003
- **June 2 Sine Die**

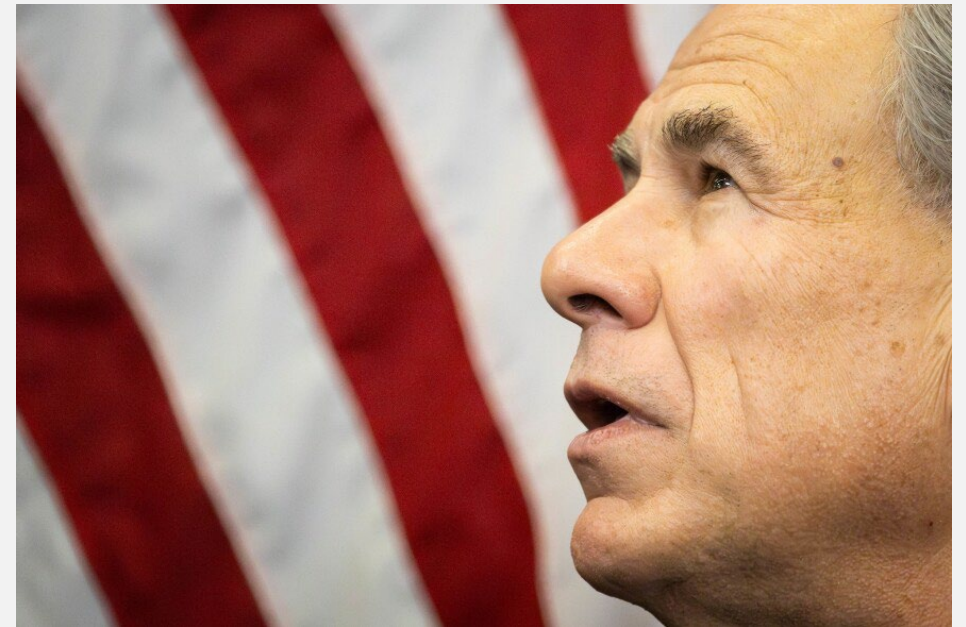


Priorities



Gov. Abbott lays out his agenda for Texas with emphasis on vouchers, water and property taxes

1. Property Tax Relief
2. Water Infrastructure Investment
3. Teacher Pay Raise
4. Expand Career Training
5. School Choice
6. Bail Reform
7. Create a Texas Cyber Command



Lt. Gov. Patrick's 1st Round of Priorities

Senate Bill 1 – Senate's Budget for Texas

Senate Bill 2 – Providing School Choice

Senate Bill 3 – Banning THC in Texas

Senate Bill 4 – Increasing the Homestead Exemption to \$140,000 (\$150,000 for Seniors)

Senate Bill 5 – Combatting Dementia and Alzheimer's – Establishing DPRIT (Dementia Prevention and Research Institute of Texas)

Senate Bill 6 – Increasing Texas' Electric Grid Reliability

Senate Bill 7 – Increasing Investments in Texas' Water Supply

Senate Bill 8 – Requiring Local Law Enforcement to Assist the Federal Government's Deportation Efforts

Senate Bill 9 – Reforming Bail – Keeping Violent Criminals Off Our Streets

Senate Bill 10 – Placing the Ten Commandments in School

Senate Bill 11 – Protecting the Freedom to Pray in School

Senate Bill 12 – Establishing a Parental Bill of Rights in Public Education

Senate Bill 13 – Guarding Against Inappropriate Books in Public Schools

Senate Bill 14 – Texas DOGE – Improving Government Efficiency

Senate Bill 15 – Removing Barriers to Affordable Housing

Senate Bill 16 – Stopping Non-Citizens from Voting

Senate Bill 17 – Stopping Foreign Adversaries' Land Grabs

Senate Bill 18 – Stopping Drag Time Story Hour

Senate Bill 19 – Stopping Taxpayer Dollars for Lobbyists

Senate Bill 20 – Stopping AI-Generated Child Pornography

Senate Bill 21 – Establishing the Texas Bitcoin Reserve

Senate Bill 22 – Establishing Texas as America's Film Capital

Senate Bill 23 – Removing the Cap on the Rainy Day Fund to Secure Texas' Long-Term Financial Future

Senate Bill 24 – Educating Texas Students on the Horrors of Communism

Senate Bill 25 – Making Texas Healthy Again

Lt. Gov. Patrick's 2nd Round of Priorities

Senate Bill 26 – Increasing Teacher Pay

Senate Bill 27 – Establishing a Teacher Bill of Rights

Senate Bill 28 – Banning Lottery Couriers

Senate Bill 29 – Incorporate Texas!

Senate Bill 30 – Curbing Nuclear Verdicts

Senate Bill 31 – Life of the Mother Act

Senate Bill 32 – Business Tax Relief

Senate Bill 33 – Stopping Taxpayer-Funded Abortion Travel

Senate Bill 34 – Wildfire Response

Senate Bill 35 – Competing for Quality Roads

Senate Bill 36 – Establishing a Homeland Security Division within DPS

Senate Bill 37 – Reforming Faculty Senates

Senate Bill 38 – Stopping Squatters

Senate Bill 39 – Protecting Texas Trucking

Senate Bill 40 – Bail Reform





Budget



Budget as of 4.11.2025

- House approved roughly **\$337 billion, 2-year budget plan**
 - Among hundreds of amendments focused on school vouchers, the attorney general's office and the Texas Lottery.
- Largely aligns with Senate version passed last month
- Now wait to see what's negotiated for the final version



| Schools





SB 2 Providing School Choice

- **Effective: September 1, 2025**
- SB 2: school voucher program with universal eligibility for every school-aged child.
- Amounts:
 - \$10,000/yr for students attending accredited private schools
 - \$11,500/yr for students with disabilities
 - \$2,000/yr for students using non-private school provider (tutoring or courses at higher education institution).

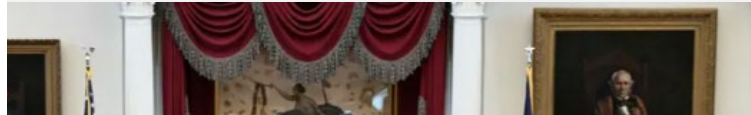
Texas House Democrats could hold GOP priorities hostage to force statewide school vouchers vote

BY **RENZO DOWNEY** APRIL 15, 2025

More than 50 House Democrats have signed on to a plan to spike all constitutional amendments unless the House allows voters to decide whether school vouchers will be legalized. [FULL STORY →](#)



© Bob Daemmrich for The Texas Tribune



April 16, 2025 at 8:12 p.m. [Link](#)

Push for statewide vote on vouchers is defeated

The Texas House rejected a bid by Rep. [James Talarico](#), D-Austin, to put the school voucher proposal up for a statewide vote on the November ballot.

The amendment to the House voucher bill was shot down early Wednesday evening by a vote of 86 to 62. Rep. [Dade Phelan](#), R-Beaumont, was the only Republican who joined Democrats in supporting the amendment.



HB 2 Public School Education & Finance



- **Effective: September 1, 2025** (with some exceptions)
- \$7.7 billion
- HB 2 increases school districts' base money per student, raises teacher salaries, and limits the use of educators without formal classroom training
- Would increase basic allotment by \$395 — from \$6,160 to \$6,555.
 - This amount would automatically go up every 2 years by tying it to property value growth.
 - 40% of the allotment would go to salaries for school staff.
 - Higher salary increases would go to teachers with more than a decade of classroom experience
- Would also provide districts funding to help current and prospective teachers become certified
 - One-time payments of \$1,000 for every uncertified teacher who becomes certified by end of SY2025-26
 - \$8,000 per year for “grow your own” programs
 - Prohibits districts from hiring uncertified educators to teach core subjects, such as math, English, social studies and science



SB 26 Increasing Teacher Pay

- **Effective: September 1, 2025**
- SB 26 would expand the **Teacher Incentive Allotment** performance pay program while removing guarantees of future pay raises.
 - Creates a Teacher Retention Allotment that provides money to districts for teacher pay increases for the next 2 years.
 - Districts (with 5,000+ students) would receive \$2,500 for teachers with 3-5 years of experience and \$5,500 for those with more than 5 years.

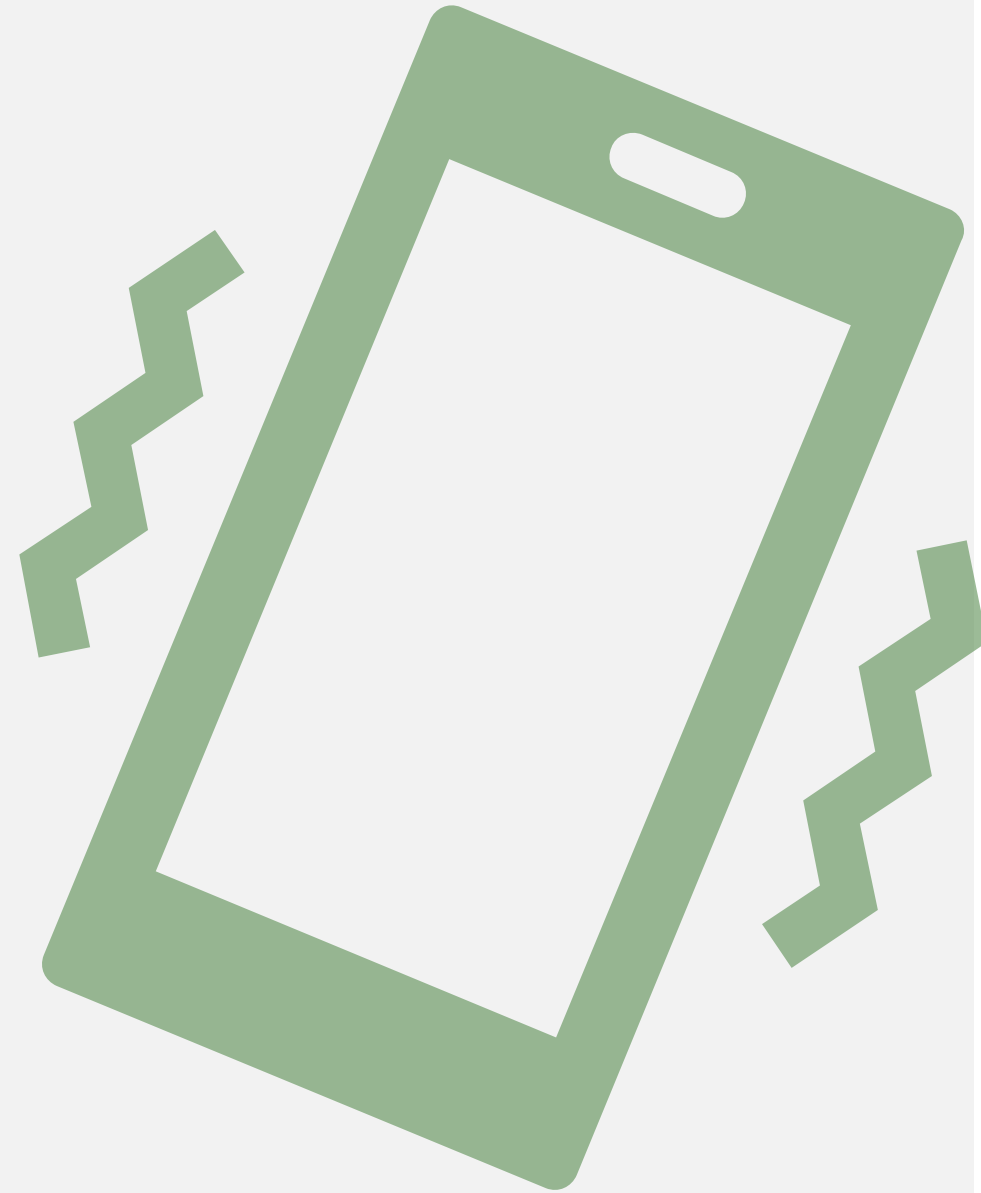


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HB 1481

HB 1481 Cell Phone Ban

- **Effective: Start of the 2025-26 school year**
- Would require school districts to implement a policy prohibiting a student from using a personal communication device while on school property during the school day.
- A school district may comply by:
 - prohibiting a student from bringing a device on school property; or
 - designating a method for the storage of the device during the school day.



HB 1481 Cell Phone Ban (continued)

- A school district must authorize the use of a cell phone:
 - necessary to implement an IEP or 504 plan;
 - by a student with a documented need based on a directive from a physician; or
 - necessary to comply with health or safety requirement imposed by law or as a part of the district's safety protocols.

Legislation to ban phones in class drawing broad support

By Isaac Yu

AUSTIN BUREAU

Students across Texas could soon be required to lock up their phones under a proposal moving through the Legislature with strong bipartisan support.

The bill, which is being led by state Rep. Caroline Fairly, an Amarillo Republican and the youngest member of the Legislature, would require school boards and charter schools to ensure that phones and other devices are stored in a "secure, out-of-sight area" during classroom instruc-

tion.

"My generation is more anxious, depressed, less focused and more distracted than ever before," Fairly said during a hearing Tuesday of the House Public Education Committee. "I remember trying to sneak to my phone in the high school classroom. I remember schoolteachers trying to figure out which phone was buzzing and ringing and being a distraction in the classroom."

Fairly, who is 26, said she was in the sixth grade when her classmates began receiving smartphones.

The proposal comes as momentum is building nationally for cellphones to be prohibited in schools. Texas would join at least 11 other states, including Louisiana, that have enacted similar bans.

Lawmakers across the political spectrum have sounded off on the issue, blaming smartphones for declining test scores and attention spans and for addiction to video games and pornography. Fairly's bill has amassed 76 cosponsors, including several Democrats, giving it a good chance of

Phones continues on A6



A legislative proposal to lock up Texas students' cellphones comes as momentum is building nationally for such prohibitions. Eleven other states have enacted similar bans.

Picture Alliance/
Getty Images

| Advocacy





SB 19 Community Advocacy

- **Effective: September 1, 2025**
- Prohibits a political subdivision from spending public funds to hire a lobbyist ~~or pay to a nonprofit state association that hires a lobbyist.~~
- A full-time employee of a nonprofit state association that represents a political subdivision may;
 - provide legislative services to its members
 - testify for and against legislations; and
 - communicate with members of the legislation to the extent that such communication would NOT require the employee to register with the Texas Ethics Commission as a lobbyist.



Public Safety and Emergency Management



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HB 2918

HB 2918 Peace Officers

- **Effective: September 1, 2025**
- HB 2918 expands the definition of a peace officer in state law to include:
 - a peace officer commissioned by a private school;
 - an officer appointed by the inspector general of the Texas Juvenile Justice Department;
 - a fire marshal or any officer, inspector, or investigator of a municipality who holds a permanent peace officer license; and
 - an Alamo Complex ranger commissioned by the General Land Office.



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HB 4125

HB 4125 The Protect Act

- **Effective: September 1, 2025**
- HB 4125 would require law enforcement agencies to notify school districts when a school district employee is under investigation for certain criminal offenses within 24 hours after the investigation is initiated or before the next school day, whichever is earlier.
 - Law enforcement shall provide a written notification within 7 days after the date of the oral notice

Notification 'gap' for police, schools targeted

By Elizabeth Sander

STAFF WRITER

Almost a year after a Klein Independent School District cosmetology teacher was arrested on child sex trafficking charges, leaders are trying to ensure that districts are never left uninformed about investigations into their employees again.

Authored by state Rep. Sam Harless R-Spring, a bill coined "The PROTECT Act" would close a "dangerous communication gap" that Superintendent Jenny McGown said exists between law enforcement and school districts.

Last April, former teacher Kedria Grigsby was arrested on child sex trafficking charges. One year earlier, Klein ISD was

made aware of a police report filed by another teacher that named Grigsby, but the district allegedly was told by law enforcement that Grigsby was not a suspect. The Harris County Sheriff's Office could not find a record of that call.

Still, when Grigsby became a suspect in the HCSO's investigation, likely months before the initial charges were filed, the

district said it wasn't notified. The next time it heard about the case from authorities was when she was arrested, officials said.

House Bill 4125, filed on Monday, would force a law enforcement agency to at least notify a school district when an employee is a suspect in a serious investigation, giving the district a legal avenue to take action,

Klein ISD continues on A19

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HB 3084

HB 3084 Solicitation by Pedestrians



- **Effective: September 1, 2025**
- The bill would;
 - prohibit a person from standing in a roadway or the right-of-way of a roadway to solicit rides, contributions, employment, or business from an occupant of a vehicle;
 - repeal the exception that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway;
 - repeal the definition of “charitable contribution” in state law for purposes of pedestrian solicitations; and
 - repeal the provision in state law providing for local authorization for solicitations by pedestrians.

| Property Tax





SB 1449

SB 1449 Disaster Tax Rate Elections

- **Effective: January 1, 2026**
- SB 1449 would repeal the provision authorizing certain taxing units to adopt a property tax rate that exceeds the voter-approval tax rate without holding an election in the year following the year in which a disaster occurs.



| Open Government





HB 2961

HB 2961 Law Enforcement Exception

- **Effective: September 1, 2025**
- HB 2961 would provide that law enforcement internal records or notations related to an investigation that did not result in conviction or deferred adjudication **MAY NOT** be withheld for public disclosure if:
 - (1) the person who is described or depicted in the information, records, or notations, other than the peace officer, is deceased or incapacitated; or
 - (2) each person who is described by or depicted *other than a person who is deceased or incapacitated* consents to the release of the information, records, or notation.



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HB 2981

HB 2981 Donation Disclosure

- **Effective: September 1, 2025**
- HB 2981 would provide that
 - (1) a government official **MAY NOT** disclose the identity of a person who makes a lawful donation to a nonprofit organization **unless** the person is determined to have violated prohibitions on contributions, expenditures, and related activities involving a specific-purpose committee for supporting or opposing a ballot measure; and
 - (2) a violation of (1), above, is a Class B misdemeanor.



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HB 31 12

HB 3112 Cybersecurity Measures

- **Effective: September 1, 2025**
- HB 3112 would provide that
 - (1) a governmental body is not required to conduct an open meeting to deliberate a cybersecurity measure, policy or contract solely intended to protect a critical infrastructure facility located in the jurisdiction of the governmental body;
 - (2) information is excepted from public disclosure under the Public Information Act if it is information that relates to:
 - (a) a cybersecurity measure, policy, or contract solely intended to protect a critical infrastructure facility located in the jurisdiction of a governmental body;
 - (b) coverage limits and deductible amounts for insurance or other risk mitigation coverages.



HB 3112 Cybersecurity Measures (continued)

- HB 3112 would provide that
 - (2) information is excepted from public disclosure under the Public Information Act if it is information that relates to:
 - (a) a cybersecurity measure, policy, or contract solely intended to protect a critical infrastructure facility located in the jurisdiction of a governmental body;
 - (b) coverage limits and deductible amounts for insurance or other risk mitigation coverages;
 - (c) cybersecurity incident information reported pursuant to state law; and
 - (d) suspected or confirmed cybersecurity incidents if the disclosure of such information would facilitate unauthorized access to:
 - (i) physical or virtual data or information; or
 - (ii) information technology resources



SB 1540

SB 1540 Personal Information

- **Effective: September 1, 2025**
- SB 1540 would protect, from public disclosure under the Public Information Act, information that relates to the home address, home telephone number, emergency contact information, date of birth, social security number of a **current or former election official or employee**, volunteer, or designee of an election official, or an employee of the secretary of state's office who performs duties relating to elections, or information that reveals whether an individual has family members if the individual:
 - (1) chooses to restrict public access to the information; and
 - (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.



Elections



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HB 2990

HB 2990 **Countywide Polling**

- **Effective: September 1, 2025**
- HB 2990 would repeal the provisions that allow for use of countywide polling places in elections.

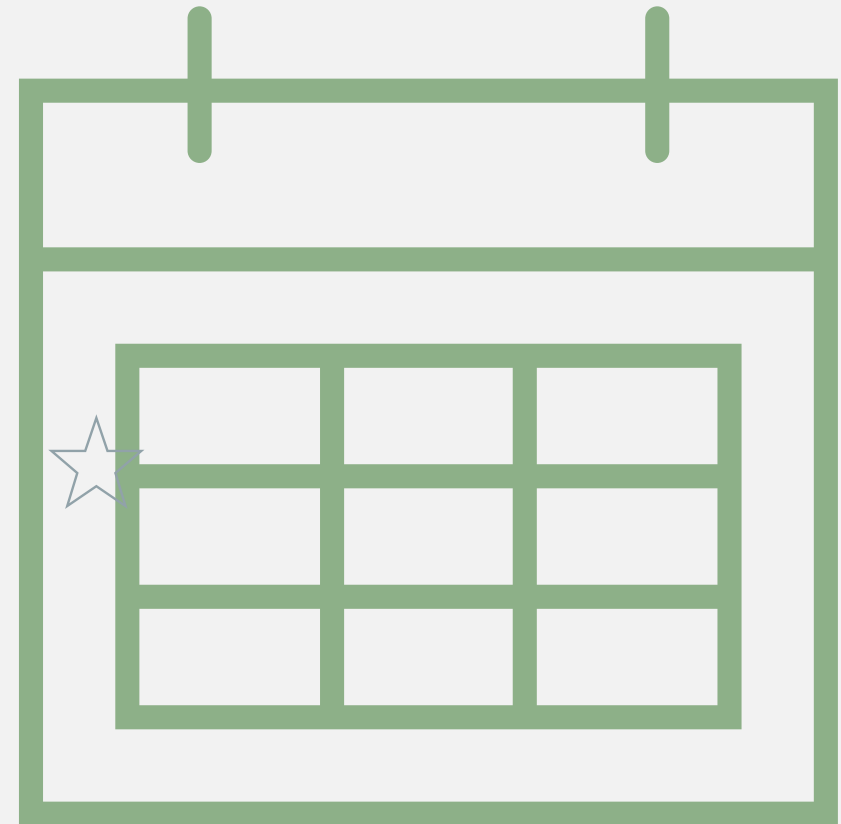


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HB 3097

HB 3097 Date of Election

- **Effective: Immediately after a vote of 2/3 of all members elected to each house or September 1, 2025**
- HB 3097 would provide that:
 - the governing body of a political subdivision (other than a county or MUD), that holds its general election for officers on a date other than the November uniform election date **may**, not later than December 31, 2026, **change the date on which it holds its general election for officers to the November uniform election date.**



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HB 3144

HB 3144 Polling Location

- **Effective: September 1, 2025**
- HB 3144 would provide that a polling place may not be located on a campus of a public primary or secondary school or institution of higher education, unless the campus is closed for operation during the period for voting.



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HJR 141

HJR 141 **Resign-to-Run**

- **Effective: November 4, 2025**
- HJR 141 would abolish the automatic resignation of certain municipal, county, or district officeholders if they become candidates for another office.



OTHER FINANCE AND ADMINISTRATION



SB 1585

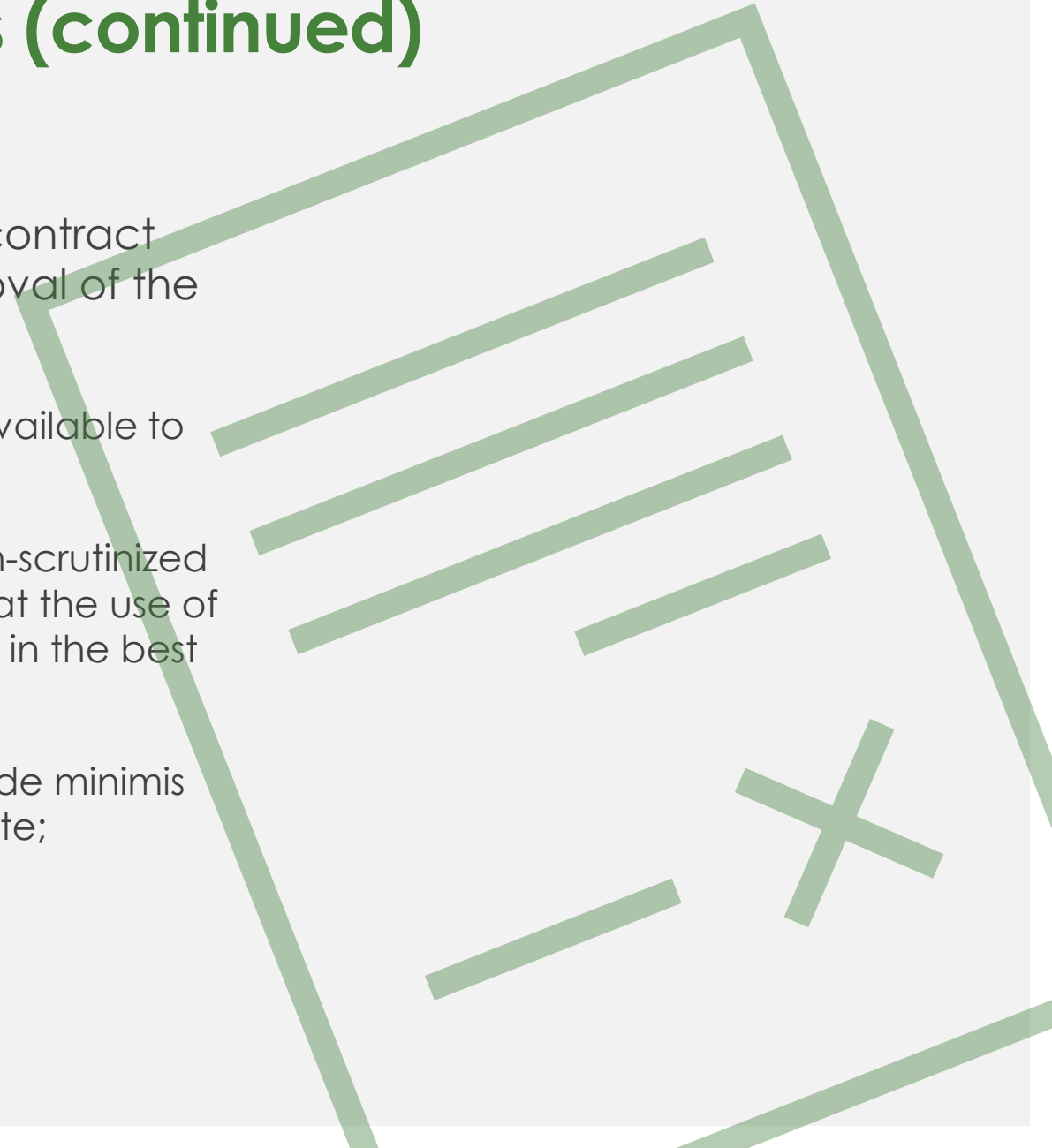
SB 1585 Governmental Contracts

- **Effective: September 1, 2025**
- SB 1585 would:
 - (1) prohibit a company or subsidiary that is organized in or under the laws of a foreign adversary from submitting a bid for a contract or enter into a contract with a governmental entity relating to an information or communications technology service;
 - (2) except under certain circumstances, **prohibit a governmental entity from entering into a contract with a governmental entity relating to an information or communications technology or service with a scrutinized company;**



SB 1585 Governmental Contracts (continued)

- SB 1585 would:
 - (3) allow a governmental entity to enter into a contract prohibited under (1), if the entity, with the approval of the governor, determines:
 - (a) scrutinized companies are the only vendors available to provide such service;
 - (b) the cost of finding and contracting with a non-scrutinized company would be so disproportionately high that the use of a scrutinized company would be overwhelmingly in the best interest; or
 - (c) any goods or services provided are used in a de minimis amount and pose no risk to the security of the state;



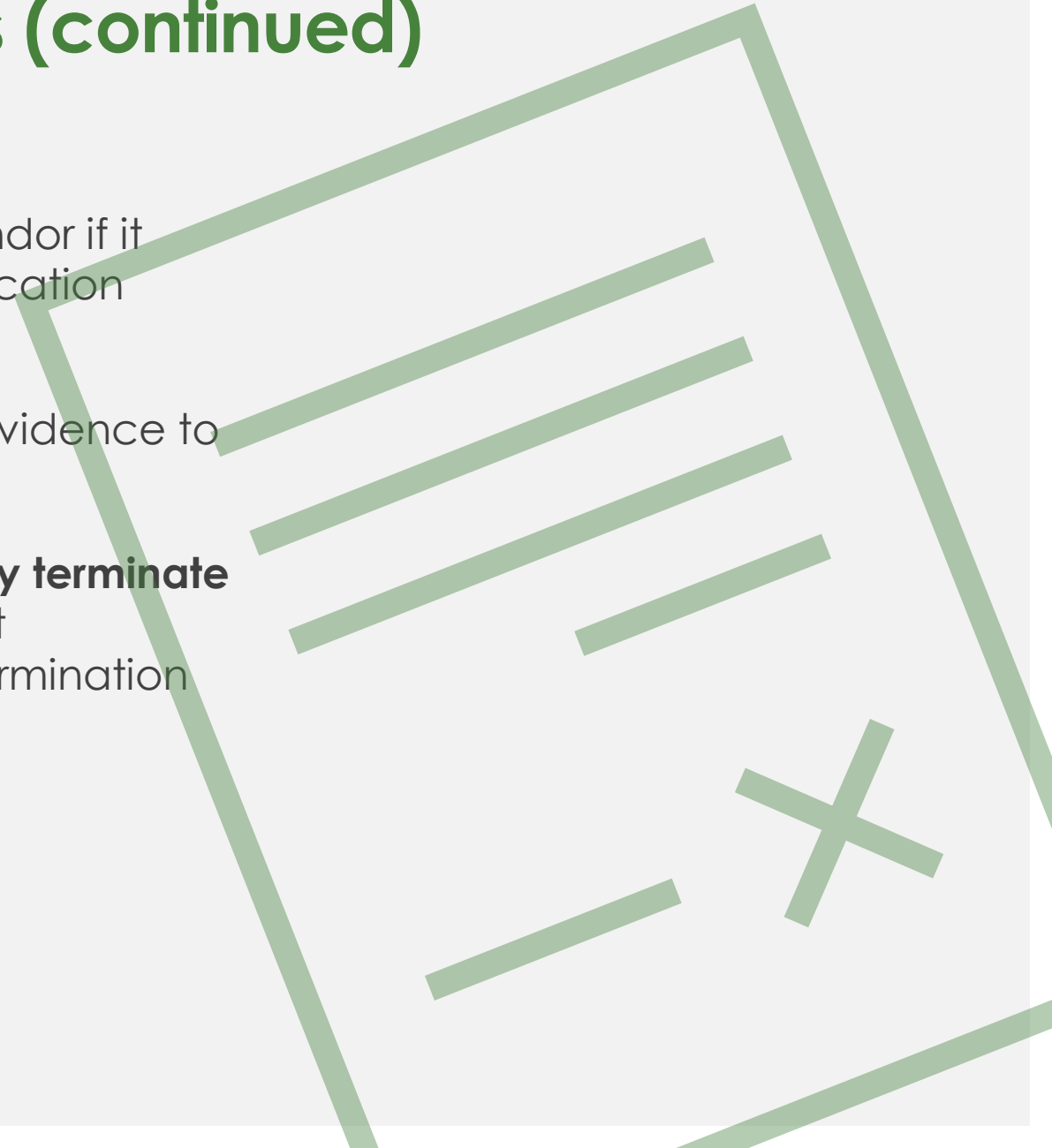
SB 1585 Governmental Contracts (continued)

- SB 1585 would:
 - (4) require a scrutinized company to include a written verification that:
 - (a) the vendor is not a scrutinized company;
 - (b) will not contract with a scrutinized company in any aspect of its performance; and
 - (c) will not procure products or services from or that originate with a scrutinized company;



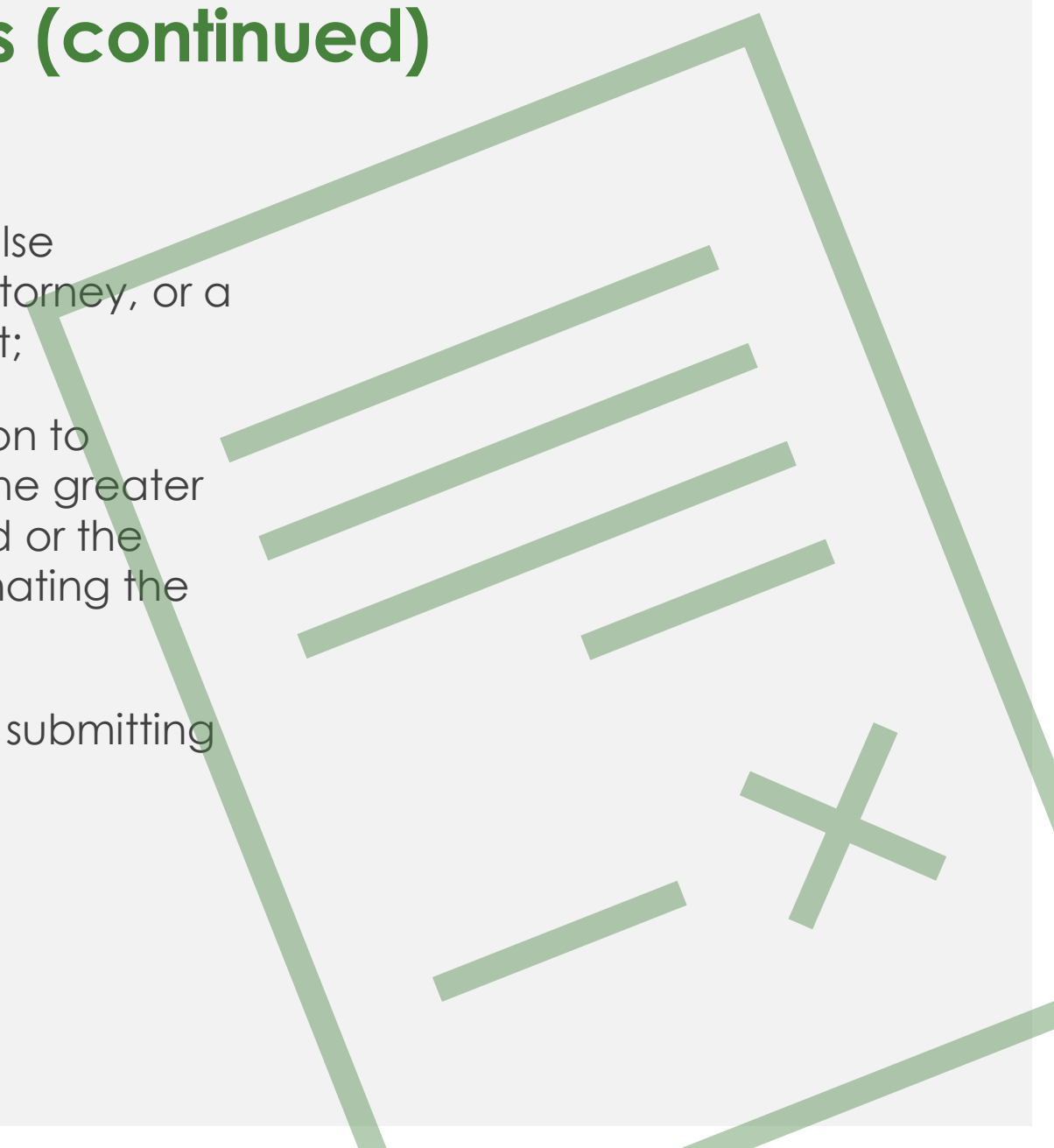
SB 1585 Governmental Contracts (continued)

- SB 1585 would:
 - (5) require a governmental entity to notify a vendor if it believes that the vendor submitted a false verification described in (4);
 - (6) allow a vendor to provide information and evidence to rebut the notification described in (5);
 - (7) require a governmental entity to **immediately terminate a contract** if, after allowing the vendor to submit information and evidence, it makes a final determination that the vendor submitted a false verification;



SB 1585 Governmental Contracts (continued)

- SB 1585 would:
 - (8) require a governmental entity to refer the false verification to the attorney general, a district attorney, or a county attorney, as applicable for enforcement;
 - (9) authorize the attorney general to bring action to recover civil penalties in the amount equal to the greater of twice the amount of the contract terminated or the amount of loss suffered by the state from terminating the contract; and
 - (10) create a criminal offense and penalties for submitting a false verification described in (4).



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HB 3055

HB 3055 **Acquiring Real Property**

- **Effective: September 1, 2025**
- HB 3055 would prohibit a political subdivision from acquiring real property by any method, including by gift, lease, purchase, or eminent domain, **outside the boundaries of any county in which the political subdivision is located.**





Questions?



SPALDING NICHOLS
-LAMP LANGLOIS-

Sarah Langlois

PARTNER

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THIS PRESENTATION IS INTENDED TO BE USED SOLELY FOR GENERAL INFORMATION PURPOSES AND IS NOT TO BE REGARDED AS LEGAL ADVICE. IF SPECIFIC LEGAL ADVICE IS SOUGHT, PLEASE CONSULT AN ATTORNEY.

5 MINUTE BREAK

UP NEXT:

EMPLOYMENT LAW UPDATE

PAUL LAMP, ATTORNEY



SPALDING NICHOLS
-LAMP LANGLOIS-



SPALDING NICHOLS
-LAMP LANGLOIS-

Employment Law Update

2025 Whitley Penn Public Sector Spring Webinar

April 17, 2025

Overview

- ▶ Religious Accommodations
- ▶ Discrimination Based on Sexual Orientation / Gender Identity
- ▶ “Reverse” Discrimination
- ▶ Adverse Employment Actions
- ▶ Thoughts on DEI

State and Federal Laws

- ▶ Title VII – prohibits discrimination based upon race, color, religion, sex, or national origin
- ▶ Americans with Disabilities Act
- ▶ Age Discrimination in Employment Act
- ▶ Texas Labor Code, Chapter 21 – prohibits discrimination based upon race, color, disability, religion, sex, national origin, or age

Religious Accommodations

- ▶ *Gerald Groff v. Louis DeJoy (U.S. Postmaster General)*, 600 U.S. 447 (2023)
- ▶ Groff is an Evangelical Christian who holds the religious belief that Sundays are reserved for worship and rest and not “secular labor”
- ▶ The USPS hired him in 2012 as a rural mail carrier, which original did not involve Sunday work, but in 2013 USPS entered into an agreement with Amazon to begin facilitating Sunday deliveries



Religious Accommodations

- ▶ Groff received progressive discipline for refusing to work on Sundays and eventually resigned in the face of impending termination – he filed suit – failure to accommodate – dismissed
- ▶ Title VII – “The term ‘religion’ includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.”

Religious Accommodations

- ▶ *Trans World Airlines, Inc. v. Harding*, 432 U.S. 63 (1977)
- ▶ Requiring an employer “to bear more than a *de minimis* cost” to provide a religious accommodation “is an undue hardship”
- ▶ *De minimis* = lacking significance or importance; so minor as to merit disregard
- ▶ The Court in *Groff* “clarified” *Harding* – “undue hardship” is shown “when a burden is substantial in the overall context of the employer’s business” – resulting in “substantial increased costs”

Religious Accommodations

- ▶ “Courts must apply the test in a manner that takes into account all relevant factors in the case at hand”
- ▶ *Not* an undue hardship: temporary costs; voluntary shift swapping; occasional shift swapping; administrative costs; requiring other employees to work overtime.
- ▶ The question: considering all relevant factors, would granting the accommodation create a substantial burden in the overall context of our business?

Religious Accommodations

- ▶ *Elimelech Hebrew v. Texas Department of Criminal Justice*, 80 F.4th 717 (5th Cir. 2024)
- ▶ Hebrew was a devout follower of the Hebrew Nation religion – he took a vow to keep his hair and beard long – had done so for more than 20 years
- ▶ TDCJ hired him as a Correctional Officer – he reported to training and was told he must cut his hair and shave per the grooming policy – he submitted a written accommodation request – it was denied citing safety reasons (beards impede gas masks, long hair can be pulled)

Religious Accommodations

- ▶ Hebrew refused to cut his hair and was terminated
- ▶ He filed a *pro se* lawsuit – failure to accommodate
- ▶ The district court dismissed his claim in September 2022 on the grounds that TDCJ would have to bear more than a *de minimis* cost because coworkers would have to perform extra work to accommodate his religious practice – he appealed
- ▶ The Fifth Circuit reversed in light of *Groff v. DeJoy* – no evidence of increased costs, no evidence TDCJ considered alternatives

Religious Accommodations

- ▶ Work Schedule Changes – *e.g.*, flexible breaks to accommodate daily prayers
- ▶ Dress and Grooming – *e.g.*, facial hair, jewelry on the face or head
- ▶ Religious Expression – *e.g.*, voluntary group praying

Sexual Orientation / Gender Identity

- ▶ *Gerald Bostock v. Clayton County, Georgia*, 590 U.S. 644 (2022) – three cases heard together
- ▶ Bostock worked as a child welfare advocate - he began participating in a gay recreational softball league and was fired for conduct “unbecoming” a county employee.
- ▶ Donald Zarda worked as a skydiving instructor - he mentioned he was gay and was fired days later.
- ▶ Anthony Stephens worked for a funeral home - he told his employer he planned to live as a woman upon returning from an upcoming vacation and was fired.



Sexual Orientation / Gender Identity

- ▶ *Gerald Bostock v. Clayton County, Georgia*, 590 U.S. 644 (2022)
- ▶ Justice Neil Gorsuch – “An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and indistinguishable role in the decision, exactly what Title VII forbids.”
- ▶ Look for harassment claims based on sexual orientation or gender identity

“Reverse” Discrimination

- ▶ *Marlean Ames v. Ohio Department of Youth Services*, 87 F.4th 822 (6th Cir. 2023)
- ▶ The Sixth Circuit covers appeals from Tennessee, Kentucky, Michigan, Ohio
- ▶ U.S. Supreme Court granted certiorari October 4, 2024
- ▶ Oral argument heard February 6, 2025



“Reverse” Discrimination

- ▶ Ames, a heterosexual woman, worked for the Department for 20 years – she received a promotion
- ▶ She applied and interviewed for a promotion and was not selected – the Department selected Yolanda Frierson, a gay woman who neither applied nor interviewed for the position
- ▶ Ames was given the option to resign or accept a demotion – she accepted the demotion – the Department gave her former job to Alex Stojavljevic, a gay man who neither applied nor interviewed for the position

“Reverse” Discrimination

- ▶ Ames filed a gender discrimination lawsuit – dismissed.
- ▶ Standard elements: (1) Ames was a member of a protected class; (2) she suffered an adverse employment action; (3) someone outside the protected class was treated better
- ▶ But since she was a member of a “majority” group, the Court also required her to show “background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority”
- ▶ For example, was the decisionmaker gay? Do statistics show a pattern of hiring decisions against the majority?

“Reverse” Discrimination

- ▶ Questions: (1) what is a “majority”? (2) does Title VII contemplate “majority” groups? (3) is the categorization of “majority” and “minority” groups itself discriminatory?
- ▶ Five Circuit Courts use the background circumstances rule – two Circuit Courts have rejected it – five Circuit Courts do not apply it
- ▶ The prevailing consensus is that the Supreme Court will strike down the “background circumstances” rule

Adverse Employment Actions

- ▶ In the context of Title VII discrimination claims, an employee must show disparate treatment in connection with hiring, firing, compensation, or any term, condition, or privilege of employment – the test in the Fifth Circuit for over 30 years was whether the employee suffered an “ultimate employment decision”
- ▶ *Felicia Hamilton et al. v. Dallas County*, 79 F.4th 494 (5th Cir. 2023) – Dallas County gave detention service officers two days off per week – by policy only men could choose both weekend days – women could choose two weekdays or one weekday and one weekend day

Adverse Employment Actions

- ▶ Nine female officers sued Dallas County for gender discrimination – the district court dismissed on the grounds that the choice of days off was not an “ultimate employment decision” – a three-judge panel of the Fifth Circuit affirmed
- ▶ The full Fifth Circuit (15 judges) reversed – Title VII does not use the word “ultimate” – work schedules clearly involve the terms and conditions of employment – reversed and remanded
- ▶ Takeaway: *Hamilton* is a game-changer – “terms and conditions of employment” is extremely broad

Adverse Employment Actions

- ▶ *Jatonya Muldrow v. City of St. Louis* – 601 U.S. 346 (2024)
- ▶ Muldrow worked for the City police department as a plainclothes officer in a specialized Intelligence Division – the Division commander replaced her with a male officer and she was reassigned to a uniformed officer role supervising neighborhood patrol officers – she lost access to an unmarked take-home vehicle
- ▶ She sued the City for gender discrimination – dismissed because she did not suffer a “significant” change in working conditions producing a “material employment disadvantage”



Adverse Employment Actions

- ▶ Did the transfer negatively affect the terms and conditions of her employment? Yes
- ▶ Did the harm have to be “significant” and “material?” No – Title VII does not use those words
- ▶ An employee “need show only some injury respecting her employment terms and conditions” – “the transfer must have left her worse off, but need not have left her significantly so”

Thoughts on DEI

- ▶ Legislation
- ▶ Executive Orders
- ▶ What remains the same

THANK YOU!



SPALDING NICHOLS
- LAMP LANGLOIS -

Q&A

***THANK YOU FOR SUBMITTING
YOUR QUESTIONS!***

CLOSING HOUSE KEEPING ITEMS

- CPE Items – 3 Poll Questions throughout each presentation (total of 14). Must answer all to get full credit! Bonus polls available.
- Survey to follow at the end of the program from LCVista portal.
- Please submit your questions in the Q&A feature – Q&A Session at the end of the program.
- Presentation Materials & recording will be sent to registrants and available on our Events page on our website: <https://www.whitleypenn.com/events-and-sponsorships/>

**THANK YOU FOR JOINING US,
SEE YOU IN SEPTEMBER!**