

RESOLUTION 15-430-4

WHEREAS, the Board of Trustees of Community College District No. 502 derives its authority to govern from the *Illinois Public Community College Act*, 110 ILCS 805/1-1 *et seq.*, as amended (the "Act"). This enumeration of powers is not exclusive as the Board of Trustees (the "Board") may exercise all other powers, not inconsistent with the Act, that may be requisite or proper for the maintenance, operation and development of the College of DuPage; and

WHEREAS, pending and anticipated litigation involving the College and pending and anticipated subpoenas issued to the College require the College and its agents to preserve and retain certain types of documents;

WHEREAS, one Trustee served a litigation hold notice on the College on April 8, 2015;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of the Community College District No. 502, Counties of DuPage, Cook and Will, State of Illinois that:

Section 1: That the above stated Recitals are hereby restated and incorporated into this Section 1 as though fully set forth herein.

Section 2: That the Board formally adopts a litigation hold policy for the College to allow the College to meet any and all obligations to preserve documents.

Section 3: That the Board directs the acting President to implement a mandatory litigation hold policy ("Litigation Hold Policy") to be followed by the College, its employees, administrators, faculty, and all agents of the College, including without limitation all legal counsel, public relations firms, accounting firms, and all outside service providers (collectively, "Document Custodians"). Under the Litigation Hold Policy, any and all documents (including electronically-stored information) in the possession, custody, or control of the Document Custodians relating to the following subjects shall be preserved:

- A. Dr. Breuder's employment contracts and all addendums thereto, and all negotiations or documents and information discussing, relating to, or regarding those contract and addendums.
- B. Dr. Breuder's performance of his duties as President of the College.

- C. The subject matters identified in any FOIA requests received by the College since January 1, 2005.
- D. Any subject matter for which the College has received a subpoena (regardless of whether such subpoena was withdrawn) since January 1, 2015.
- E. Contracts (of any type) awarded by the College to any member(s) of the College of DuPage Foundation.
- F. All dealings between the College and any member of the College of DuPage Foundation. Without limitation, this should include all communications (including emails) between the College (or any its employees, agents or Trustees) and the Foundation (or any of its agents, employees, or board members).
- G. The retention of Res Publica, and any direct or indirect dealings between the College and Res Publica.
- H. The College of DuPage Foundation's retention of, and its direct or indirect dealings with Mac Strategis.
- I. Any and all political activities engaged in by the College, including the College of DuPage Foundation.
- J. Any firearms purchased for College employees using taxpayer funds.
- K. The College's finances, expenditures, revenue, and financial reporting since January 1, 2010.
- L. The Waterleaf Restaurant and/or the Inn at Water's Edge.
- M. All documents relating to any closed session of the Board of Trustees since January 2009 (including all notes, minutes and recordings of any such meetings).
- N. All documents relating to, reviewed, relied upon or otherwise used to generate any presentations made by College employees or agents to the Board of Trustees.
- O. Any other subject matter on which the College may become obligated to preserve documents in the future.

For purposes of the Litigation Hold Policy, the term "document" shall be defined as broadly as possible and shall include, wherever stored, without limitation: (i) paper (e.g., documents, presentations, notes, drafts, day planners, calendars, logs, lists, invoices, brochures, agendas, meeting minutes, correspondence, photographs, faxes, printouts, etc.); (ii) email, including attachments or links, and the metadata thereto; (iii) electronic records in any form (e.g., Word, Power Point, Excel, Access, PDFs, etc.); (iv) electronic records on any media (e.g., laptops, home computers, hard drives, smartphones, memory cards, servers, backups, CDs, DVDs, flash drives, etc.) (v) audio or visual records (e.g., voicemail messages, videos); wherever stored; and (vi) any messaging system (e.g., text messages, group chats).

To the extent any policies currently existing are narrower in scope than the above Litigation Hold Policy, all document retention plans currently in place for the Document Custodians, shall be suspended until further action by the Board.

The acting President is directed to distribute copies of all subpoenas and FOIA requests that have been or are in the future received by the College as necessary to ensure compliance with the Litigation Hold. The acting President shall further instruct all Document Custodians to contact Counsel for the Board to the extent they have questions regarding the scope of such subpoenas and FOIA requests or the scope of term "document."

Section 4: That the Board hereby authorizes the Chairman to take all steps that are reasonably necessary to effect this Resolution.

Section 5: That all resolutions or ordinances or parts of resolutions or ordinances in conflict with the provisions of this Resolution are hereby repealed to the extent of the conflict if the scope of the hold would be narrower in scope than the above.

Section 6: That this Resolution shall be in full force and effect after its passage, approval and publication (if required) as provided by law.

ADOPTED this _____ day of _____, 2015 by the following vote:

AYES:

NAYS:

ABSENT:

Chairman, Board of Trustees

ATTEST:

Secretary, Board of Trustees