

TERRA STATE COMMUNITY COLLEGE

Fremont, OH 43420

INFORMATION SHEET

MEETING DATE: January 21, 2026

TOPIC: CERTIFICATION OF AVAILABILITY OF FUNDS (THEN AND NOW)

BACKGROUND AND PURPOSE

State of Ohio – “Then and Now” Policy (Based on Ohio Revised Code 5705.41(D))

Ohio law requires that no subdivision may make a purchase or enter into a contract involving the expenditure of money unless the fiscal officer certifies that:

- Funds have been lawfully appropriated,
- Funds are available, and
- Funds are free of encumbrances.

This certification must occur before the obligation is incurred. ORC 5705.41(D) provides a legal remedy when this step is missed.

LEGAL REMEDY: “Then and Now” Certificate

A Then and Now Certificate is an after-the-fact certification used when:

- A purchase was made or an invoice was dated before a purchase order or certification was issued (“Then”),
- The fiscal officer verifies that sufficient funds were available both at the time of the original obligation and at the time of certification (“Now”).

This allows the entity to legally pay the invoice even though the normal pre-certification process was not followed.

PERMITTED USAGE

A Then and Now certificate is permitted when:

- Goods or services were received before the PO was created,
- The fiscal officer confirms that funds were available at the time of the obligation,
- Funds are still available at the time of certification,
- The lapse was inadvertent, not intentional

This is intended as a corrective tool, not a routine purchasing method.

APPROVAL REQUIREMENTS

Ohio law sets two thresholds:

- Under \$3,000: The fiscal officer may approve the Then and Now certificate without board action.
- \$3,000 or More: The governing board (e.g., Board of Trustees, City Council, County Commissioners) must approve the expenditure within 30 days of the certificate being presented. No payment may be made until approval occurs.

When It Cannot Be Used

A Then and Now certificate may not be used when:

- Funds were not available at the time the obligation was incurred,
- The purchase violated competitive bidding or other procurement laws,
- The practice becomes habitual or used to bypass purchasing controls,
- The obligation was knowingly incurred without proper authority.

Why It Exists

The policy provides a legal, controlled mechanism to correct occasional timing errors while maintaining fiscal accountability, appropriation control, and compliance with Ohio law. It protects both the public entity and the vendor from nonpayment due to procedural mistakes.

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REQUEST FOR BOARD ACTION

MEETING DATE: January 21, 2026

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BACKGROUND

A "Then and Now" policy for an Ohio community college formally adopts the requirements of **Ohio Revised Code (ORC) 5705.41(D)**. This policy is necessary because, under state law, any contract or purchase order made without a prior fiscal certificate is technically void unless subsequently approved through this specific process.

ORC 5705.41(D) provides a legal remedy when this step is missed, through the use of an after-the-fact certification called a "Then and Now" certificate.

WHEREAS, ORC 5705.41(D) requires a fiscal officer certificate before a taxing unit can make contracts or orders involving the expenditure of money; and

WHEREAS, ORC provides an exception allowing for "Then and Now" certificates when funds were available at both the time of commitment and payment; and

WHEREAS, the Terra State Community College Board of Trustees desires a formal policy for processing these certificates to ensure timely vendor payments and compliance;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Terra State Community College that:

1. The "Then and Now" Certification Policy is adopted.
2. The Fiscal Officer may execute "Then and Now" certificates under \$3,000 without further board action.
3. For certificates of \$3,000 or more, the Fiscal Officer shall present them to the Board for approval within thirty days.
4. All formal actions related to this resolution were taken in an open meeting complying with ORC 121.22.

PROPOSED MOTION:

I move that Terra State Community College Board of Trustees approves the adoption of the *Then and Now Certification* Policy as presented; that the Fiscal Officer may execute "Then and Now" certificates under \$3,000 without further board action; that for certificates of \$3,000 or more, the Fiscal Officer shall present them to the Board for approval within thirty days; and that all formal actions related to this resolution were taken in an open meeting complying with ORC 121.22.

RESULT:

In accordance with state law and the bylaws of this organization, on January 21, 2026, the Terra State Community College Board of Trustees approved the adoption of the *Then and Now Certification* Policy as presented; that the Fiscal Officer may execute "Then and Now" certificates under \$3,000 without further board action; that for certificates of \$3,000 or more, the Fiscal Officer shall present them to the Board for approval within thirty days; and that all formal actions related to this resolution were taken in an open meeting complying with ORC 121.22.

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