



Board of Trustees
Agenda of Regular Meeting
Monday, July 21, 2025, 6:00 PM
WISD Administration Building, 951 FM 2325,
Wimberley, TX 78676

Vision Statement - Excellence, Innovation, Service

Mission Statement - Wimberley I.S.D. is dedicated to excellence in education, empowering the next generation of Texans to have a positive impact locally and globally.

1. Call the meeting to order and determine a quorum - Presiding Officer Pledge of Allegiance, Reflection, Welcome
2. Special Recognition – Presenter Dr. Bonewald
 - A. State UIL Academics
3. PUBLIC FORUM - Presiding Officer
 - Persons who wish to present public comments must sign in prior to meeting start on the day of the meeting and list his/her name; name of the group that he/she represents; and agenda item.
 - Each speaker's submitted comments will be allowed three minutes for presentation to the Board, with six minutes granted to a person with a translator.
 - The same rules will be observed for public comments on non-agenda items with the following exceptions, 1) public comments on non-agenda items will only be scheduled for regular meetings of the Board and 2) the total time that will be allowed on non-agenda public comments will be 30 minutes.
 - Please keep your comments or criticisms civil and courteous.
 - Please also avoid using profanity and refrain from making personal attacks on others.
 - Except for the speaker's student, no other student's name or identity should be discussed.
 - If you have a concern that you would like heard and resolved, please present your concern through the District's grievance policies. Grievance forms can be obtained at the Central Administration Office or on the District's website.
 - Trustees are not permitted by law to respond or discuss public comments. However, the Board President may direct a speaker to the appropriate administrator for further discussion.
4. Information Items

- A. Strategic Plan Update - Priority 4: Ensure Operational Influence. Construction delivery methods - Presenters - Mike Doyle, Ryan Rosborough, Derick Bird
 - B. Diamond Communication - Wireless Connectivity in Wimberley ISD
 - C. ESSA Public Notice, Presenter - Jason Valentine
 - D. Status Report Concerning the Collection of Delinquent Property Taxes by Perdue, Brandon, Felder, Collins & Matt, LLP - Presenter - Sergio Garcia, PBFCM
5. Action Items
- A. Take action to adopt written findings as to the extension of a delinquent tax collection contract and approve the extension of a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP pursuant to Section 6.30 of the Tax Code, said contract being for the collection of delinquent government receivables owed to Wimberley Independent School District and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code. - Sergio Garcia, PBFCM
 - B. Discuss and Consider Possible Action on Policy Update 125, Including Local Policies Presenter - Jason Valentine
 - C. Consider and possible action regarding Owner's Third-Party Representative Agreement for Project/Program Management Services with AGCM, Inc. for the District's 2025 Bond Construction Projects.
 - D. Consider and possible action regarding proposed agreement with O'Connell Robertson & Associates, Inc. for design and contract administration services on 2025 Bond Construction Projects.
 - E. Discussion and possible action on a Board resolution to approve the extension of the depository contract with Wells Fargo
 - F. Consideration and Possible Action to adopt the Delivery Method for Construction Services for Bid Package 2 and 3, in accordance with Texas Government Code Chapter 2269
6. CFO's Report - Chief Financial Officer, Michael Doyle
- A. Financials
7. Superintendent's Report
8. Consent Agenda - Presiding Officer Discussion and necessary action - The following items may be considered for approval in part or in entirety.
- A. Minutes of the Regular Meeting - June 16, 2025
 - B. Order of November 4, 2025 General Board of Trustees Election, Places 4 and 5
 - C. Approve T-TESS and T-PESS Appraisal Calendar and Appraisers
 - D. Consider Approval to Change the Date of the Regular August Board Meeting to August 25, 2025.
 - E. Approve designation of Non-Business Days for 2025-2026 PIA Calendar

- F. Discuss and Consider the Approval of Agreement for the Purchase of Attendance Credit (Option 3 Agreement) and to Delegate Contractual Authority to the Superintendent for Chapter 49 Payment to the State - Presenter - Mike Doyle
- 9. Closed Session - Presiding Officer The Board may adjourn into closed session pursuant to Texas Government Code Section: 551.071 *et seq.* The Board may then re-enter into Open Session for further discussion and necessary action.
 - A. Deliberation Regarding Security Devices or Security Audits. *Texas Gov't Code §551.076 and §551.089*
 - B. Personnel Matters. *Texas Gov't Code §551.074*
 - 1) New hires/terminations/employee discipline
 - 2) Formative (mid-year) Superintendent Evaluation
 - C. Deliberation Regarding Real Property. *Texas Gov't Code §551.072*
 - D. Consultation with Attorney. *Texas Gov't Code §551.071*
- 10. The Board will reconvene and take possible action on items discussed in executive session - Presiding Officer
- 11. Prepare for next meeting - Presiding Officer Discussion to include, but not limited to: Set date, time, and place of next meeting, upcoming agenda items
- 12. Adjourn - Presiding Officer



PROJECT PROCUREMENT OPTIONS



Wimberley ISD

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Presented by: Derek Bird, CCM





Professional Services Procurement

- **Professional Services must be procured under the “Professional Services Procurement Act” Tx Govt Code 2254.**
- **These include:**
 - **Architectural/Engineering Services**
 - **Materials Testing – Including GEOTECH**



Professional Services Procurement

Procuring Professional Services

- **Based on Qualifications**
 - **Price can NOT be initial factor in evaluations**
-
- Step 1: Issue RFQ (Advertise if necessary)
 - Step 2: Shortlist/Interview
 - Step 3: Select a Firm
 - Step 4: Negotiate Fee



Construction Services Procurement

- **Procured Under Texas Govt Code 2269.**
 - Options:
 - Competitive Bid
 - Competitive Sealed Proposal (CSP)
 - Construction Manager – Agent
 - Construction Manager at Risk
 - Design-Build
 - Job Order Contracts (JOC)
 - JOC will not be discussed



Construction Services Procurement

- **Competitive Bid**
 - Contractor is selected based on **Lowest Price**
 - Contractor bids on a completed set of construction documents and plans
 - Design –Bid-Build



Construction Services Procurement

▪ **Competitive Bid**

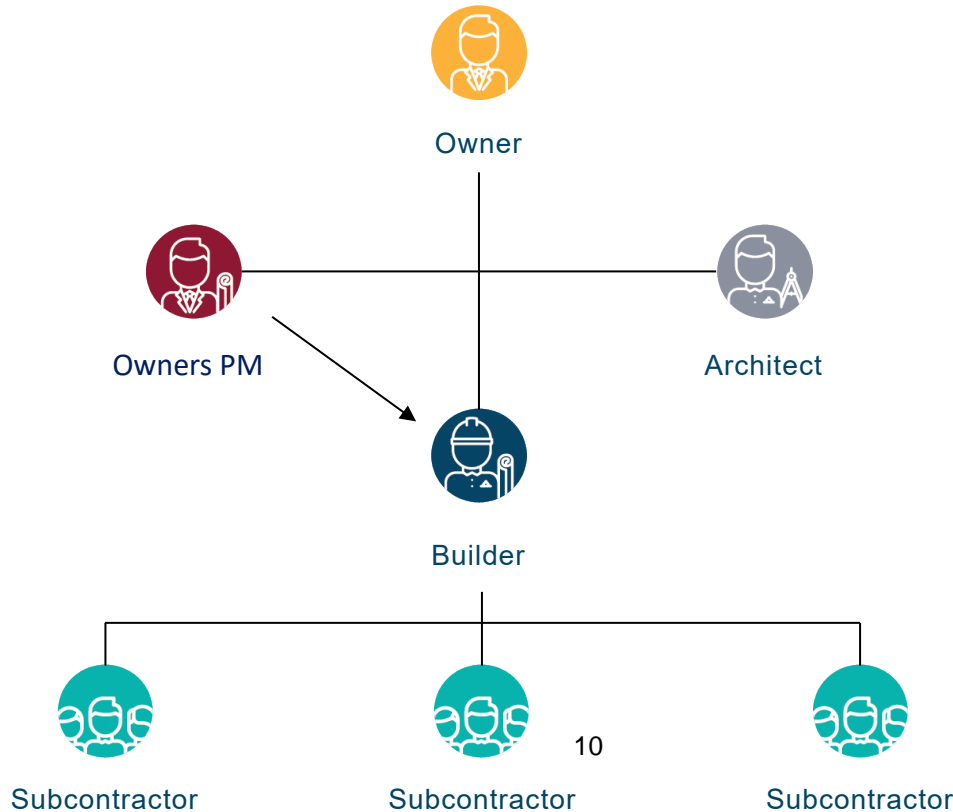
- Advantages
 - Lowest Price, Max Competition
 - Owner controls design and construction contracts
- Disadvantages
 - Lowest Price may mean lowest quality
 - Must award to lowest bidder
 - Cant negotiate after bid receipt
 - If over budget, must reject and redesign
 - Requires owner expertise
 - Longer schedule





Construction Services Procurement

- **Competitive Bid**





Construction Services Procurement

- **Competitive Sealed Proposal**
 - Contractor bids on a completed set of construction documents and plans
 - Contractor evaluated based on several criteria and ranked by: reputation, price, quality, schedule, etc
 - Contract negotiated with “Best Value”



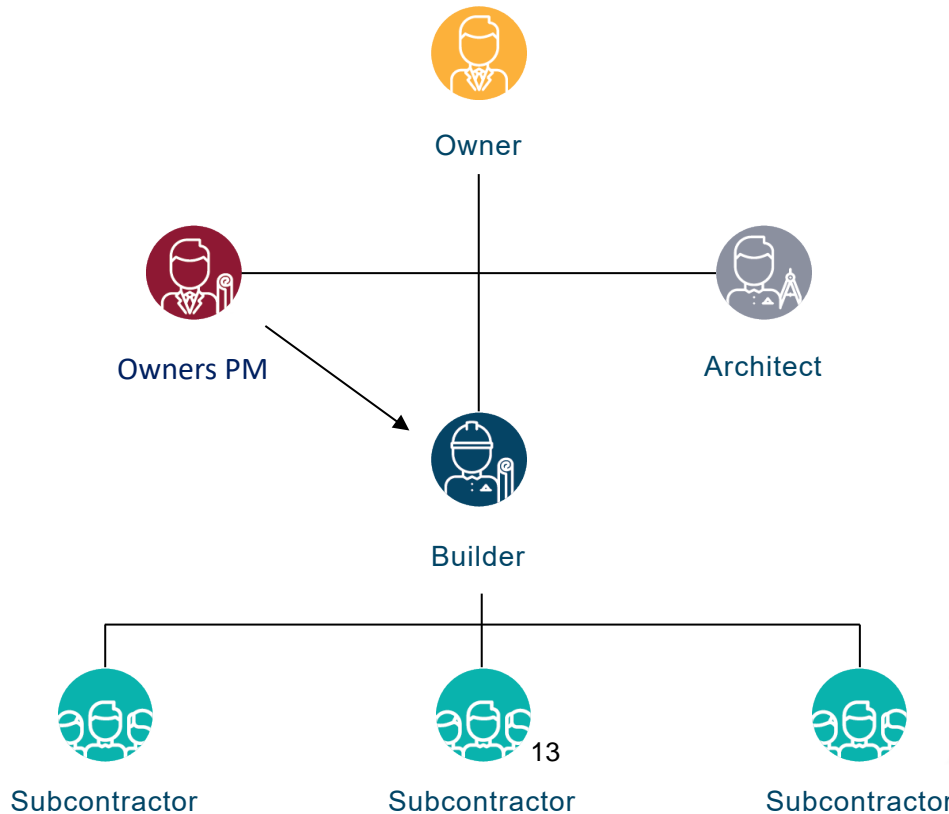
Construction Services Procurement

- **Competitive Sealed Proposal**
 - Advantages
 - Can weigh selection criteria, not solely on price
 - Allows negotiation after bid opening with selected individual
 - Owner holds design and GC contracts
 - Disadvantages
 - More change orders than some methods
 - Architect vs Owner vs Contractor
 - Longer schedules
 - No contractor input in design/planning



Construction Services Procurement

- **Competitive Sealed Proposal**





Construction Services Procurement

- **Construction Manager as Agent**
 - Selected based on an RFQ
 - Handles all of the Subcontracts; unable to *Self-Perform* any work.



Construction Services Procurement

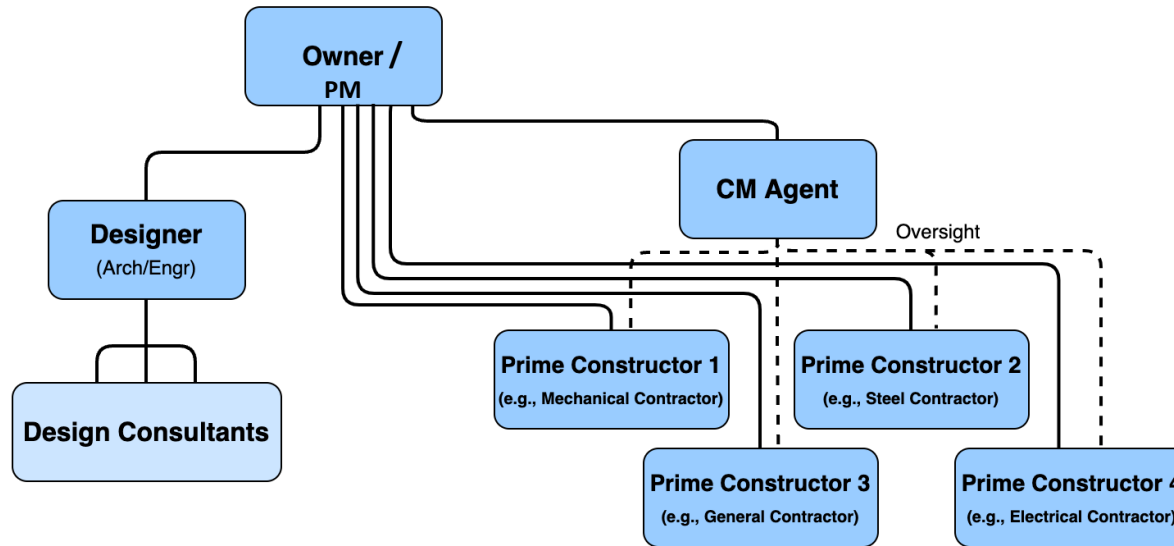
- **Construction Manager as Agent**
 - Advantages
 - Eliminates fees associated with GC
 - Disadvantages
 - Owner acts as the GC, liability
 - Numerous contracts to handle
 - Opportunity for Change Orders





Construction Services Procurement

Construction Manager as Agent



Notes

Solid Line = Contract between two parties

Dashed Line = Oversight by one party to another party based upon owner contracts

Number of Prime Contractors will vary.

CM Agent has significant oversight including planning, payment requests, contract terms, etc.

Design is 100% complete prior to procuring prime contractors.

CM Agent is hired early to assist with preconstruction services and procurement of prime constructors.

Prime constructors may contract with subcontractors.





Construction Services Procurement

▪ Construction Manager at Risk

- Normally selected at time of the Architect
- Selected based on one of two methods
 - 1 Step Process = RFP (fees and general conditions)
 - 2 Step Process:
 - 1) RFQ to select a shortlist
 - 2) Receive Fee and General Conditions on Shortlisted
- GMP Given after Design Complete
 - $GMP = Fees (+) Cost\ of\ Work$





Construction Services Procurement

▪ Construction Manager at Risk

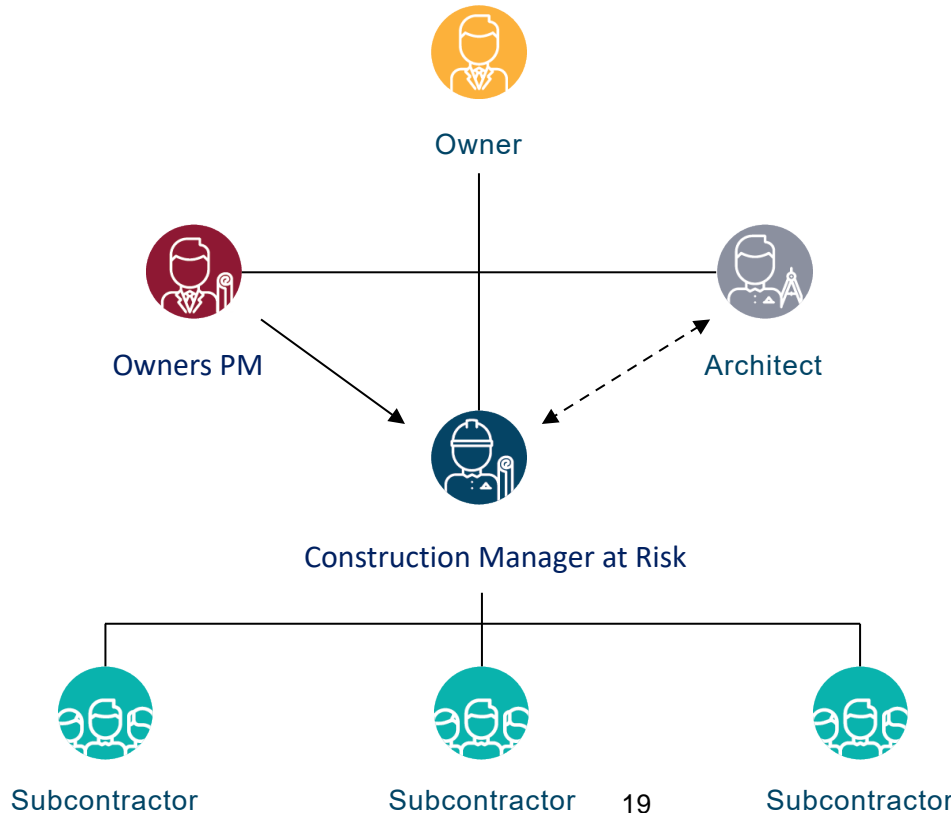
- Advantages
 - GC (CM) works along side design team
 - Cost estimates provided through design
 - Reduces opportunity for Change Orders
 - Increased Constructability
 - Construction can start before design complete
- Disadvantages
 - Cumbersome paperwork
 - CM becomes GC after bids received
 - CMAR CAN self perform
 - Typically NOT lowest cost





Construction Services Procurement

- **Construction Manager at Risk**





Construction Services Procurement

▪ Design Build

- Architect/Contractor are a single team
 - Generally Architect works under the GC
- Selected after an RFQ Process (2 Step)
- Rates/fees negotiated after selection
- Typically a GMP (Guaranteed Max price) given after design complete.
 - $GMP = Fees (+) Cost\ of\ Work$





Construction Services Procurement

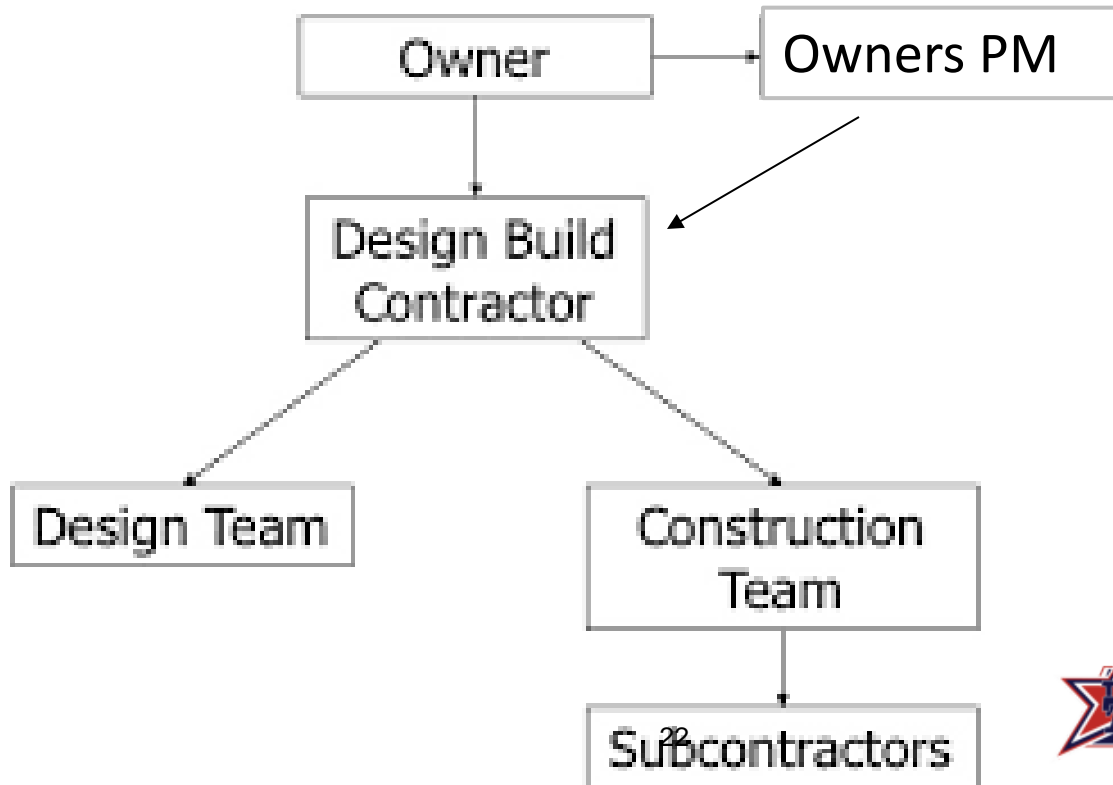
▪ Design Build

- Advantages
 - Minimizes Change Orders (single responsibility)
 - GC has input into design
 - Fast tracks the project
 - GC provides cost/estimate input
- Disadvantages
 - Architect works for GC, not Owner
 - Difficult to control quality and design
 - Typically not lowest cost (in our exp)



Construction Services Procurement

- **Design Build**





SO.....HOW TO SELECT?

- **Identify Priorities**
 - **Cost = TYPICALLY
Competitive Proposal**
 - **Quality = TYPICALLY
Construction Manager at
Risk**
 - **Schedule = TYPICALLY
Design-Build**

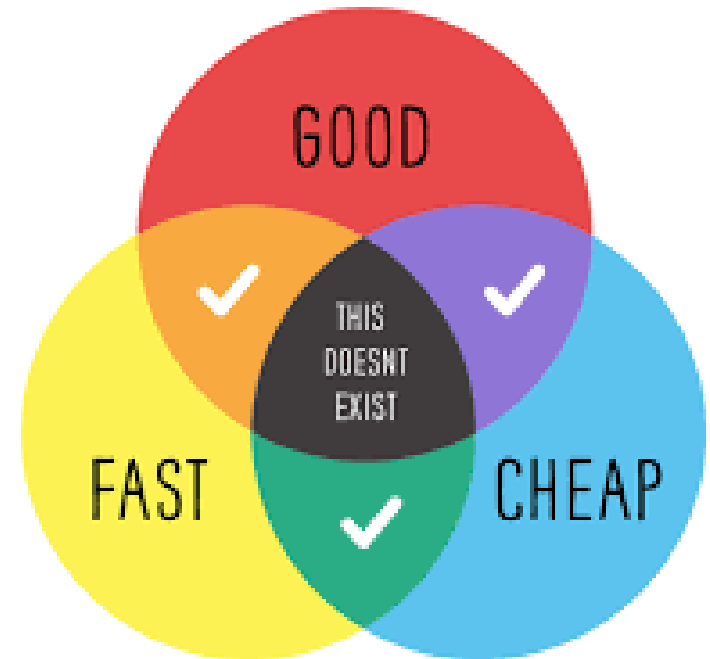


SO.....HOW TO SELECT?

- **THERE IS NO ONE SIZE FITS ALL!**

CONSIDER:

- **Market**
- **Project Complexity**
- **Location**
- **Urgency**
- **Cost Constraints**
- **Quality Level**



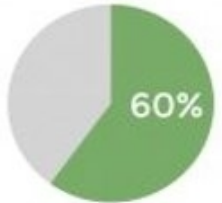
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COMPETITIVE SEALED PROPOSAL

CONSTRUCTION MANAGER @ RISK

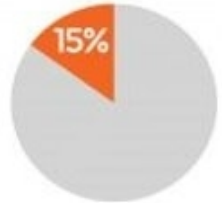
DESIGN-BUILD



PREVALENCE
IN MARKET



PREVALENCE
IN MARKET



PREVALENCE
IN MARKET

QUALITY

QUALITY

QUALITY

SPEED

SPEED

SPEED

PRICE

PRICE

PRICE

OWNER RISK

OWNER CONTROL

OWNER RISK

OWNER CONTROL

OWNER RISK

OWNER CONTROL



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QUESTIONS?



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Diamond
Communications



Wimberley ISD
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Wireless Connectivity in Wimberley ISD

ConnectED Texas Program Overview

TASB is working with Diamond Communications to bring best-in-class wireless services and connectivity solutions to its Independent School Districts (“ISDs”)

- Diamond has **full-service wireless infrastructure capabilities** and will work in close collaboration with each ISD to meet critical objectives:
 - Health and safety considerations
 - Educational opportunities
- Diamond to **market ISD properties** to wireless carriers
- Provide ISDs with connectivity solution opportunities
 - Reduce safety concerns by improving connectivity for school resource officers, emergency services and educators
 - Keep students and parents connected more reliably
- Provide ISDs with a **no-cost option** to improve wireless connectivity in and around school properties
- Potential to create a **long-term revenue stream** for ISDs

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About Diamond

Diamond is a U.S. leader in the development and management of wireless communications infrastructure

- Founded in 2006 by tower industry executives
- National presence with offices in 20 states
- Significant presence and experience in Texas
- Key executives have 15 - 25 years of wireless industry experience
- Over 4,000 tenanted sites (owned and managed)
- Market and/or manage approximately 500,000 sites
- Proven track record of successful management programs
- Highly-experienced team with operational, engineering, legal and financial expertise
- Experience deploying emergency communications networks on our sites
- Unique capabilities for indoor and outdoor connectivity solutions



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Diamond is management-controlled with additional financing provided by both individual and institutional sources, including Sculptor Capital Management, Manulife Investment Management and the Ontario Teachers' Pension Plan Board

ISD Coverage Outlook (900m RSRP Average)

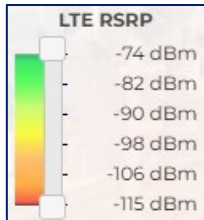
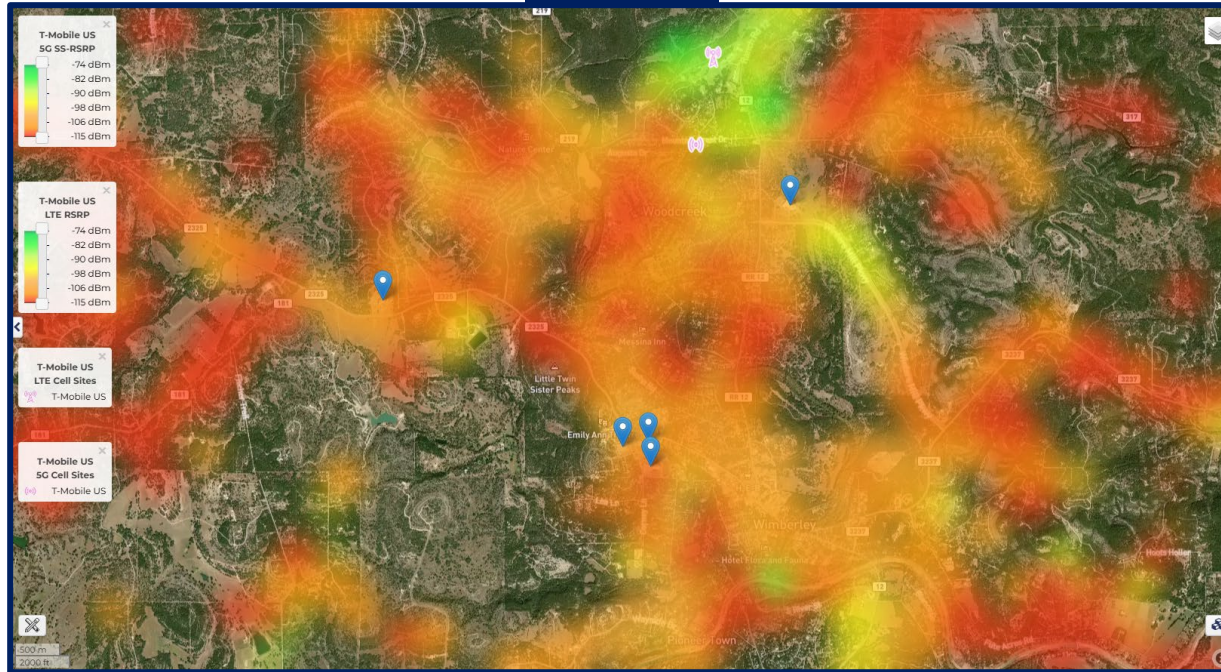
	T-Mobile	Verizon	AT&T
Wimberley High School	-108 dBm	-101 dBm	-111 dBm
Danforth Junior High School	-107 dBm	-101 dBm	-112 dBm
Jacob's Well Elementary	-109 dBm	-105 dBm	-106 dBm
Blue Hole Primary School	-105 dBm	-86 dBm	-108 dBm
Wimberley ISD Admin/Central Office	-108 dBm	-101 dBm	-112 dBm

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*Less than -105 dBm is considered unreliable coverage
E.g., -108 dBm is considered unreliable; -85 dBm is considered reliable*

Overall Coverage - T-Mobile

T-Mobile



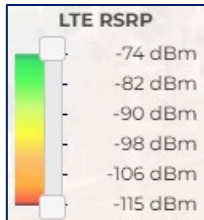
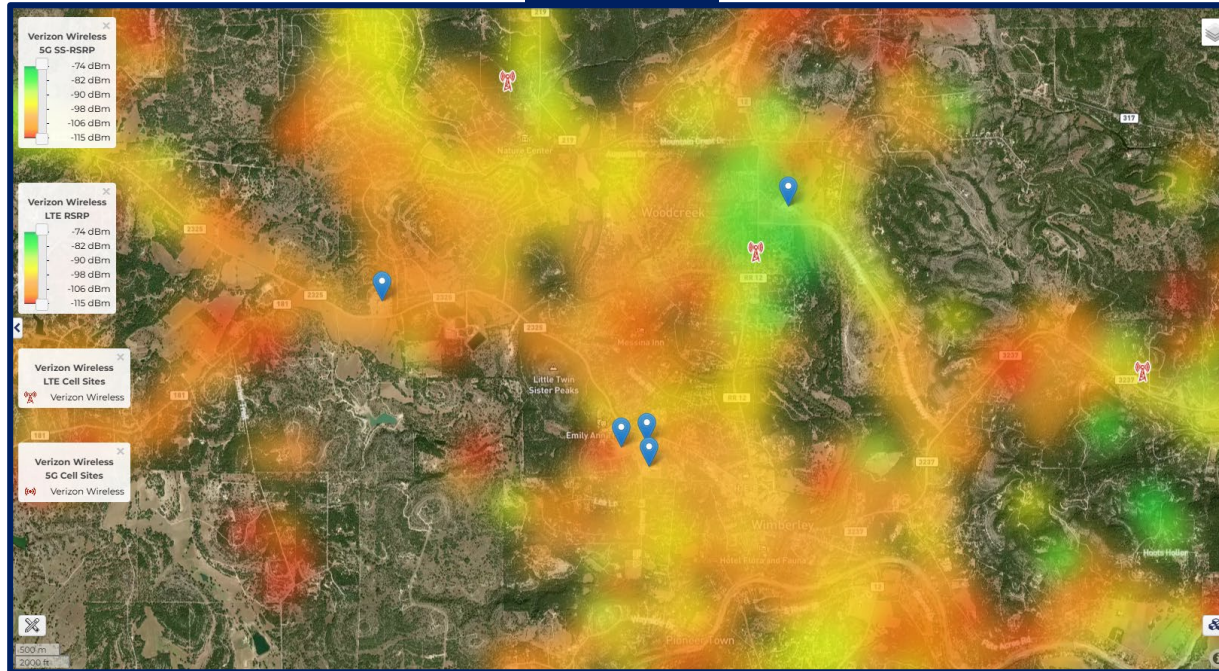
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- Green and yellow areas signify reliable coverage
- Red and orange areas signify unreliable coverage

Based on crowd-sourced data provided by Ookla from February 2024 - January 2025.

Overall Coverage - Verizon

Verizon



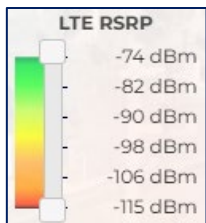
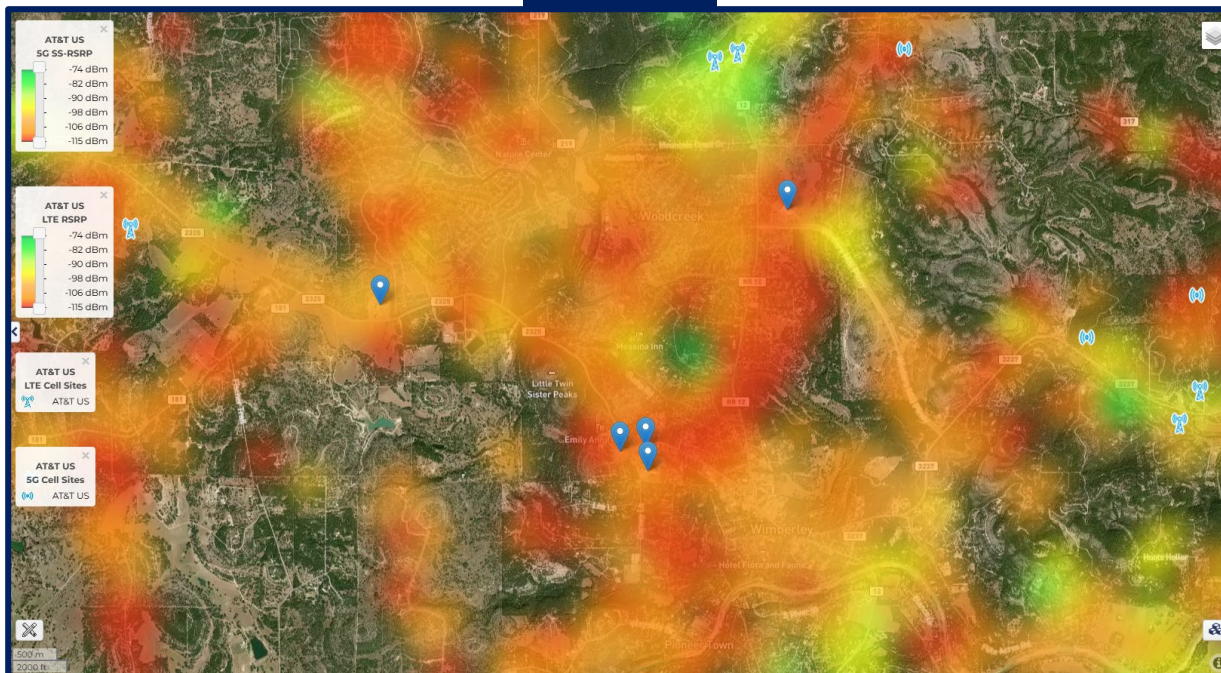
32

- Green and yellow areas signify reliable coverage
- Red and orange areas signify unreliable coverage

Based on crowd-sourced data provided by Ookla from February 2024 - January 2025.

Overall Coverage - AT&T

AT&T

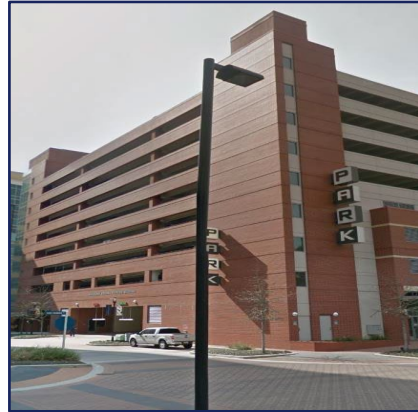
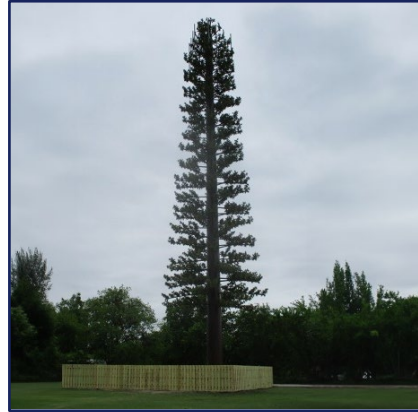
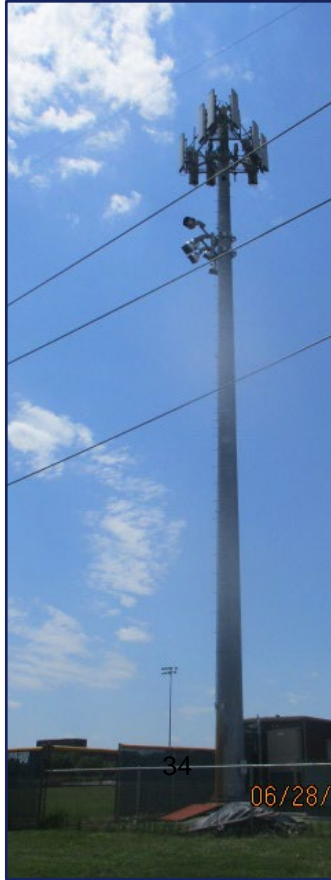
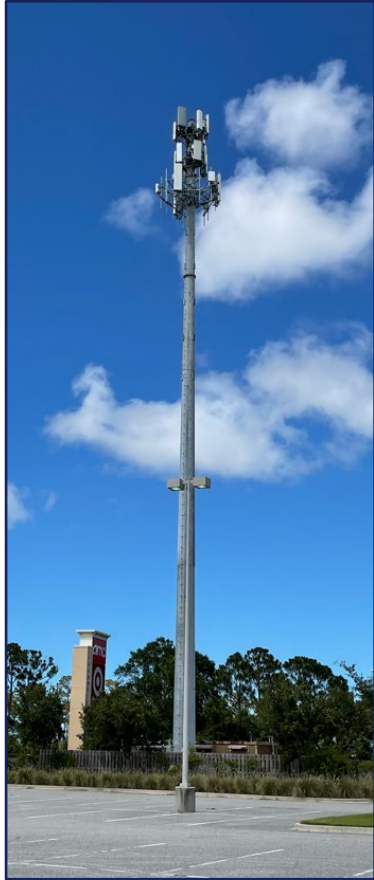


33

- Green and yellow areas signify reliable coverage
- Red and orange areas signify unreliable coverage

Based on crowd-sourced data provided by Ookla from February 2024 - January 2025.

Tower Examples



Illustrative Economics

- **Existing Structures** (rooftops, water tanks, etc.)
 - **ISD receives 75%** of the revenue received from **any tenant** installed
- **New Tower Builds - Monopole Structure**
 - Diamond will incur all costs associated with tower construction
 - **ISD receives 30%** of the revenue received from the **first and second** cellular carriers installed
 - **ISD receives 40%** of the revenue received from the **third and any subsequent** cellular carriers installed

Revenue-Share Example - New Tower Build

# of tenants	Year 1	Year 2	Year 3	Year 4	Year 5	Cumulative Year 10
1	\$9,000	\$9,225	\$9,456	\$9,692	\$9,934	\$100,830
2		\$9,000	\$9,225	\$9,456	\$9,692	\$89,591
3			\$12,000	\$12,300	\$12,608	\$104,833
Total	\$9,000	\$18,225	\$30,681 35	\$31,448	\$32,234	\$295,254

- Monthly Rent: \$2,500
- Annual Escalation: 2.5%

Importance of Carrier Participation

- Carrier interest is based on their individual coverage and capacity needs
- Carriers are responsible for funding their equipment to be deployed at each site
- Carrier budgets are limited, and network priorities established
- Diamond will showcase available ISD properties/locations and coverage deficiencies to the carriers through our marketing efforts



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Indoor Connectivity

- Many schools have been constructed with materials that negatively impact cellular coverage
 - 'Old' materials (e.g., cinder blocks) or 'new' materials (e.g., energy efficient glass) are difficult to penetrate
- Diamond has a team that solely focuses on providing indoor wireless connectivity. We design comprehensive indoor solutions, including distributed antenna systems ("DAS")
- Diamond can analyze the indoor connectivity at your schools, and discuss various options to improve in-building cell service



Next Steps

1. ISD: Review and Sign the Site Marketing Agreement ("SMA")
 - Review only - ASLA (lease for a carrier colocation on an existing structure)
 - Review only - Option and Ground Lease (lease for a new tower build)
2. Diamond: Develop Marketing Materials
3. Diamond: Market ISD Properties to the Wireless Carriers
4. ISD: Approve/Reject Opportunities for Antenna(s) Sites on School Property

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION**

INFORMATION PAGE

Subject: ESSA Consolidated Federal Grant Application Public Notice

Date: July 21, 2025

Presented by: J. Valentine

BACKGROUND INFORMATION

2025-2026 WISD ESSA Consolidated Federal Grant Application Public Notice

Wimberley Independent School District (WISD) will apply for funds through the ESSA Consolidated Federal Grant Application for federal funds under the Every Student Succeeds Act (ESSA) for the 2025-2026 school year. The programs for which the district will apply are:

- Perkins V - Strengthening Career and Technical Education for the 21st Century - \$18,094 (Instructional Materials, equipment and professional development opportunities for CTE)
- Title I, Part A - Improving Basic Programs - \$248,174 (Payroll costs for interventionists and appropriate faculty)
- Title II, Part A - Supporting Effective Instruction - \$53,751 (Payroll costs associated with recruitment and retention)
- Title III, Part A - English Language Acquisition (ELA) - \$20,170 (Payroll costs for EB paraprofessionals)
- Title IV, Part A - (SSAEP) – Well-Rounded Education, School Conditions, & Technology - \$20,539 (Payroll costs associated with Texan Roots Character Education implementation and MTSS at Blue Hole Primary)

These federally funded programs, which include programming for both public and private schools, are made available to local education agencies (public school districts) through a consolidated application process. The programs provide supplemental instructional activities and professional development. The local education agency is responsible for the administrative oversight of the ESSA program(s) in the private nonprofit school. Currently, Wimberley does not have a Private Nonprofit school participating in the federal grant program.

Questions and/or feedback can be directed to Jason Valentine, WISD Assistant Superintendent

Email: jason.valentine@wimberleyisd.net

Office Phone: 512-847-2414

ADMINISTRATIVE RECOMMENDATION

None, public and board notification

BOARD ACTION REQUIRED

None



Status Report to
WIMBERLEY INDEPENDENT SCHOOL DISTRICT
Concerning the Collection of Delinquent Taxes

Sergio E. Garcia
John T. Banks
Adam P. Dockery
3301 Northland Drive, Ste. 505
Austin, Texas 78731
sgarcia@pbfcm.com
jbanks@pbfcm.com
adockery@pbfcm.com
(512) 302-0190
(800) 290-8391

July 21, 2025

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
STATUS REPORT AS OF JULY 15, 2025**

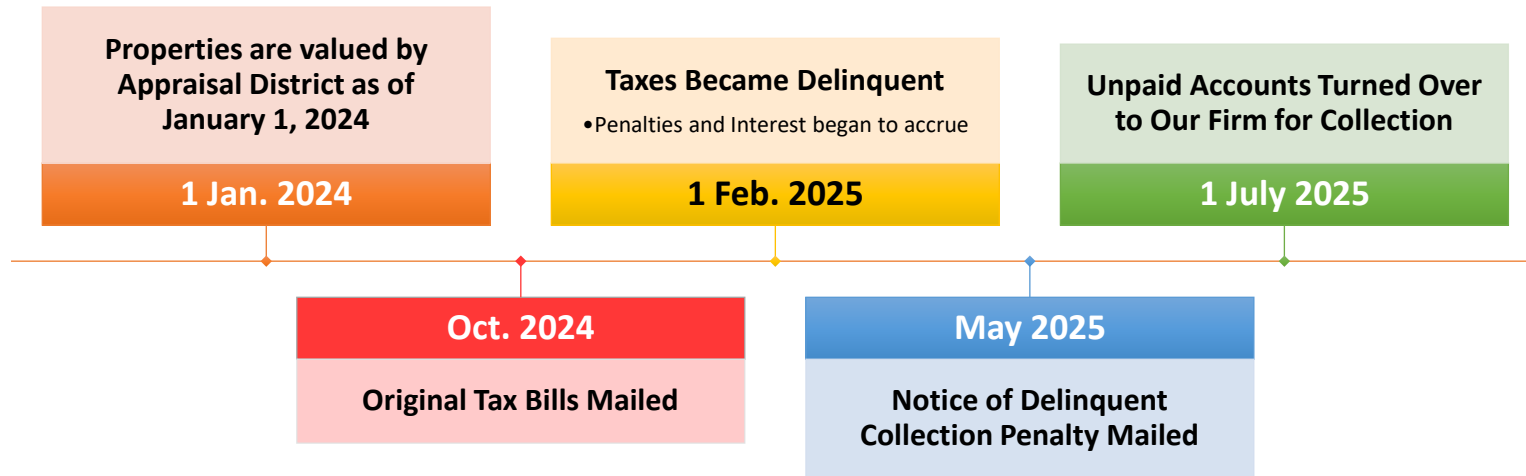
Tax Year Calendar.....3

Accounts Subject to Payment Agreement4

Accounts Subject to Title and/or Suit Preparation.....5

Collection Statistics.....6-9

2024 Tax Year Calendar



ACCOUNTS SUBJECT TO PAYMENT AGREEMENT

The following is a listing of accounts under a monthly payment agreement as of July 15, 2025. Frequently, agreement is reached to pay all taxes within a 30-day time frame. However, the typical arrangement provides for the balance to be amortized over 12 months. The Tax Code allows for installment agreements to extend for up to 36 months so we are able to extend more liberal terms in cases involving financial hardship. We work with the tax office in the monitoring of installment agreements to ensure compliance.

Name	Acct #	Taxes Due ISD	Comments
Barrett, Patricia	R22153	\$506.52	PPK Current
Beer Ranch Properties, LLC	R18481 R18568	\$8,554.05	PPK Current
Bender, John & Patricia	R85646	\$392.86	PPK Current
Bordelon, Gerald	R51720	\$1,143.78	PAID
Bowen, Diane	R50396	\$824.73	PPK Current
Busboom, Amber	R185683	\$5,446.15	PAID
Button, Nathaniel	R22526 R22600	\$3,381.45	PAID
Collins, Michael Andrew	R37535	\$3,397.67	PPK Current
Covenant Cove Properties	R32027 R32028	\$18,840.22	PPK Breached
Danford, Marcus	R22884	\$1,321.73	PAID
Dunks, Steven	R13622	\$797.24	PAID
Egg Homes LLC	R51691	\$209.48	PPK Current
Evans, Marcus	R39548	\$3,208.30	PPK Current
Gonzalez, Alejandro	R38683	\$2,585.96	PAID
Kasper, John & Patty	R98123	\$384.33	PPK Current
Ledesma, Manuel	R34046	\$38,297.00	PPK Breached
Leonard, Larry & Michelle	R129242	\$7,604.37	PPK Current
Martinez, Sergio	R40986	\$3,538.51	PAID
Patino's Construction, LLC	R185439 R52900 R52901	\$1,908.80	PAID
Quijano, David	R27655	\$1,102.64	PAID
Rodriguez, Enrique	R94202 R94858	\$6,205.54	PPK Breached
Rookstool, Shalee	R85642	\$8,749.38	PAID
Roundtree, M. Gordon	R38650	\$1,397.65	PAID
Scudco LLC	R52840	\$1,221.16	PPK Breached; Suit Pending
Vega, Veronica	R49426	\$1,976.97	PPK Breached
Wagner, Bill	R22467	\$737.32	PAID
Wighamman, James Alan	R42054 R42055	\$8,552.38	PPK Current
Williamson, James	R15421	\$2,768.29	PAID
Urbina, Laplante Kay	R99874	\$1,158.23	PPK Current

ACCOUNTS SUBJECT TO TITLE AND/OR SUIT PREPARATION

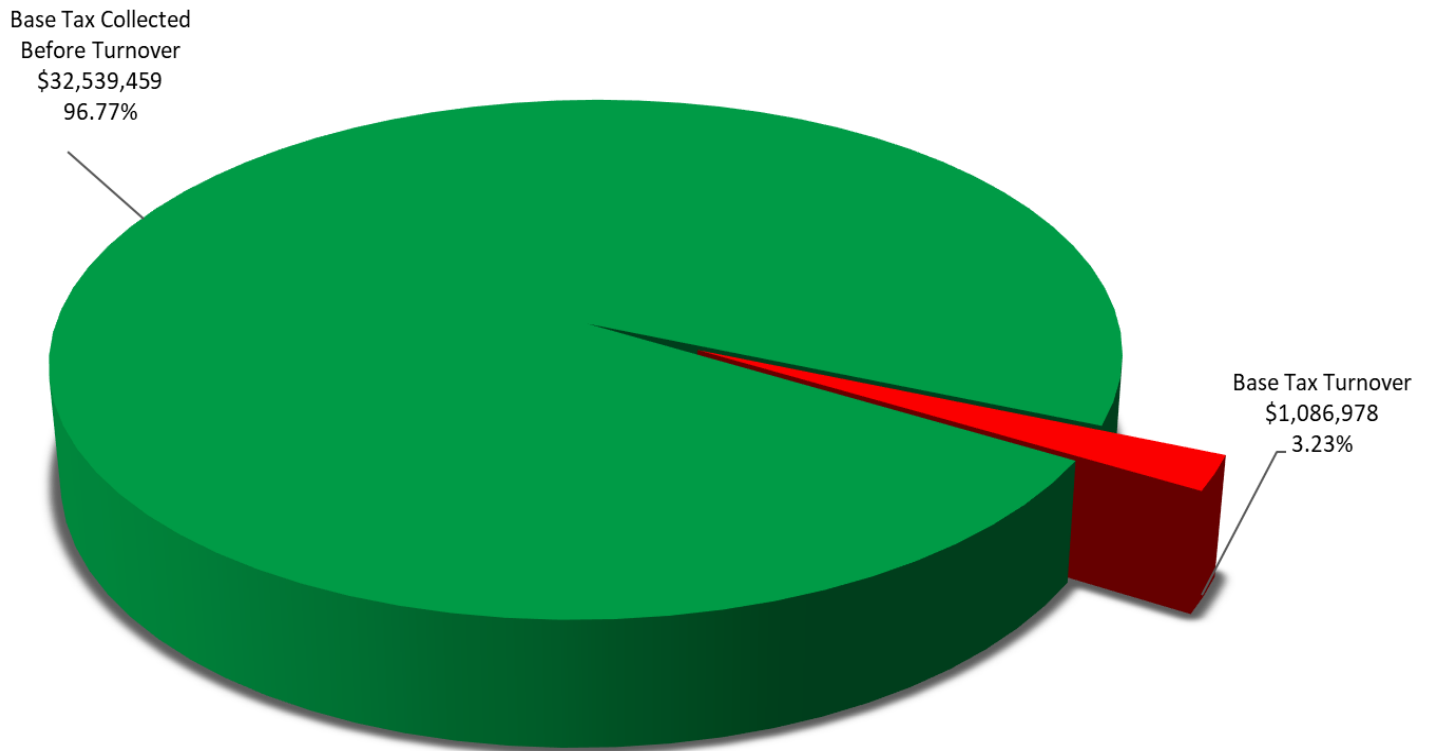
The following is a listing of accounts in which the taxpayer has breached a payment agreement or efforts to obtain payment prior to the filing of suit have been exhausted. Absent payment, the accounts will be the subject of litigation as soon as title has been researched thoroughly.

Name	Acct#	Years	Taxes Due ISD	Description
Ledesma, Jose Manuel	R34046	23-24	\$38,297.00	LEGEND OAKS SEC 1 LOT 3 ACRES 5.019
Krak Investments	R17345	23-24	\$25,862.17	A0374 EUGENE PRICHALSKI SURVEY ACRES 9.99
Covenant Cove Properties	R32027 R32028	20-24	\$18,840.22	HILLTOP PLACE SEC 2 LOT 14 ACRES 5.00 HILLTOP PLACE SEC 2 LOT 15 ACRES 5.00
Smart, Danny & Deborah	R85633 R85705	23-24	\$17,849.96	SADDLERIDGE SEC 2 LOT 141 ACRES 5.00 SADDLERIDGE SEC 2 LOT 213 ACRES 2.00
Wyche, Linda Wolf	R134126	23-24	\$14,234.16	YORK CREEK MEADOWS SEC 2 LOT PT OF 7 ACRES 13.55 GEO#90612522 50.000000% UDI
Kapetanakis, Evangelica Zoi	R45690	23-24	\$11,491.90	THOMPSON RANCH EST LOT 16 14.104 AC GEO#90607394
Trinity of Wimberley, LLC	R19004 R50526 R50682 R51069 R51201	23-24	\$11,042.39	ABS 480 R WEED SUR 4.65 AC WOODCREEK SEC 13 LOT 62 WOODCREEK SEC 13 LOT 218 WOODCREEK SEC 16 LOT 116 WOODCREEK SEC 16-A LOT 29
Redd, Shana Beth	R23017	23-24	\$9,290.36	CAMPFIRE 2 SEC 5 LOT 170 GEO#90605352
Williams, Christian & Chloe	R134769 R37161 R37163	23-24	\$8,818.00	THE OAKS SECTION 1 LOT 9 SERIAL S0073 ACRES 0.89 THE OAKS SECTION 1 LOT 4 THE OAKS SEC 1 LOT 7 & 8 1.88 AC
Meadows, Cole & Abigail	R172913	23-24	\$8,002.63	WOODCREEK SEC 19 LOT 66
Kimbro, Delissa & Kenneth	R164703	23-24	\$7,938.38	RIVER OAKS OF WIMBERLEY UNIT 2 LOT 22A ACRES 2.4
Adams, Patrick	R49558	23-24	\$7,668.55	WOODCREEK SEC 8 LOT 156 GEO#90608882
Kendree Investments	Multiple Accounts	23-24	\$6,410.34	VILLAS OF BROOKMEADOW LOT 5, LOT 6, LOT 8, LOT 9, LOT 11 AND LOT 12
Englander, Louis Wood	R37907	23-24	\$6,353.94	PAR VIEW VILLAGE LOT 23 HOUSE GEO#90606751
Rodriguez, Enrique	R94202	22-24	\$6,205.54	ABS 392 C ROONEY SURVEY 2.76 AC
Berling Rev Liv Trust	R26860	23-24	\$6,037.10	EAGLE ROCK RANCHITOS LOT 10 BLK 3 GEO#90605819
Ulloa, Jose Manuel	R24385	23-24	\$5,477.26	CLIFFSIDE SECOND UNIT LOT 63
Blackmore, Sandra	R48378	23-24	\$3,870.46	WIMBERLEY HEIGHTS LOT PT OF 36 ACRES 0.30

WIMBERLEY INDEPENDENT SCHOOL DISTRICT

2023 Tax Year – Tax Collections

\$33,626,437 Total Levy of 2023 Tax Year



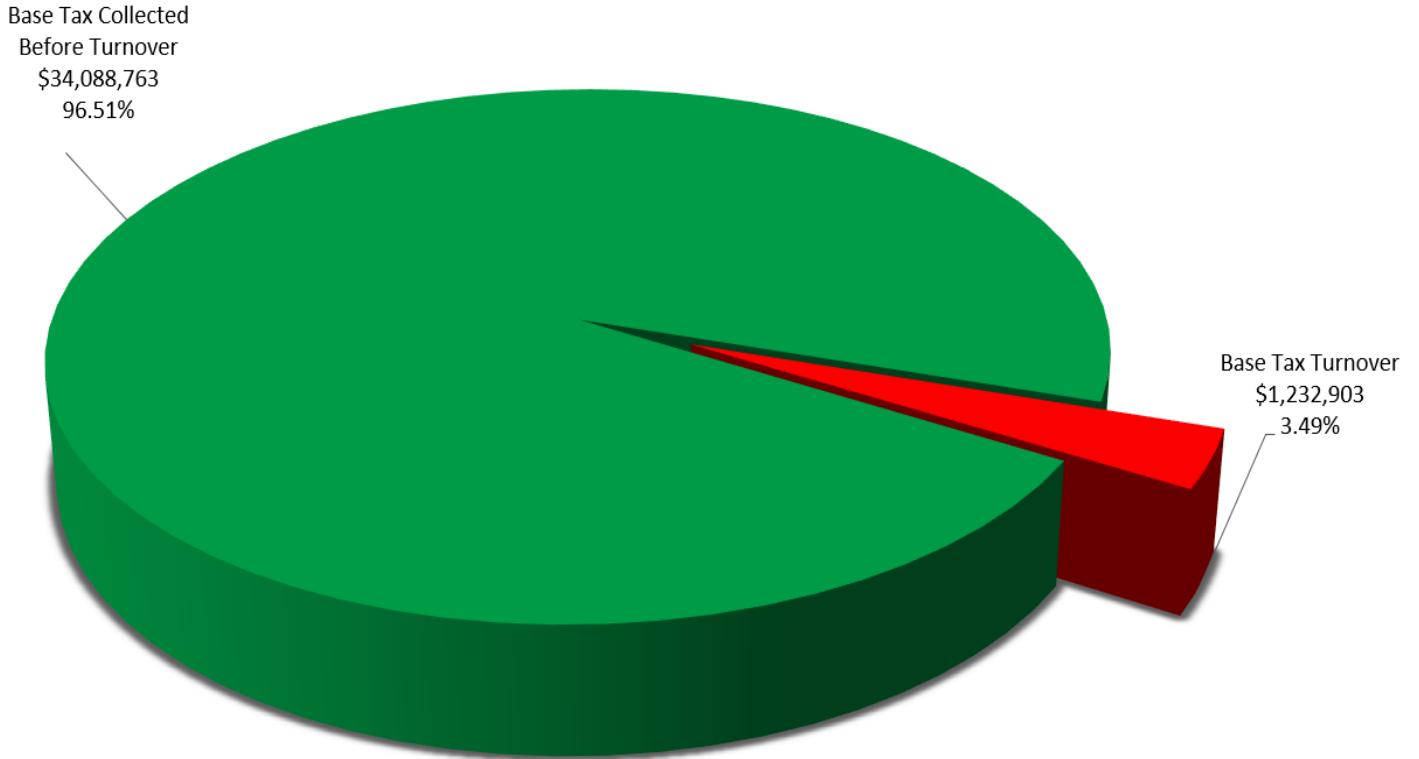
2023 Total Levy	Base Tax Collected Before Turnover as of June 30, 2024	Base Tax Turnover as of June 30, 2024
\$33,626,437	\$32,539,459	\$1,086,978
	96.77%	3.23%

Source: Hays County Tax Office Monthly Collection Reports

WIMBERLEY INDEPENDENT SCHOOL DISTRICT

2024 Tax Year – Tax Collections

\$35,321,666 Total Levy of 2024 Tax Year



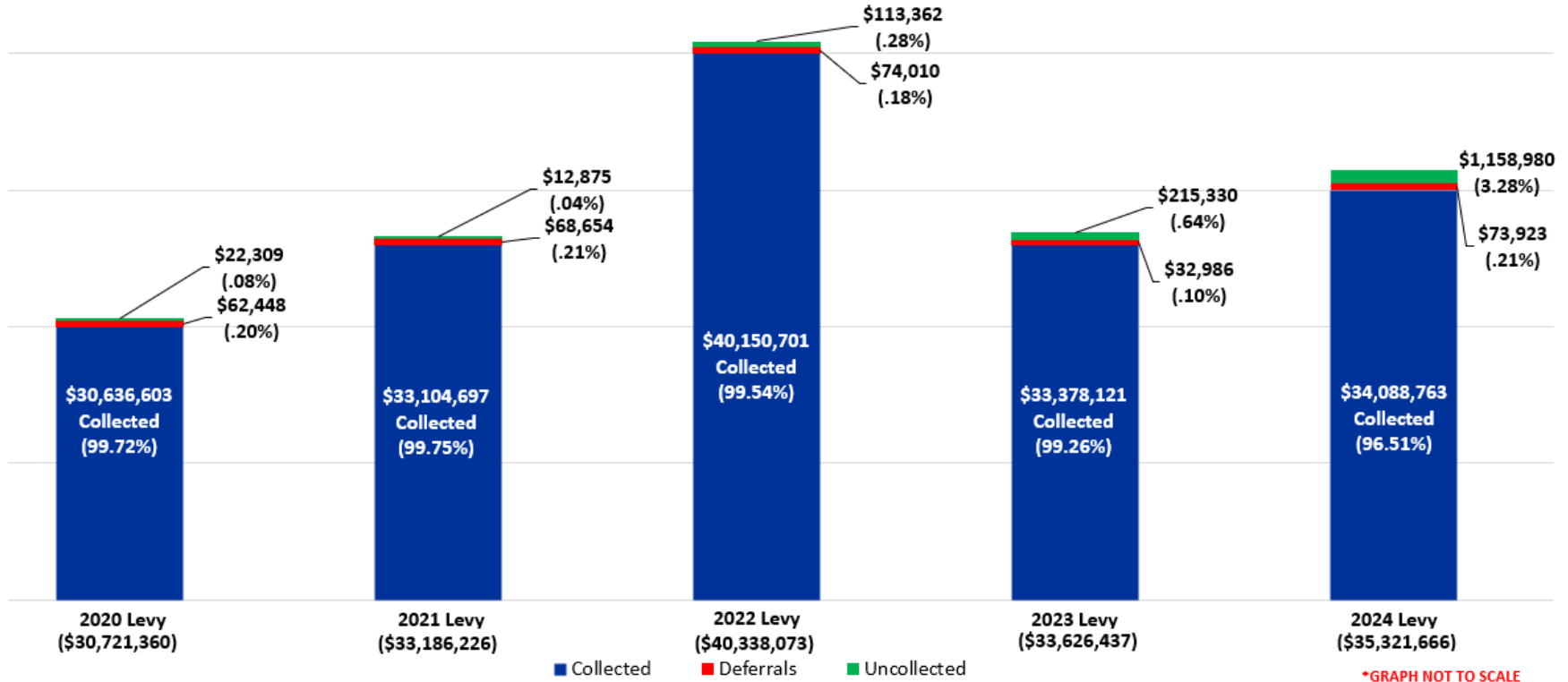
2024 Total Levy	Base Tax Collected Before Turnover as of June 30, 2025	Base Tax Turnover as of June 30, 2025
\$35,321,666	\$34,088,763	\$1,232,903
	96.51%	3.49%

Source: Hays County Tax Office Monthly Collection Reports

PERCENTAGE OF ORIGINAL LEVY COLLECTED

TAX YEAR	ORIGINAL LEVY	AMOUNT DELINQUENT ON JULY 1	DELINQUENT % COLLECTED AS OF 6-30-25	% OF ORIGINAL LEVY COLLECTED AS OF 6-30-25
2020	\$30,721,360	\$989,414	91.43	99.72
2021	\$33,186,226	\$710,465	88.52	99.75
2022	\$40,338,073	\$987,868	81.03	99.54
2023	\$33,626,437	\$1,086,978	78.45	96.26
2024	\$35,321,666	\$1,232,903	N/A	96.51

Wimberley ISD Levy Collections as of June 30, 2025* (Base Taxes Only)



Source: Hays County Tax Office Monthly Collection Reports

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Take action to adopt written findings as to the extension of delinquent tax collections contract and approve the extension of a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP pursuant to Section 6.30 of the Tax Code, said contract being for the collection of delinquent government receivables owed to Wimberley Independent School District and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.

Date: July 21, 2025

Presented by: Mike Doyle

Action

1. BACKGROUND INFORMATION

This extension of the Contract for the Collection of Delinquent Taxes is made and entered into by and between the Wimberley Independent School District, a political subdivision of the State of Texas, acting by and through its Board of Trustees, hereinafter called Taxing Authority, and Perdue, Brandon, Fielder, Collins & Mott, L.L.P., Attorneys at Law, or their duly authorized representatives, hereinafter called the Firm. The school year to which this agreement applies is 2025-2026.

2. ADMINISTRATIVE RECOMMENDATION

Approve as recommended.

3. BOARD ACTION REQUIRED

“I move that Wimberley ISD adopt the written findings as to the extension of delinquent tax collections contract and approve the extension of a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP pursuant to Section 6.30 of the Tax Code, said contract being for the collection of delinquent government receivables owed to Wimberley Independent School District and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.”

**RESOLUTION AUTHORIZING THE EXTENSION OF CONTRACT FOR THE
COLLECTION OF DELINQUENT TAXES**

THE STATE OF TEXAS

§

COUNTY OF HAYS

§

§

THIS extension of the Contract for the Collection of Delinquent Taxes is made and entered into by and between the **WIMBERLEY INDEPENDENT SCHOOL DISTRICT**, a political subdivision of the State of Texas, acting by and through its Board of Trustees, hereinafter called Taxing Authority, and **PERDUE, BRANDON, FIELDER, COLLINS & MOTT, L.L.P.**, Attorneys at Law, or their duly authorized representatives, hereinafter called the Firm.

I.

The Taxing Authority agrees to extend for an additional 12-month period that certain Contract for the Collection of Delinquent Taxes between the Taxing Authority and the Firm which continues in full force and effect through July 31, 2026. Said 12-month extension shall incorporate the same terms and conditions that govern the underlying Contract subject to the rights of the parties to mutually agree to amend the underlying contract. It is expressly understood and agreed between the Taxing Authority and the Firm that the Firm shall continue to provide delinquent tax collection services to the Taxing Authority through July 31, 2027, according to the terms and conditions of the underlying contract. At the end of the 12-month extension which shall end July 31, 2027, the Contract will automatically renew on a month-to-month basis absent a 30-day written notice from one party to the other of the termination of the contract.

This Extension of Contract for the Collection of Delinquent Taxes shall be attached to the Contract and made a part thereof for all purposes.

WITNESS the signatures of all parties hereto in duplicate originals this the _____ day of July, 2025, Wimberley, Hays County, Texas.

WIMBERLEY I.S.D.

**PERDUE, BRANDON, FIELDER,
COLLINS & MOTT, L.L.P.**

BY: _____
DR. ROB CAMPBELL
Board President

BY: _____
SERGIO E. GARCIA
Partner

Disclosure Requirements - Section 2254, Government Code

Section 2254 of the Government Code requires a contingent fee contract to be considered and approved at an open meeting by your local governing body. To comply with this, the following three items are required.

1. Public Notice – The Public Notice provided below must be posted with your agenda at the time the District gives written notice of their open meeting under Section 551.041.
2. Agenda language to be included in your agenda
3. Written Findings- At the open meeting, your local governing body must approve the Agenda Item for the contingent fee contract, and it must approve and sign the Written Findings provided herein.

Public Notice:

NOTICE PURSUANT TO GOVERNMENT CODE SEC. 2254.1036

WHEREAS, the Wimberley Independent School District (“District”), will consider the extension of a contingent fee contract with the law firm of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. (“Firm”) and hereby posts this notice pursuant to Sec. 2254.106 of the Government Code.

WHEREAS, this notice shall be posted before or at the time of giving the written notice required by Government Code Sec. 551.041 for a meeting described by Sec. 2254.1036(2) of the Government Code and shall announce the following:

A. The District is pursuing the extension of a contract with the Firm for the collection of delinquent ad valorem taxes owed to the District and through this contract the District seeks to increase recovery of its delinquent debts in as expeditious a manner as possible. GOVT. CODE § 2254.1036(1)(A).

B. The District believes the Firm has the competency, qualifications, and experience necessary to fulfill this contract. GOVT. CODE § 2254.1036(1)(B). The Firm has collected delinquent government receivables for 50 years, including the collection of delinquent ad valorem taxes. The Firm currently has 15 primary offices and multiple satellite offices throughout Texas, Oklahoma and Florida. It employs more than 400 individuals, including over 60 attorneys. It uses a multi-office, fully integrated team approach allowing the District access to all its offices and resources. Its collection team consists of long-term Firm employees, including attorneys, call center associates, paralegals, law clerks, legal secretaries, collection support personnel and information technology experts. The Firm utilizes proprietary collection software that can be tailored to meet any special need the District may have. This proprietary software also automates many aspects of the collection process, such as: account/debtor research, mailings and phone calls, return mail and address updates, payment notification and processing and workflow.

C. The nature of any relationship between the District and the Firm is as follows. GOVT. CODE § 2254.1036(1)(C). The Firm has represented the District in the collection of its delinquent property taxes since 2002. The firm has also represented the District since 1998 in the appeal of the State Comptroller’s property value study and taxable value audits.

D. The District is unable to perform collection of its delinquent ad valorem taxes. GOVT. CODE § 2254.1036(1)(D). The District currently does not have adequate support staff, computer software/programming, or experience to internally conduct these collection services and acquiring these will result in substantial expense to the District.

E. These collection services cannot be provided for an hourly fee. GOVT. CODE § 2254.1036(1)(E). The Tax Code allows the assessment of a percentage-based fee to recover the

costs of collecting delinquent ad valorem taxes. This percentage-based fee is assessed only against the debtor and not the District or taxpayers of the District. The collection of delinquent ad valorem taxes is a high-volume practice, requiring a significant amount of research, mailing, and handling of outbound/inbound calls. An hourly fee for such work will likely exceed amount of delinquent ad valorem taxes due. Moreover, the District will bear the cost of these hourly fees, and not the debtor, because the Tax Code does not expressly authorize the District to pay for collection services based on an hourly fee.

F. The District believes this contingent fee contract is in its best interest. GOVT. CODE § 2254.1036(1)(F). Under the contingent fee contract, the Firm will be paid the amount of the percentage-based collection fee, regardless of the number of hours the Firm spends researching, contacting and mailing to collect the delinquent debt. Additionally, the percentage-based collection penalty is a pass-through expense to the debtor and not an expense to the District or taxpayers in the District.

WIMBERLEY INDEPENDENT SCHOOL DISTRICT

By _____
Dr. Greg Bonewald
Superintendent of Schools

Agenda Language:

1. Take action to adopt written findings as to the extension of delinquent tax collections contract and approve the extension of a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP pursuant to Section 6.30 of the Tax Code, said contract being for the collection of delinquent government receivables owed to Wimberley Independent School District and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.

Written Findings:

Written Findings as to the Collections Contract with
Perdue, Brandon, Fielder, Collins & Mott, LLP

In an open meeting, the Board of Trustees for Wimberley ISD considered all matters listed Section 2254.1036(a)(1) of the Government Code, as they relate to the extension of a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP.

The Board of Trustees, pursuant to Section 2254.1036(b), of the Government Code, hereby finds the following to be true: 1) there is a substantial need for the legal services specified in said contract; 2) these legal services cannot be adequately performed by the attorneys and supporting personnel of Wimberley ISD; and 3) these legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which these services will be obtained or because Wimberley ISD does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

Therefore, this Board of Trustees hereby approves the extension of the contract by and between Wimberley ISD and Perdue Brandon Fielder Collins & Mott, LLP, for professional legal services regarding the collection of delinquent ad valorem taxes with services to be paid in accordance with Section 6.30 of the Tax Code.

APPROVED and EXECUTED this the ____ day of July 2025

Dr. Rob Campbell, Board President
WIMBERLEY INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
 CERTIFICATION OF FILING**

Certificate Number:
 2025-1336812

Date Filed:
 07/15/2025

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
 PERDUE, BRANDON, FIELDER, COLLINS & MOTT LLP
 Austin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
 Wimberley ISD

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
 Contract ID N/A
 Collection of delinquent ad valorem taxes

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Policy Update 125

Date: 07/21/2025

Presented by: Jason Valentine



Action

1. BACKGROUND INFORMATION

Policy Update 125 was emailed to the board for review on June 24, 2025. There are several LEGAL policies that have been revised and put in place, but the LOCAL policies are the policies that require Board approval.

BDAA(LOCAL) - Officer and Officials: Duties and Requirements of Board Officers - Minor changes in language with how our policy was already written. Superintendent manages district staff assignments.

BDB(LOCAL) - Board Internal Organization: Board Committees - This policy has been revised in coordination with BDF(LOCAL) to clarify the difference between board committees and advisory committees. Accordingly, the subtopic of this code has been changed from Internal Committees to Board Committees, and new provisions are recommended to establish how board committees are formed and outline their purpose. Text addressing Dissolution of board committees is also recommended for inclusion. The language previously at Special Committees has been moved to BDF(LOCAL).

BDF(LOCAL) - Board Internal Organization: Advisory Committees-This new local policy is recommended for inclusion to coordinate with the changes at BDB. The subtopic of this code has been changed from Citizen Advisory Committees to Advisory Committees. Language has been moved here from BDB(LOCAL) and updated to clarify how advisory committees are formed and the parameters of their responsibilities. A section on Dissolution of the committees is also recommended for inclusion.

EI(LOCAL) - Academic Achievement-A language change to “average” vs combined grade. We already award partial credit, so only a language change.

FDE(LOCAL) - Admissions: School Safety Transfers-At Safe Schools Data, “bullying” is recommended for inclusion as an offense for which the district must collect and maintain data. The revision aligns with the Unsafe School Choice Option Guidance Handbook

FEC(LOCAL) - Attendance: Attendance for Credit-Revisions throughout this policy are recommended for clarity. The information in the first sentence of the policy has been incorporated at Absences Considered for improved readability. Rather than directing the board to establish attendance committees, the policy now authorizes the establishment of those committees by the administration. At Methods for Regaining Credit or Awarding a

Final Grade, specifics regarding petitions for credit are recommended for deletion in favor of a reference to administrative regulations. Revisions at Imposing Conditions for Awarding Credit or a Final Grade are recommended to clarify requirements regarding "seat time."

FFAC(LOCAL) - Wellness and Health Services: Medical Treatment-Revisions to 25 Administrative Code 40.44, including a requirement for written notification to parents after administration of unassigned respiratory distress medication, prompted recommended revisions to this code.

2. ADMINISTRATIVE RECOMMENDATION

Approve as recommended

3. BOARD ACTION REQUIRED

Yes

Localized Policy Manual Update 125

105905 Wimberley ISD

Update 125 contains local policies that require board action and adoption notification before we can incorporate the revisions into your district's Policy Online® manual. Local policies are completely within the control of each local school board. You may use the draft local policies provided, amend them, or write your own policy to meet your district's unique needs.

Please note that legal framework documents, which are not adopted by the board, will not be published on Policy Online until the board acts on the local policies or the district specifically requests earlier publication.

What should I do to prepare for board adoption?

1. Log in to [Policy Online](#),¹ select **Local Manual Updates** from the **My Policy Manual** menu, click **Numbered Updates**, then click **UPDATE 125**.
2. Download and save the numbered update resource materials for Update 125.
3. Present the local policies to your board for adoption. Provide your board with the explanatory notes and encourage them to review those along with the local policies.

How do I notify Policy Service that the board has adopted the update?

1. Following board action, go to [Numbered Updates](#),² select the appropriate numbered update, then click **Notify TASB of Board Action**.
2. Fill out and submit the electronic form so we can incorporate the adopted policies into your district's Policy Online manual.
3. If there are additional changes, submit the annotated changes with your adoption notification.

Questions?

- For questions about Policy Online, visit the [User's Guide](#)³ or contact pol-support@tasb.org.
- For questions about policy text, contact your [district's assigned policy consultant](#).⁴

¹ Policy Online: <https://pol.tasb.org/>

² Policy Online Numbered Updates: <https://pol.tasb.org/Member/LocalManualUpdates>

³ Policy Online User's Guide: <https://www.tasb.org/resources/policy-online-user-guide>

⁴ Policy Consultant contact information: <https://pol.tasb.org/Member/PolicyConsultant/Details>



Localized Policy Manual Update 125

Wimberley ISD

You can download a PDF of this update packet, annotated copies of the local policies, editable local policy text, and more under Local Manual Updates on [Policy Online](#)^{®1}.

Other materials, including an overview video of the local policy changes, are also available in Local Manual Updates.

Need help? Please contact your [policy consultant](#),² or call Policy Service at 800-580-7529 or email policy.service@tasb.org.

Overview

Update 125 includes revisions to legal framework documents based on regulatory changes, including amendments to the Texas Administrative Code. Changes to local policies offered for consideration address the following topics:

- Election of board officers
- Board committees
- Advisory committees
- Partial academic credit
- School safety transfers
- Attendance for credit

Please see the Explanatory Notes included in this update packet for a description of the specific changes for each policy.

Board action on the local policies included in the update must occur within a properly posted, open meeting of the board. Instructions for placing policy changes on the agenda for board action and keeping minutes are included with the Update 125 materials under [Local Manual Updates](#)³ on Policy Online.

For more guidance on reviewing and adopting TASB numbered updates, including information on incorporating the update into the district's policy manual and maintaining a historical record of policies, please refer to [The Administrator's Guide to Policy Management](#),⁴ available in the Policy Online [Governance and Management Library](#)⁵ (TASB login required).

Scope of Work

Numbered updates involve timely monitoring of statutory sources and regulations, comprehensive review of affected policies, and revisions that are both substantive and related to format, to ensure the legal framework reflects current laws and regulations.

The legal framework documents are drafted and revised by TASB Policy and Legal Services, including attorneys who spend many hours monitoring, researching, analyzing, and drafting. Update 125 took more than 125 legal hours to complete. At a conservative cost of \$250 per hour, this legal work provides an approximate value of \$31,250. This estimate does not take into consideration the consulting, editing, and production hours that go into providing customized local policy recommendations.

The price of the update is calculated based on pages that are substantively edited, not on the total page count. When changes are made to correct typographical errors or style modifications, there is no charge. TASB Policy Service always endeavors to provide updates to you at the lowest cost possible while maintaining high-quality standards.

(LEGAL) vs. (LOCAL): Remember the Difference

Legal framework documents:

- Reflect the ever-changing legal context for governance and management of the district
- Inform local decision making
- Are NOT adopted, but only reviewed

Local policies:

- Require close attention by the administration and the board
- Reflect the practices of the district and the intentions of the board
- Are changed only by board action (adopt, revise, or repeal)

Keep Your Administrative Regulations Current

Inspect your district's administrative procedures and documents — including exhibits, regulations, handbooks, and guides — that may be affected by Update 125 policy changes. If you need to make changes to the regulations or exhibits contained in your board policy manual, please notify your policy consultant.

The [Regulations Resource Manual](#)⁶ contains model regulations and forms and is available in the Governance and Management Library (TASB login required).

Copyright and Disclaimer

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This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

¹ Policy Online: <https://pol.tasb.org/>

² Policy Consultant contact information: <https://pol.tasb.org/Member/PolicyConsultant/Details>

³ Local Manual Updates: <https://pol.tasb.org/Member/LocalManualUpdates>

⁴ *The Administrator's Guide to Policy Management*: <https://pol.tasb.org/Member/Collections/Details?id=10>

⁵ Governance and Management Library: <https://pol.tasb.org/Member/Collections>

⁶ *TASB Regulations Resource Manual*: <https://pol.tasb.org/Member/Collections/Details?id=21>

Instruction Sheet

TASB Localized Policy Manual Update 125

Wimberley ISD

Code	Type	Action To Be Taken	Note
AIA	(LEGAL)	Replace policy	Revised policy
AIE	(LEGAL)	Replace policy	Revised policy
B	(LEGAL)	Replace table of contents	Revised table of contents
BBD	(LEGAL)	Replace policy	Revised policy
BDAA	(LOCAL)	Replace policy	Revised policy
BDB	(LEGAL)	Replace policy	Revised policy
BDB	(LOCAL)	Replace policy	Revised policy
BDF	(LEGAL)	Replace policy	Revised policy
BDF	(LOCAL)	ADD policy	See explanatory note
BJB	(LEGAL)	Replace policy	Revised policy
CBA	(LEGAL)	Replace policy	Revised policy
CKA	(LEGAL)	Replace policy	Revised policy
CKC	(LEGAL)	Replace policy	Revised policy
CLA	(LEGAL)	Replace policy	Revised policy
CMD	(LEGAL)	Replace policy	Revised policy
CNB	(LEGAL)	Replace policy	Revised policy
CNC	(LEGAL)	Replace policy	Revised policy
DEAB	(LEGAL)	Replace policy	Revised policy
DMA	(LEGAL)	Replace policy	Revised policy
EHBAA	(LEGAL)	Replace policy	Revised policy
EHBAD	(LEGAL)	Replace policy	Revised policy
EHBAF	(LEGAL)	Replace policy	Revised policy
EHBE	(LEGAL)	Replace policy	Revised policy
EHDE	(LEGAL)	Replace policy	Revised policy
EI	(LOCAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
FDA	(LEGAL)	Replace policy	Revised policy
FDE	(LOCAL)	Replace policy	Revised policy
FEC	(LOCAL)	Replace policy	Revised policy
FFAC	(LEGAL)	Replace policy	Revised policy
FFAC	(LOCAL)	Replace policy	Revised policy
FFB	(LEGAL)	Replace policy	Revised policy
FOC	(LEGAL)	Replace policy	Revised policy
FOF	(LEGAL)	Replace policy	Revised policy

Explanatory Notes

TASB Localized Policy Manual Update 125

Wimberley ISD

AIA(LEGAL) ACCOUNTABILITY: ACCREDITATION AND PERFORMANCE INDICATORS

Revisions to 19 Administrative Code 97.1003(f)(3), effective February 10, 2025, prompted edits at Local Accountability Plan — Submission and Audit Standards.

AIE(LEGAL) ACCOUNTABILITY: INVESTIGATIONS

A citation to the Administrative Code has been adjusted at the end of the policy.

B(LEGAL) LOCAL GOVERNANCE

The Section B Table of Contents has been updated to reflect revised names for policies BDB, Board Committees, and BDF, Advisory Committees.

BBD(LEGAL) BOARD MEMBERS: TRAINING AND ORIENTATION

19 Administrative Code 61.1051 was repealed on December 6, 2024, but 19 Administrative Code 61.1(b)(7), which references the repealed rule, was not amended. The requirements in the repealed provision were moved to 19 Administrative Code 103.1401. A Note has been added at Identifying and Reporting Abuse to clarify the location of the requirements.

BDAA(LOCAL) OFFICERS AND OFFICIALS: DUTIES AND REQUIREMENTS OF BOARD OFFICERS

Revisions are recommended to this local policy on board officer duties and requirements. At Board Officers, the sentence indicating that the board may assign a district employee to provide clerical assistance is recommended for deletion since the superintendent, rather than the board, manages staff assignments, including providing support to the board.

BDB(LEGAL) BOARD INTERNAL ORGANIZATION: BOARD COMMITTEES

To coordinate with the recommended changes to the local policy at this code, the subtopic has been changed from Internal Committees to Board Committees.

BDB(LOCAL) BOARD INTERNAL ORGANIZATION: BOARD COMMITTEES

This policy has been revised in coordination with BDF(LOCAL) to clarify the difference between board committees and advisory committees. Accordingly, the subtopic of this code has been changed from Internal Committees to Board Committees, and new provisions are recommended to establish how board committees are formed and outline their purpose. Text addressing Dissolution of board committees is also recommended for inclusion. The language previously at Special Committees has been moved to BDF(LOCAL).

BDF(LEGAL) BOARD INTERNAL ORGANIZATION: ADVISORY COMMITTEES

To coordinate with the recommended changes to the local policy at this code, the subtopic has been changed from Citizen Advisory Committees to Advisory Committees.

BDF(LOCAL) BOARD INTERNAL ORGANIZATION: ADVISORY COMMITTEES

This new local policy is recommended for inclusion to coordinate with the changes at BDB. The subtopic of this code has been changed from Citizen Advisory Committees to Advisory Committees. Language has been moved here from BDB(LOCAL) and updated to clarify how advisory committees are formed and the parameters of their responsibilities. A section on Dissolution of the committees is also recommended for inclusion.

Explanatory Notes

TASB Localized Policy Manual Update 125

Wimberley ISD

BJB(LLEGAL)

SUPERINTENDENT: RECRUITMENT AND APPOINTMENT

New rules at 19 Administrative Code 103.1213 regarding the Sentinel system were adopted on December 13, 2024, and a new section on required reporting in that system after a superintendent change has been added to this legal framework.

CBA(LLEGAL)

STATE AND FEDERAL REVENUE SOURCES: STATE

Revisions reflect amendments at 19 Administrative Code 61.1034, effective April 13, 2025, to clarify the criteria a district must meet to be eligible for the New Instructional Facility Allotment (NIFA). Additional information about NIFA has also been included to outline eligibility provisions and the application process. NIFA was created in 1999 for districts to provide for operational expenses associated with the opening of a new instructional facility and is available to all public school districts that meet the requirements of the statute and rule.

CKA(LLEGAL)

SAFETY PROGRAM/RISK MANAGEMENT: SAFETY AND SECURITY AUDITS AND MONITORING

New rules at 19 Administrative Code 103.1213, effective December 15, 2024, relating to the Sentinel system prompted revisions to this legal framework on safety and security audits and monitoring. A section on Reporting Through Sentinel has been added, and additional changes reflecting new reporting requirements for vulnerability assessments and intruder detection audits have been made.

CKC(LLEGAL)

SAFETY PROGRAM/RISK MANAGEMENT: EMERGENCY PLANS

The new rules regarding the Sentinel system necessitated additional language regarding the Texas School Safety Center's uploading of multihazard emergency operation plans to that system. The new rules became effective December 15, 2024, and are found at 19 Administrative Code 103.1213.

CLA(LLEGAL)

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT: SECURITY

New requirements have been added at Human Trafficking Warning Signs to reflect a new rule adopted at 19 Administrative Code 103.1403, effective December 11, 2024.

CMD(LLEGAL)

EQUIPMENT AND SUPPLIES MANAGEMENT: INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

Changes at 19 Administrative Code 67.1315, effective December 15, 2024, prompted revisions relating to the requirement for districts to adopt an open education resource instructional materials plan unless otherwise exempt.

CNB(LLEGAL)

TRANSPORTATION MANAGEMENT: DISTRICT VEHICLES

A cross-reference to CNC has been added at School Bus Advertising for clarity regarding reporting requirements for crashes involving buses with advertising.

CNC(LLEGAL)

TRANSPORTATION MANAGEMENT: TRANSPORTATION SAFETY

At Annual Report to TEA, revisions to this legal framework were required after 19 Administrative Code 61.1028 was repealed and provisions moved to the new 19 Administrative Code 103.1231, effective March 10, 2025. Other revisions have been made for clarity.

Explanatory Notes

TASB Localized Policy Manual Update 125

Wimberley ISD

DEAB(LLEGAL) COMPENSATION PLAN: WAGE AND HOUR LAWS

At Exempt Employees — Academic Administrators, the salary/fee rate has been removed and replaced with a reference to the established weekly threshold to prevent the need for continuous updating as the Fair Labor Standards Act rules are amended over time.

DMA(LLEGAL) PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

A citation change at Child Abuse, Trafficking, and Maltreatment reflects provisions from the Administrative Code that were repealed on December 11, 2024, and moved to 19 Administrative Code 103.1401. At Mental Health, provisions have been added to reflect the adoption of 19 Administrative Code 153.1015, effective December 2, 2024.

EHBAA(LLEGAL) SPECIAL EDUCATION: IDENTIFICATION, EVALUATION, AND ELIGIBILITY

At Evaluation for Change in Eligibility, provisions have been removed to reflect amendments to 19 Administrative Code 89.1070, adopted November 1, 2024. A cross-reference to EIF has been added for clarity.

EHBAD(LLEGAL) SPECIAL EDUCATION: TRANSITION SERVICES

Provisions at Graduation have been revised to reflect amendments to 19 Administrative Code 89.1070, adopted November 1, 2024.

EHBAF(LLEGAL) SPECIAL EDUCATION: VIDEO/AUDIO MONITORING

19 Administrative Code 61.1051 was repealed on December 6, 2024, but 19 Administrative Code 103.1301, which references the repealed rule, was not amended. The requirements in the repealed provision were moved to 19 Administrative Code 103.1401. A Note has been added at Confidentiality — Duty to Report to clarify the location of the requirements.

EHBE(LLEGAL) SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

Extensive revisions throughout this legal framework reflect amendments to numerous Administrative Code rules, effective February 7, 2025, relating to bilingual and ESL programs.

EHDE(LLEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT: DISTANCE LEARNING

Changes throughout this legal framework reflect amendments to the Administrative Code adopted on February 14, 2025.

EI(LOCAL) ACADEMIC ACHIEVEMENT

At Partial Credit, recommended revisions replace the phrase "combined grade for" with "average of" to more accurately reflect the determination of awarding credit when a student earns a passing grade in only half of a course.

EIF(LLEGAL) ACADEMIC ACHIEVEMENT: GRADUATION

Revisions to this legal framework are a result of amendments to 19 Administrative Code 89.1070, adopted November 1, 2024.

FDA(LLEGAL) ADMISSIONS: INTERDISTRICT TRANSFERS

A paragraph has been added at Discipline and Threat Assessment Records as a result of the new Sentinel rules found at 19 Administrative Code 103.1213, effective December 15, 2024.

Explanatory Notes

TASB Localized Policy Manual Update 125

Wimberley ISD

FDE(LOCAL)

ADMISSIONS: SCHOOL SAFETY TRANSFERS

At Safe Schools Data, "bullying" is recommended for inclusion as an offense for which the district must collect and maintain data. The revision aligns with the Unsafe School Choice Option Guidance Handbook.

FEC(LOCAL)

ATTENDANCE: ATTENDANCE FOR CREDIT

Revisions throughout this policy are recommended for clarity.

The information in the first sentence of the policy has been incorporated at Absences Considered for improved readability. Rather than directing the board to establish attendance committees, the policy now authorizes the establishment of those committees by the administration. At Methods for Regaining Credit or Awarding a Final Grade, specifics regarding petitions for credit are recommended for deletion in favor of a reference to administrative regulations.

Revisions at Imposing Conditions for Awarding Credit or a Final Grade are recommended to clarify requirements regarding "seat time." For more information, see the TASB.org article [TEKS Mastery, Not Seat Time, Required for Attendance for Credit](#).

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library (TASB login required), describe common legal concerns and best practices specific to this policy's topic.

FFAC(LEGAL)

WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Extensive changes throughout this legal framework have been made for clarity and to reflect new Department of State Health Services rules on Maintenance and Administration of Medication for Respiratory Distress.

FFAC(LOCAL)

WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Revisions to 25 Administrative Code 40.44, including a requirement for written notification to parents after administration of unassigned respiratory distress medication, prompted recommended revisions to this code.

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library (TASB login required), describe common legal concerns and best practices specific to this policy's topic.

FFB(LEGAL)

STUDENT WELFARE: CRISIS INTERVENTION

A section on Use of Sentinel Assessment Instrument, Manual, and Field Guide has been added to reflect the new Sentinel rules found at 19 Administrative Code 103.1213, effective December 15, 2024.

FOC(LEGAL)

STUDENT DISCIPLINE: PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

Revisions to this legal framework at Determination of Violent Conduct reflect new language at 19 Administrative Code 103.1205, effective October 29, 2024.

FOF(LEGAL)

STUDENT DISCIPLINE: STUDENTS WITH DISABILITIES

A new section on Peace Officer or Security Personnel Use of Restraint or Taser has been added to reflect new language at 19 Administrative Code 89.1053, effective October 7, 2024.

Accreditation

Each district must be accredited by Texas Education Agency (TEA). A district that is not accredited may not receive funds from TEA or hold itself out as operating a public school of this state. *Education Code 11.001, 39.052(f)*

District accreditation is determined in accordance with Education Code Chapter 39, Subchapter C and rules adopted by the commissioner of education at 19 Administrative Code, Chapter 97, Subchapter EE (Accreditation Status, Standards, and Sanctions). *Education Code 39.051*

Statuses

The commissioner shall determine criteria for the following accreditation statuses:

1. Accredited. Accredited means TEA recognizes the district as a public school of this state that meets the standards determined by the commissioner under Education Code 39.052(b) and (c), and specified in 19 Administrative Code 97.1059; and is not currently assigned an accreditation status of Accredited-Warned or Accredited-Probation;
2. Accredited-Warned. Accredited-Warned means the district exhibits deficiencies in performance, as specified in 19 Administrative Code 97.1055(b), that, if not addressed, will lead to probation or revocation of its accreditation status;
3. Accredited-Probation. Accredited-Probation means the district exhibits deficiencies in performance, as specified in 19 Administrative Code 97.1055(c), that must be addressed to avoid revocation of its accreditation status; and
4. Not Accredited-Revoked. Not Accredited-Revoked means TEA does not recognize the district as a Texas public school because the district's performance has failed to meet standards adopted by the commissioner under Education Code 39.052(b) and (c), and specified in 19 Administrative Code 97.1055(d).

Education Code 39.051; 19 TAC 97.1055(a)(1)

Annual Evaluation

Each year, the commissioner shall determine the accreditation status of each district. In determining the accreditation status of a district, the commissioner:

1. Shall evaluate and consider performance:
 - a. On achievement indicators under Education Code 39.053 [see Performance Indicators, below]; and

- b. Under the financial accountability rating system developed under Education Code, Chapter 39, Subchapter D [see CFA].
- 2. May evaluate and consider:
 - a. The district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education that relate to:
 - (1) Reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
 - (2) High school graduation requirements; or
 - (3) Extracurricular activities, student health and safety, purchasing, elementary class size limits, removal of a disruptive student from the classroom, at-risk programs, and prekindergarten programs;
 - b. The effectiveness of the district's programs for special populations; and
 - c. The effectiveness of the district's career and technology program.

Based on a district's performance, the commissioner shall assign each district an accreditation status or revoke the accreditation of the district and order closure of the district.

A district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required by Education Code Chapter 39, Subchapter C.

Education Code 7.056(e)(3)(C)-(I), 39.052; 19 TAC 97.1055

For additional information on the commissioner process for assigning accreditation status, see 19 Administrative Code 97.1055.

Notice of Status

The commissioner shall notify a district if the district has received an accreditation status of accredited-warned or accredited-probation, or a campus's performance is below standard. *Education Code 39.052(e)*

*To Parents and
Property Owners*

A district assigned an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked shall notify the parents of students enrolled in the district and property owners in the district as specified in 19 Administrative Code 97.1055. The district's notice must contain information about the accreditation status, the implications of such status, and the steps the district is tak-

ing to address the areas of deficiency identified by the commissioner. The district's notice shall use the format and language determined by the commissioner.

The district's notice must:

1. Not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district's website, with a link to the required notification, and remain until the district is assigned the accredited status; and
2. Appear in a newspaper of general circulation, as defined in 19 Administrative Code 97.1051 (Definitions), in the district for three consecutive days as follows:
 - a. From Sunday through Tuesday of the second week following assignment of the status; or
 - b. If the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the newspaper beginning the second week following assignment of the status; or
3. Not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or
4. Not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

To TEA

A district required to act under this subsection shall send the following to TEA via certified mail, return receipt requested:

1. The universal resource locator (URL) for the link to the notification required above; and
2. Copies of the notice in the newspaper showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or
3. Copies of the notice sent by mail and copies of all mailing lists and postage receipts; or
4. Copies of the notice presented at a public meeting and copies of the board of trustees meeting notice and minutes for the

board meeting in which the notice was presented and publicly discussed.

19 TAC 97.1055(f)

Performance Indicators

The commissioner shall adopt a set of indicators of the quality of learning and achievement, including three domains of achievement indicators. [See Achievement Indicators, below] *Education Code 39.053(a)*

The indicators must measure and evaluate districts and campuses with respect to:

1. Improving student preparedness for success in subsequent grade levels and entering the workforce, the military, or post-secondary education;
2. Reducing, with the goal of eliminating, student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds; and
3. Informing parents and the community regarding campus and district performance.

Education Code 39.053(a-1)

Achievement Indicators

Districts and campuses must be evaluated based on indicators of achievement grouped in three domains:

1. Student achievement domain;
2. School progress domain; and
3. Closing the gaps domain.

Education Code 39.053(c)

Performance on the achievement indicators in the three domains shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status. *Education Code 39.053(b)*

Each school district shall submit the data required for the indicators to the commissioner. *Education Code 39.053(i)*

A-F Performance Ratings

Except when the commissioner determines the assignment of an overall performance rating would be inappropriate [see Assignment of Not Rated, below], the commissioner shall adopt rules to evaluate district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F.

In addition to the overall performance rating, the commissioner shall assign each district and campus a separate domain perfor-

mance rating of A, B, C, D, or F for each domain under Education Code 39.053(c) [see Achievement Indicators, above].

An overall or domain performance rating of:

1. A reflects exemplary performance.
2. B reflects recognized performance.
3. C reflects acceptable performance.
4. D reflects performance that needs improvement.
5. F reflects unacceptable performance.

A district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F.

For purposes of assigning districts and campuses an overall and a domain performance rating, the commissioner shall ensure that the method used to evaluate performance is implemented in a manner that provides the mathematical possibility that all districts and campuses receive an A rating.

Not later than August 15 of each year, the following information shall be made publicly available as provided by rules adopted by the commissioner:

1. The performance ratings for each district and campus; and
2. If applicable, the number of consecutive school years of unacceptable performance ratings for each district and campus.

Education Code 39.054(a), (a-3), (b)

Assignment of Not
Rated

Notwithstanding any other law, the commissioner may assign a district or campus an overall performance rating of "Not Rated" if the commissioner determines that the assignment of a performance rating of A, B, C, D, or F would be inappropriate because:

1. The district or campus is located in an area that is subject to a declaration of a state of disaster under Government Code Chapter 418 and due to the disaster, performance indicators for the district or campus are difficult to measure or evaluate and would not accurately reflect quality of learning and achievement for the district or campus;
2. The district or campus has experienced breaches or other failures in data integrity to the extent that accurate analysis of data regarding performance indicators is not possible;

3. The number of students enrolled in the district or campus is insufficient to accurately evaluate the performance of the district or campus; or
4. For other reasons outside the control of the district or campus, the performance indicators would not accurately reflect quality of learning and achievement for the district or campus.

Education Code 39.054(a-4)

Calculating
Consecutive Years

Notwithstanding any other law, an overall performance rating of "Not Rated" is not included in calculating consecutive school years of unacceptable performance ratings and is not considered a break in consecutive school years of unacceptable performance ratings for purposes of any provision of the Education Code. *Education Code 39.054(a-5)*

Acceptable
Performance

A reference in law to an acceptable performance rating or acceptable performance includes an overall or domain performance rating of A, B, or C or performance that is exemplary, recognized, or acceptable. A reference in law to an unacceptable performance rating or unacceptable performance includes an overall or domain performance rating of F. For the purposes of public reporting requirements, an overall or domain performance rating of D shall be referred to as performance that needs improvement. *Education Code 39.0543(a)*

D Rating

A reference in law to an acceptable performance rating or acceptable performance for a district or campus includes an overall performance rating of D if, since previously receiving an overall performance rating of C or higher, the district or campus has not previously received more than one overall performance rating of D or has not received an overall performance rating of F. *Education Code 39.0543(b)*

**Local Accountability
System**

The local accountability system standards established by the commissioner under Education Code 39.0544 shall be used by districts to develop a plan to locally evaluate the performance of their campuses. *19 TAC 97.1003(a)*

Local Accountability
Plan

A local accountability plan created by a district must include domain performance ratings assigned by the commissioner under Education Code 39.054, and performance ratings based on locally developed domains or sets of accountability measures. *19 TAC 97.1003(b)*

A district must create its local accountability plan based on school type. The four school types are elementary school, middle school, high school, and kindergarten-grade 12. The plan must include all campuses within a school type. The district may also request to

identify an additional school group within a school type for which to customize its local accountability plan. Otherwise, all campuses within a school type must be evaluated on a common set of components determined by the district. A district may also request to identify a campus rated under alternative education accountability provisions as a unique school type. *19 TAC 97.1003(b)(4)*

*Plan
Components*

A locally developed domain or set of accountability measures is referred to as a plan component. Plan components must describe each item and the reason for its inclusion in the plan. A district must assign each component to one of the following five domains: academics, culture and climate, extra- and co-curricular, future-ready learning, and locally determined. The weight of all plan components must equal 100 percent. *19 TAC 97.1003(b)(1)*

A district may assign weights to each plan component, as determined by the district, provided that the plan components must in the aggregate account for no more than 50 percent of the combined overall performance rating. A local accountability plan may include no fewer than two and no more than 10 components weighted between 5 percent and 60 percent. *19 TAC 97.1003(c)*

Each plan component must contain levels of performance that allow for differentiation, with assigned standards for achieving the differentiated levels that are aligned to a letter grade of A, B, C, D, or F and meet the requirements of 19 Administrative Code 97.1003(d)(1)-(3). *19 TAC 97.1003(d)*

Each plan component measure must meet standards for reliability and validity as required by 19 Administrative Code 97.1003(e)(1)-(3). *19 TAC 97.1003(e)*

*Campuses without
STAAR or State
Ratings*

For the purposes of assigning state accountability ratings, a campus that does not serve any grade level for which a State of Texas Assessments of Academic Readiness (STAAR) examination is administered is paired with a campus in its district that serves grade levels for which STAAR examinations are administered.

A campus not rated under the state accountability system is not eligible to combine state and local ratings. Local accountability data for a campus without state ratings may be displayed on TEA, district, and campus websites but will not be combined with state accountability data. The state accountability manual adopted under 19 Administrative Code 97.1001 (Accountability Rating System) provides information about campus ratings and eligibility for applicable years.

19 TAC 97.1003(b)(3)

Campus
Performance
Ratings

A district authorized to assign campus performance ratings shall evaluate the performance of each campus and assign each campus a performance rating of A, B, C, D, or F for overall performance and for each locally developed domain or set of accountability measures. Not later than a date established by the commissioner, the district shall:

1. Report the performance ratings to the agency; and
2. Make the performance ratings available to the public as provided by commissioner rule.

Education Code 39.0544(e)

Each campus with an approved district plan is eligible to receive a local accountability rating. A campus with an overall state accountability rating of C or higher based on ratings derived from student performance at the campus is eligible to combine an overall local accountability rating with the overall state accountability rating to determine the combined rating. *19 TAC 97.1003(b)(2); Education Code 39.054(a)*

Submission and
Audit Standards

Calculations for each plan component and overall performance ratings must be capable of being audited by a third party.

A district must use a one-to-one correspondence when converting campus grades based on plan component measures to a standard scale of 30-100 where A=90-100, B=80-89, C=70-79, D=60-69, and F=30-59.

Categorical data, or data not on a continuous scale, must be converted to the standard scale of A=90-100, B=80-89, C=70-79, D=60-69, and F=30-59 by assigning the maximum value for each scaled score interval with the corresponding category used in the campus rating scale.

A district is required to submit a local accountability plan that includes components, domains, and overall scaled scores and ratings to TEA on a timeline determined by the commissioner. The timeline will be published on the TEA website.

All scaled scores and letter grades submitted by a school district are subject to audit. Any data discrepancies or any indication that data have been compromised may result in verification and audit of district and campus data used to assign local accountability ratings. The audit process may include requests for data used for campus-level calculation of component and domain scaled scores.

On an annual basis, TEA will randomly select districts for local accountability audits, and, for each such audit, TEA will randomly se-

lect components for review. Selected districts must submit the requested data for review within the timeframe specified. A district must maintain documentation of its local accountability plan, along with all associated data used to assign campus ratings, for two years after the end of the plan implementation period.

Responsibility for the accuracy and quality of data used to determine local accountability ratings rests with each district. Superintendent certification of data accuracy during the ratings submission process shall include an assurance that calculations have been verified to ensure that all data were included as appropriate for all components.

19 TAC 97.1003(f)(1)-(6)

Scorecard and
Website

A district must produce a campus scorecard and make available on the district website an explanation of the methodology used to assign local accountability performance ratings. The campus scorecard shall include, at a minimum, the scaled score and rating for each component and domain along with the overall rating. A link to the local accountability ratings posted by the district must be provided to TEA and may be included on the agency-developed school report card. *19 TAC 97.1003(g)*

Appeal and
Revision

An appeal of a local accountability rating may be submitted by the superintendent once ratings are released. The local accountability appeals timeline follows the appeal deadline dates and processes as described in the state accountability manual adopted under 19 Administrative Code 97.1001 of this title for the applicable year. *19 TAC 97.1003(f)(7)*

Ratings may be revised as a result of investigative activities by the commissioner as authorized under Education Code 39.057(d) and (e) (redesignated to Education Code 39.003). *19 TAC 97.1003(h)*

**Distinction
Designations for
Outstanding
Performance**

The commissioner shall award distinction designations for outstanding performance. A distinction designation awarded to a district or campus shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the A-F performance ratings.

A district or campus may not be awarded a distinction designation unless the district or campus has acceptable performance under the A-F performance ratings.

Education Code 39.201

Academic
Distinction

The commissioner shall establish an academic distinction designation for districts and campuses for outstanding performance in at-

tainment of postsecondary readiness based on the commissioner's adopted criteria. *Education Code 39.202*

Campus Distinction

The commissioner shall award a campus a distinction designation for outstanding performance in:

1. Improvement in student achievement;
2. Closing student achievement differentials; and
3. Academic achievement in English language arts, mathematics, science, or social studies.

Education Code 39.203

The commissioner may award a distinction designation for outstanding performance in advanced middle or junior high school student achievement. *Education Code 39.203(d)*

**Excellence
Exemptions**

Except as listed below, a district or campus that is rated A (exemplary) is exempt from requirements and prohibitions imposed under the Education Code, including regulations adopted under the Education Code.

An exemplary campus or district is not exempt from:

1. A prohibition on conduct that constitutes a criminal offense;
2. Requirements imposed by federal law or rule, including requirements for special education or bilingual education programs;
3. A requirement, restriction, or prohibition relating to:
 - a. Curriculum essential knowledge and skills or high school graduation requirements;
 - b. Public school accountability;
 - c. Extracurricular activities;
 - d. Health and safety;
 - e. Purchasing;
 - f. Elementary class size limits;
 - g. Removal of a disruptive student from the classroom;
 - h. At-risk programs;
 - i. Prekindergarten programs;
 - j. Rights and benefits of school employees;

- k. Special education programs; or
- l. Bilingual education programs.

The commissioner may exempt an exemplary campus from class size limits if the campus submits a written plan showing steps that will be taken to ensure that the exemption will not be harmful to the academic achievement of the students on the school campus. If granted, the exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

Education Code 39.232

**Special
Investigations**

The commissioner may authorize a special investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to the Texas Education Agency (TEA) of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;
4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;
5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;
6. In response to an allegation involving a conflict between members of the board or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by the Education Code. If TEA's findings indicate the board has observed a lawfully adopted policy, TEA may not substitute its judgment for that of the board;
7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;
8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;
9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;
10. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;
11. When resource allocation practices indicate a potential for significant improvement in resource allocation;
12. When a disproportionate number of students of a particular demographic group is graduating with a particular endorsement;

13. When an excessive number of students is graduating with a particular endorsement;
14. When a school district for any reason fails to produce, at the request of TEA, evidence or an investigation report relating to an educator who is under investigation by the State Board for Educator Certification;
15. When 10 percent or more of the students graduating in a particular school year from a particular high school campus are awarded a diploma based on the determination of an individual graduation committee under Education Code 28.0258;
16. In response to a complaint with respect to alleged inaccurate data that is reported through PEIMS or through other reports required by state or federal law or rule or court order and that is used by TEA to make a determination relating to public school accountability, including accreditation, under Education Code Chapter 39;
17. In response to repeated complaints submitted to TEA concerning imposition of excessive paperwork requirements on classroom teachers; or
18. As the commissioner otherwise determines necessary.

Education Code 39.003(a), (c)

TEA shall adopt written procedures for conducting special investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a district or campus from screening the information. *Education Code 39.004(a)*

Note: The procedures for conducting a special investigation, holding a hearing following an investigation, the process for commissioner determinations, and judicial appeal are described in Education Code 39.004-.007.

Commissioner
Action

Based on the results of a special investigation, the commissioner may:

1. Take appropriate action under Education Code Chapter 39A, [see AIC];
2. Lower the district's accreditation status or a district's or campus's performance rating; or
3. Take action under both items 1 and 2 above.

Education Code 39.003(d)

At any time before issuing a report with the TEA's final findings, the commissioner may defer taking the above action until:

1. A person who is a third party, selected by the commissioner, has reviewed programs or other subjects of a special investigation and submitted a report identifying problems and proposing solutions;
2. A district completes a corrective action plan developed by the commissioner; or
3. The completion of actions under both items 1 and 2 above.

Education Code 39.003(e)

Based on the results of an action taken above, the commissioner may decline to take the deferred action. *Education Code 39.003(f)*

Note: The procedures for an informal review or hearing following an investigation are described in 19 Administrative Code Chapter 157, Subchapter EE.

Monitoring Reviews

In accordance with Education Code 7.028(a), TEA may monitor compliance with requirements applicable to a process or program provided by a district, campus, or program, only as necessary to ensure:

1. Compliance with federal law and regulations;
2. Financial accountability, including compliance with grant requirements;
3. Data integrity for purposes of:
 - a. The Public Education Information Management System (PEIMS); and
 - b. Accountability under Education Code Chapter 39 and 39A; and
4. Qualification for funding under Education Code Chapter 48.

The board has primary responsibility for ensuring that the district complies with all applicable requirements of state educational programs.

Education Code 7.028

Compliance Monitoring Activities

Districts are subject to general supervision and monitoring activities for compliance with state law and federal regulation, implemented by TEA under 34 C.F.R. 300.600-.609 [see Supervision

Under IDEA, below], and review of program implementation and effectiveness within certain special populations of students.

Activities may include:

1. Random, targeted, or cyclical reviews authorized under Education Code 39.056 (monitoring reviews), conducted remotely or on-site to identify problems implementing state and federal requirements and to provide support for development of reasonable and appropriate strategies to address identified problems; and/or
2. Intensive or special investigative remote or on-site reviews authorized under Education Code 39.003 and 39.004.

Activities described above are applicable for compliance with requirements for reading diagnosis in Education Code 28.006 [see EKC], dyslexia and related disorders in Education Code 38.003 and 19 Administrative Code 74.28 [see EHB], and program effectiveness for emergent bilingual students in Education Code 29.062.

19 TAC 97.1071(b)-(d)

Notice

TEA shall give written notice to the superintendent and the board of trustees of any impending monitoring review. *Education Code 39.056(d)*

Conducting the Review

A monitoring review may include desk reviews and on-site visits, including random on-site visits. In conducting a monitoring review, TEA may obtain information from administrators, other district employees, parents of students enrolled in the district, and other persons as necessary. *Education Code 39.056(c), (g)*

Converting to a Special Investigation

The commissioner may at any time convert a monitoring review to a special investigation under Education Code 39.003, provided the commissioner promptly notifies the district of the conversion. *Education Code 39.056(h)*

Improvements

TEA shall report in writing to the superintendent and president of the board and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers. A district that takes action with regard to the recommendations provided by TEA shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using improvement techniques that are goal-oriented and research-based. *Education Code 39.056(e)-(f)*

Appeals

A decision by the commissioner under Education Code Chapter 39 or 39A is final and may not be appealed unless an applicable provision of Chapter 39 or 39A provides otherwise. *Education Code 39A.906* [See AIC]

Compliance Investigation

A compliance investigation is an investigation by TEA of a state education grant recipient to determine compliance with the statutory or rule requirements of a state education program. A compliance investigation is not a special investigation subject to Education Code 39.003 and 39.004 (above). *19 TAC 102.1401(a)(1)*

Supervision Under IDEA

In exercising its general supervision authority under 34 C.F.R. sections 300.149 and 300.600, TEA has established a process that provides for the investigation and issuance of findings regarding credible allegations of violations of the Individuals with Disabilities Education Act (IDEA), Part B, or a state statute or administrative rule created to implement IDEA, that arise from an area of concern. The following guidelines shall apply to this process.

Definitions

“Area of concern” means that TEA has been made aware of an allegation regarding a violation of, or noncompliance with, a requirement of IDEA, Part B, or a state special education law or administrative rule.

“Credible allegation” means that TEA has determined that an allegation arising from an area of concern is credible enough to investigate further to determine if a violation or noncompliance has occurred.

Credibility Determination

Information and awareness of an area of concern may arise directly from TEA or from external sources.

TEA will engage in a process to determine if an area of concern is determined to be a credible allegation, and, if determined credible, TEA will initiate an investigation to determine if findings of noncompliance will be issued.

TEA will generally not engage in the process described below to determine if an area of concern is a credible allegation if it is a media report, social media post, or an anonymous report, unless TEA receives corroborating information and facts that a specific violation of state or federal law or rule has occurred if the allegation were to be confirmed true.

When an individual or organization reports a special education area of concern, TEA may direct the individual or organization to the established dispute resolution processes. Depending on the frequency or specificity of the type of allegation made, TEA may engage in a process to determine credibility of the allegation.

Process

The process to determine if an area of concern is a credible allegation may include one or more of the following actions:

1. Reviewing existing citations of noncompliance or any non-compliance identified within the last two school years on the same or similar alleged violation;
2. Reviewing filed state complaints that are in process of being investigated or that have been substantiated within the last two school years on the same or similar alleged violation;
3. Reviewing due process hearing decisions issued within the last two years in which the hearing officer's final written decision contains a finding of noncompliance on the same or similar alleged violation;
4. Gathering evidence from groups that represent or advocate for families and communities served by the district;
5. Reviewing and analyzing available student- or district-level data that relate to the alleged violation;
6. Reviewing and analyzing fiscal and program information, such as grant applications, contracts, self-assessments, and other special education documents submitted to TEA by the district; and
7. Any other activity or measure used to gather evidence within TEA's general supervision and monitoring authority.

The investigation to determine if a credible allegation will result in the issuance of findings will include contacting the school district that is the subject of the allegation and requesting a response from the school district. Additional investigative actions may include one or more of the following:

1. Conducting interviews with the district, staff, parents, or students;
2. A referral for review or investigation by any other appropriate unit or division within TEA;
3. Utilizing the review and analysis of the activities conducted during the review process in this provision to determine if non-compliance is found; and
4. Any other activity or measure within TEA's general supervision and monitoring authority.

Intervention and
Sanction

TEA may apply any intervention or sanction within its authority if noncompliance or a violation is substantiated, including those described in 19 Administrative Code 89.1076 [see AIC].

19 TAC 97.1071(l)

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION B: LOCAL GOVERNANCE

BA	BOARD LEGAL STATUS
BAA	Powers and Duties
BB	BOARD MEMBERS
BBA	Eligibility/Qualifications
BBB	Elections
BBBA	Conducting Elections
BBBB	Post-election Procedures
BBBC	Campaign Finance
BBBD	Campaign Ethics
BBC	Vacancies and Removal from Office
BBD	Training and Orientation
BBE	Authority
BBF	Ethics
BBFA	Conflict of Interest Disclosures
BBFB	Prohibited Practices
BBG	Compensation and Expenses
BBH	Conventions, Conferences, and Workshops
BBI	Technology Resources and Electronic Communications
BC	BOARD MEMBERSHIPS
BD	BOARD INTERNAL ORGANIZATION
BDA	Officers and Officials
BDAA	Duties and Requirements of Board Officers
BDAE	Duties and Requirements of Depository
BDB	Board Committees
BDD	Attorney
BDE	Consultants
BDF	Advisory Committees
BE	BOARD MEETINGS
BEC	Closed Meetings
BED	Public Participation
BEE	News Coverage
BEF	Staff Participation
BF	BOARD POLICIES
BG	BOARD SELF-EVALUATION
BI	ADMINISTRATIVE GOALS AND OBJECTIVES

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION B: LOCAL GOVERNANCE

BJ	SUPERINTENDENT
BJA	Qualifications and Duties
BJB	Recruitment and Appointment
BJC	Contract
BJCA	Travel
BJCB	Professional Development
BJCC	Consulting
BJCD	Evaluation
BJCE	Suspension/Termination During Contract
BJCF	Nonrenewal
BJCG	Resignation
BK	ADMINISTRATIVE ORGANIZATION
BKA	Organization Charts
BKB	Line and Staff Relations
BM	ADMINISTRATIVE COUNCILS, CABINETS, AND COMMITTEES
BP	ADMINISTRATIVE REGULATIONS
BQ	PLANNING AND DECISION-MAKING PROCESS
BQA	District-Level
BQB	Campus-Level
BR	REPORTS

**Open Meetings Act
Training**

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its members under Government Code Chapter 551 (Open Meetings Act).

The attorney general may provide the training and may also approve other acceptable sources of training.

The board shall maintain and make available for public inspection the record of its members' completion of the training. The failure of one or more members of the board to complete the training does not affect the validity of an action taken by the board.

Gov't Code 551.005

**Public Information
Act Training**

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its officers and employees under Government Code Chapter 552 (Public Information Act [PIA]). A board member may designate a public information coordinator to satisfy the training for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or board under the PIA. The attorney general may require a board member to complete the course of training if the attorney general determines that the district has failed to comply with a requirement of the PIA. *Gov't Code 552.012(b), (b-1), (c)* [See GBAA regarding public information coordinator training.]

**SBOE-Required
Training**

A trustee must complete any training required by the State Board of Education (SBOE). *Education Code 11.159*

The SBOE's framework for governance leadership [see BBD(EXHIBIT)] shall be distributed annually by the board president to all current board members and the superintendent. *19 TAC 61.1(a)*

The continuing education required under Education Code 11.159 applies to each member of the board. To the extent possible, an entire board shall participate in continuing education programs together. *19 TAC 61.1(b), (i)*

No continuing education shall take place during a board meeting unless that meeting is called expressly for the delivery of board member continuing education. Continuing education may take place prior to or after a legally called board meeting in accordance with Government Code 551.001(4) (definition of "meeting"). *19 TAC 61.1(e)*

A regional education service center (ESC) board member continuing education program shall be open to any interested person, including a current or prospective board member. A district is not responsible for any costs associated with individuals who are not current board members. *19 TAC 61.1(f)*

Annually, the SBOE shall commend those board-superintendent teams that complete at least eight hours of the continuing education specified at Team Building and Additional Continuing Education, below, as an entire board-superintendent team.

Annually, the SBOE shall commend board-superintendent teams that effectively implement the commissioner of education's trustee improvement and evaluation tool developed under Education Code 11.182 [see BG] or any other tool approved by the commissioner.

19 TAC 61.1(k), (l)

Verification

For each training described below, the provider of continuing education shall provide verification of completion of board member continuing education to the individual participant and to the participant's school district. The verification must include the provider's authorization or registration number. *19 TAC 61.1(h)*

Reporting

At the last regular board meeting before an election of trustees, the board president shall announce the name of each board member who has completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in meeting the required continuing education as of the anniversary of the date of each board member's election or appointment to the board or two-year anniversary of his or her previous training, as applicable. The announcement shall state that completing the required continuing education is a basic obligation and expectation of any board member under SBOE rule. The minutes of the last regular board meeting held before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment or two-year anniversary of his or her previous training, as applicable. The president shall cause the minutes to reflect the announcement and, if the minutes reflect that a trustee is deficient in training as of the anniversary of his or her joining the board, the district shall post the minutes on the district's internet website within 10 business days of the meeting and maintain the posting until the trustee meets the requirements. *19 TAC 61.1(j); Education Code 11.159(b)*

Local District
Orientation

Each board member shall complete a local district orientation session. The purpose of the local orientation is to familiarize new

board members with local board policies and procedures and district goals and priorities.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The orientation shall:

1. Be at least three hours in length.
2. Address local district practices in the following, in addition to topics chosen by the local district:
 - a. Curriculum and instruction;
 - b. Business and finance operations;
 - c. District operations;
 - d. Superintendent evaluation; and
 - e. Board member roles and responsibilities.

Each board member should be made aware of the continuing education requirements of 19 Administrative Code 61.1 and those of the following:

1. Open meetings act in Government Code 551.005 [see Open Meetings Act Training above];
2. Public information act in Government Code 552.012 [see Public Information Act Training above]; and
3. Cybersecurity in Government Code 2054.5191 [see CQB].

The orientation shall be open to any board member who chooses to attend.

19 TAC 61.1(b)(1)

Education Code
Orientation

Each board member shall complete a basic orientation to the Education Code and relevant legal obligations. The orientation shall have special, but not exclusive, emphasis on statutory provisions related to governing Texas school districts.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The orientation shall be at least three hours in length. Topics shall include, but not be limited to, Education Code Chapter 26 (Parental Rights and Responsibilities) and Education Code 28.004 (Local School Health Advisory Council and Health Education Instruction).

The orientation shall:

1. Be provided by an ESC.
2. Be open to any board member who chooses to attend.

The continuing education may be fulfilled through online instruction, provided that the training incorporates interactive activities that assess learning and provide feedback to the learner and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(2)

Legislative Update

After each session of the Texas Legislature, including each regular session and called session related to education, each board member shall complete an update to the basic orientation to the Education Code.

The update session shall be of sufficient length to familiarize board members with major changes in statute and other relevant legal developments related to school governance.

The update shall be provided by an ESC or a registered provider [see Registered Provider, below].

A board member who has attended an ESC basic orientation session described at Education Code Orientation, above, that incorporated the most recent legislative changes is not required to attend an update.

The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(3)

Team Building

The entire board shall participate with their superintendent in a team-building session.

The purpose of the team-building session is to enhance the effectiveness of the board-superintendent team and to assess the continuing education needs of the board-superintendent team.

The session shall be held annually and shall be at least three hours in length.

BOARD MEMBERS
TRAINING AND ORIENTATION

BBD
(LEGAL)

The session shall include a review of the roles, rights, and responsibilities of the board as outlined in the framework for governance leadership. [See BBD(EXHIBIT)] The assessment of needs shall be based on the framework for governance leadership and shall be used to plan continuing education activities for the year for the governance leadership team.

The team-building session shall be provided by an ESC or a registered provider [see Registered Provider and Authorized Provider, below].

19 TAC 61.1(b)(4)

Additional
Continuing
Education (Based
on Assessed
Needs)

In addition to the continuing education requirements set out above, each board member shall complete additional continuing education based on the framework for governance leadership. [See BBD(EXHIBIT)]

The purpose of continuing education is to address the continuing education needs referenced at Team Building above.

The continuing education shall be completed annually.

At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with the board member's school district. No more than one hour of the required continuing education that is delivered by the district may use self-instructional materials.

The continuing education shall be provided by an ESC or a registered provider [see Registered Provider, below].

The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

First Year

In a board member's first year of service, he or she shall complete at least 10 hours of continuing education in fulfillment of assessed needs.

*Subsequent
Years*

Following a board member's first year of service, he or she shall complete at least five hours of continuing education annually in fulfillment of assessed needs.

Board President

A board president shall complete continuing education related to leadership duties of a board president as some portion of the annual requirement.

19 TAC 61.1(b)(5)

BOARD MEMBERS
TRAINING AND ORIENTATION

BBD
(LEGAL)

Evaluating Student
Academic
Performance

Each board member shall complete continuing education on evaluating student academic performance and setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness.

The purpose of the training on evaluating student academic performance is to provide research-based information to board members that is designed to support the oversight role of the board of trustees outlined in Education Code 11.1515. [See BAA]

The purpose of the continuing education on setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness is to facilitate boards meeting the requirements of Education Code 11.185 and 11.186.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The continuing education shall be completed every two years and shall be at least three hours in length.

The continuing education required by this provision shall include, at a minimum:

1. Instruction in school board behaviors correlated with improved student outcomes with emphasis on:
 - a. Setting specific, quantifiable student outcome goals; and
 - b. Adopting plans to improve early literacy and numeracy and college, career, and military readiness for applicable student groups evaluated in the Closing the Gaps domain of the state accountability system established under Education Code Chapter 39;
2. Instruction in progress monitoring practices to improve student outcomes; and
3. Instruction in state accountability with emphasis on the Texas Essential Knowledge and Skills, state assessment instruments administered under Education Code Chapter 39, and the state accountability system established under Chapter 39.

The continuing education shall be provided by an authorized provider [see Authorized Provider, below].

If the training is attended by an entire board and its superintendent, includes a review of local school district data on student achieve-

ment, and otherwise meets the requirements described at Team Building above, the training may serve to meet a board member's obligation to complete training described at Team Building and at Evaluating Student Academic Performance, above, as long as the training complies with the Open Meetings Act.

19 TAC 61.1(b)(6)

Identifying and
Reporting Abuse

Each board member shall complete continuing education on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children in accordance with Education Code 11.159(c)(2).

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The training shall be completed every two years and shall be at least one hour in length.

The training must familiarize board members with the requirements of Education Code 38.004 and 38.0041, and 19 Administrative Code 61.1051 (relating to Reporting Child Abuse or Neglect, Including Trafficking of a Child).

Note: 19 Administrative Code 61.1051 was repealed and the requirements were recodified at 19 Administrative Code 103.1401.

The training required by this provision shall include, at a minimum:

1. Instruction in best practices of identifying potential victims of child abuse, human trafficking, and other maltreatment of children;
2. Instruction in legal requirements to report potential victims of child abuse, human trafficking, and other maltreatment of children; and
3. Instruction in resources and organizations that help support victims and prevent child abuse, human trafficking, and other maltreatment of children.

The training sessions shall be provided by a registered provider [see Registered Provider, below].

This training may be completed online, provided that the training is designed and offered by a registered provider, incorporates inter-

active activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(7)

School Safety

The SBOE shall require a trustee to complete training on school safety. *Education Code 11.159(b-1)*

The continuing education required under Education Code 11.159(b-1) applies to each member of an independent school district board of trustees.

Each member shall complete the training on school safety adopted by the SBOE. The training requirement shall be fulfilled by completing the online course adopted by the SBOE and made available by the commissioner of education. The training shall be completed every two years.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed trustee who did not complete the training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

A district shall maintain verification of completion for each trustee.

19 TAC 61.3

Training Provider

*Registered
Provider*

For the purposes of 19 Administrative Code 61.1, a registered provider has demonstrated proficiency in the content required for a specific training. A private or professional organization, school district, government agency, college/university, or private consultant shall register with the Texas Education Agency (TEA) to provide the board member continuing education required by 19 Administrative Code 61.1(b)(3), (5), and (7) [see Legislative Update, Additional Continuing Education, and Identifying and Reporting Abuse, above].

A district that provides continuing education exclusively for its own board members is not required to register under 19 Administrative Code 61.1(c)(1)-(2).

19 TAC 61.1(c)

*Authorized
Provider*

An authorized provider meets all the requirements of a registered provider and has demonstrated proficiency in the content required by 19 Administrative Code 61.1(b)(4) and (6). Proficiency may be demonstrated in accordance with 19 Administrative Code 61.1(d).

A private or professional organization, school district, government agency, college/university, or private consultant may be authorized

by TEA to provide the board member training required in 19 Administrative Code 61.1(b)(4) and (6).

An ESC shall be authorized by TEA to provide the board member training required in 19 Administrative Code 61.1(b)(4) and (6).

19 TAC 61.1(d)

[See above for 19 Administrative Code 61.1(b)(4) on Team Building and (b)(6) on Evaluating Student Academic Performance.]

Note: For cybersecurity training requirements, see CQB(LEGAL).

OFFICERS AND OFFICIALS
DUTIES AND REQUIREMENTS OF BOARD OFFICERS

BDAA
(LOCAL)

Board Officers	The Board shall elect a President, a Vice President, and a Secretary who shall be members of the Board. Officers shall be elected by majority vote of the members present and voting.
Vacancy	A vacancy among officers of the Board shall be filled by majority action of the Board.
Term and Duties	Board officers shall serve for a term of one year or until a successor is elected. Officers may succeed themselves in office. Each officer shall perform any legal duties of the office and other duties as required by action of the Board.
President	In addition to the duties required by law, the President of the Board shall: <ol style="list-style-type: none">1. Preside at all Board meetings unless unable to attend.2. Have the right to discuss, make motions, propose resolutions, and vote on all matters coming before the Board.
Vice President	The Vice President of the Board shall: <ol style="list-style-type: none">1. Act in the capacity and perform the duties of the President of the Board in the event of the absence or incapacity of the President.2. Become President only upon being elected to the position.
Secretary	The Secretary of the Board shall: <ol style="list-style-type: none">1. Ensure that an accurate record is kept of the proceedings of each Board meeting.2. Ensure that notices of Board meetings are posted and sent as required by law.3. In the absence of the President and Vice President, call the meeting to order and act as presiding officer.4. Sign or countersign documents as directed by action of the Board.

Government Code Chapter 551 (Open Meetings Act) applies to board committee meetings if:

1. At least a quorum of the board is on the committee;
2. A quorum of the board is present at the committee meeting, even though less than a quorum is actually on the committee; or
3. Less than a quorum of the board is on the committee, but the committee is authorized to make final decisions or control or supervise public business.

A committee that includes less than a quorum of board members is not subject to the Open Meetings Act if it serves a purely advisory function, with no power to supervise or control public business.

Atty. Gen. Op. Nos. GA-0957 (2012), JC-0060 (1999), JH-0994 (1977); Willmann v. City of San Antonio, 123 S.W.3d 469 (Tex. App.—San Antonio 2003, pet. denied) [See BE]

Note: For advisory committees that include staff, parents, community members, or students, see BDF.

Board Committees

For purposes of this policy, a Board committee is a committee composed only of current Board members.

Formation of a Board committee shall be by Board action. When establishing a Board committee, the Board action shall, at a minimum, specify the:

- Number of Board members on the committee;
- Process to appoint Board members to the committee;
- Term of committee membership; and
- Responsibilities of the committee.

A Board committee shall be fact-finding, deliberative, and advisory, and shall make recommendations in the areas of their responsibility. Board committees shall report their findings and recommendations to the Board and shall not assume administrative duties or responsibilities.

Transacting
Business

Unless specified by the Board, a Board committee shall not have final decision-making authority. Board committee recommendations must be reported to the Board at a regular or special meeting. The Board shall not accept a Board committee's recommendation without due consideration of the matter.

Dissolution

A Board committee shall be dissolved upon Board action.

**School Health
Advisory Council**

The board shall establish a local school health advisory council (SHAC) to assist the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See EHAA regarding duties of the SHAC.]

Meetings

The SHAC shall meet at least four times each year. For each meeting the SHAC shall:

1. At least 72 hours before the meeting post notice of the date, hour, place, and subject of the meeting on a bulletin board in the central administrative office of each campus in the district; and ensure that the required notice is posted on the district's internet website, if the district has an internet website;
2. Prepare and maintain minutes of the meeting that state the subject and content of each deliberation and each vote, order, decision, or other action taken by the council during the meeting;
3. Make an audio or video recording of the meeting; and
4. Not later than the tenth day after the meeting, submit the minutes and audio or video recording of the meeting to the district.

As soon as practicable after receipt of the minutes and audio or video recording, the district shall post the minutes and audio or video recording on the district's internet website, if the district has an internet website.

Education Code 28.004(d-1), (d-2)

Composition

The board shall appoint at least five members to the SHAC. A majority of members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the SHAC.

The board also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified:

1. Classroom teachers employed by the district;
2. School counselors certified under Education Code Chapter 21, Subchapter B, employed by the district;
3. School administrators employed by the district;
4. District students;
5. Health-care professionals licensed or certified to practice in this state, including medical or mental health professionals;

6. The business community;
7. Law enforcement;
8. Senior citizens;
9. The clergy;
10. Nonprofit health organizations; and
11. Local domestic violence programs.

Education Code 28.004(d)

Physical Activity
and Fitness
Planning
Subcommittee

The SHAC shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students. *Education Code 28.004(l-1)*

Annual Report

In addition to its other duties, the SHAC shall submit to the board, at least annually, a written report that includes:

1. Any SHAC recommendation concerning the district's health education curriculum and instruction or related matters that the SHAC has not previously submitted to the board;
2. Any suggested modification to a SHAC recommendation previously submitted to the board;
3. A detailed explanation of the SHAC's activities during the period between the date of the current report and the date of the last prior written report; and
4. Any recommendations made by the physical activity and fitness planning subcommittee.

Education Code 28.004(m)

Public Statement

A district shall publish in the student handbook and post on the district's internet website, if the district has an internet website, a statement of:

1. The policies and procedures adopted to promote the physical health and mental health of students, the physical health and mental health resources available at each campus, contact information for the nearest providers of essential public health services under Health and Safety Code Chapter 121, and the contact information for the nearest local mental health authority;
2. The policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least

the amount and level of physical activity required by Education Code 28.002(l) [see EHAB and EHAC];

3. The number of times during the preceding year the SHAC has met;
4. Whether the district has adopted and enforces policies to ensure that district campuses comply with the Texas Education Agency's vending machine and food service guidelines for restricting student access to vending machines;
5. Whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Education Code 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities [see DH and GKA];
6. Notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year [see FFAA]; and
7. Whether each campus in the district has a full-time nurse or full-time school counselor.

Education Code 28.004(k)

Note: For committees composed only of current Board members, see BDB.

**Advisory
Committees**

For purposes of this policy, an advisory committee is a committee composed primarily of District staff, parents, other community members, and/or students. An advisory committee may also include Board members in numbers less than a quorum of the Board.

Formation of an advisory committee shall be by Board action. When establishing an advisory committee, the Board action shall, at a minimum, specify the:

- Number of members on the committee;
- Process to appoint members to the committee;
- Term of committee membership; and
- Responsibilities of the committee.

An advisory committee shall be fact-finding, deliberative, and advisory and shall not assume administrative duties or responsibilities. Advisory committees shall report their findings and recommendations to the Board.

Transacting
Business

An advisory committee may transact business only within the specific authority granted by the Board. To be binding, all such committee recommendations must be reported to the Board at a regular or special meeting for approval and entry into the minutes as a public record.

Dissolution

An advisory committee shall be dissolved upon completion of the assigned task or Board action.

Vacancy Posting

A district's employment policy must provide for notice to each current district employee of a vacant position for which a certificate is required. Notice must be provided not later than the 10th school day before the date on which a district fills the position. Notice shall be posted on:

1. A bulletin board at:
 - a. A place convenient to the public in the district's central administrative office, and
 - b. The central administrative office of each campus during any time the office is open; or
2. The district's internet website, if the district has a website.

A district shall provide each current district employee a reasonable opportunity to apply for the position.

Education Code 11.1513(d)

Names of Applicants

The name of an applicant for superintendent is excepted from disclosure under Chapter 552, Government Code (Public Information Act). However, a board must give public notice of the name or names of the finalists being considered for superintendent at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person. *Gov't Code 552.126*

Required Reporting After Superintendent Change

Subsequent to a school system superintendent change, the direct contact information of the superintendent (or person acting in that capacity) must be updated in Sentinel within three business days of a corresponding board meeting. *19 TAC 103.1213(e)(3)(F)* [See CKA]

Available School Fund

The available school fund is apportioned annually to Texas counties according to the scholastic population of each. *Education Code 43.001(b)*

Foundation School Program

The purposes of the Foundation School Program (FSP) set forth in Education Code Chapter 48 are to guarantee that each district in the state has:

1. Adequate resources to provide each eligible student a basic instructional program and facilities suitable to the student's educational needs; and
2. Access to a substantially equalized program of financing in excess of basic costs for certain services, as provided by that chapter.

The FSP consists of:

1. Two tiers that in combination provide for:
 - a. Sufficient financing for all school districts to provide a basic program of education that is rated acceptable or higher under Education Code 39.054 and meets other applicable legal standards; and
 - b. Substantially equal access to funds to provide an enriched program; and
2. A facilities component as provided by Education Code Chapter 46. [See CCA]

Education Code 48.002

The cost of the FSP for a district is the total sum of:

1. The sum of the tier one allotments and other funding as follows:
 - a. The basic allotment under Education Code Chapter 48, Subchapter B;
 - b. The student-based allotments under Education Code Chapter 48, Subchapter C; and
 - c. The additional funding under Education Code Chapter 48, Subchapter D (including the transportation allotment [see CNA] and the new instructional facility allotment below); and
2. The tier two allotment under Education Code Chapter 48, Subchapter E.

The sum of the FSP maintenance and operations costs for all accredited school districts in this state constitutes the total maintenance and operations cost of the FSP.

The FSP shall be financed by:

1. State available school funds distributed in accordance with the law;
2. Ad valorem tax revenue generated by local school district effort [see CCG series]; and
3. State funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's FSP not covered by other funds specified.

Education Code 48.251

PEIMS

A district shall participate in the Public Education Information Management System (PEIMS) and shall provide through that system information required for the administration of Education Code Chapter 48 (Foundation School Program) and of other appropriate provisions of the Education Code. Data standards, established by the commissioner of education, shall be used by a district to submit required information. *Education Code 48.008; 19 TAC 61.1025(b)*

New Instructional Facility Allotment (NIFA)

A district is entitled to an additional allotment as provided by Education Code 48.152 for operational expenses associated with opening a new instructional facility. A district entitled to an allotment may use funds from the district's allotment to renovate an existing instructional facility to serve as a dedicated cybersecurity computer laboratory. *Education Code 48.152*

Definitions

"Instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required by Education Code 28.002. *Education Code 46.001, 48.152(a)(1); 19 TAC 61.1034(a)(2)* [See CCA for the Instructional Facilities Allotment]

"New instructional facility" is a facility that includes:

1. A newly constructed instructional facility, which is a new instructional campus built from the ground up;
2. A repurposed instructional facility, which is a facility that has been renovated to become an instructional facility for the first time for the applying school district; or

3. A leased facility operating for the first time as an instructional facility with a minimum lease term of not less than 10 years. The lease must not be a continuation of or renegotiation of an existing lease for an instructional facility.

Education Code 48.152(a)(2); 19 TAC 61.1034(a)(3)

Eligibility

The following eligibility criteria apply to the NIFA in accordance with Education Code 48.152.

1. The facility for which NIFA funds are requested must meet the following requirements:
 - a. The facility must qualify as an instructional campus and a new instructional facility used for teaching the curriculum required by Education Code Chapter 28.
 - b. To qualify for first-year funding, a new facility must not have been occupied in the prior school year. To qualify for follow-up funding, the facility must have been occupied for the first time in the prior school year and funded for the NIFA for that first year. If an instructional facility qualifies as a new instructional facility but did not receive the allotment in the first year of eligibility due to a failure to apply, the school district or open-enrollment charter school may still apply for and receive funding for the average daily attendance (ADA) earned only during the second year of occupation in the new instructional facility.
 - c. With the exception of a covered walkway connecting the new facility to another building, the new facility must be physically separate from other existing school structures.
 - d. Career and technical education (CTE) campuses must report each CTE campus student's ADA when the ADA for that student is reported at the student's home campus.
2. Expansion or renovation of existing instructional facilities, as well as portable and temporary structures, are not eligible for the NIFA.
3. All instructional buildings on the campus must be newly constructed as new instructional facilities, except for an existing gymnasium that remains on the campus and will be utilized on the instructional campus.

Application Process	<p>To apply for the NIFA, a district must complete the Texas Education Agency's (TEA) online application process requesting funding pursuant to the NIFA.</p> <p>The initial (first-year) application, or an application for one-year funding only, must be submitted electronically no later than July 15. The application must include the following:</p> <ol style="list-style-type: none">1. The electronic submission of TEA's online application for initial funding; and2. The electronic submission of the following materials:<ol style="list-style-type: none">a. A brief description and photograph of the newly constructed, repurposed, or leased instructional facility;b. A copy of a legal document that clearly describes the nature and dates of the new or repurposed construction or a copy of the applicable lease;c. A site plan;d. A floor plan; ande. If applicable, a demolition plan. <p>Second-year applications require only the electronic submission of TEA's online application for follow-up funding no later than July 15 of the year preceding the applicable school year.</p>
Survey on Days of Instruction	<p>In the fall of the school year after a school year for which an applicant received NIFA funds, the district that received the funds must complete an online survey on the number of instructional days held in the new facility and submit the completed survey electronically. TEA will use submitted survey information in determining the final (settle-up) amount earned by each eligible school district, as described by 19 Administrative Code 61.1034(e)(6).</p>
Costs and Payments	<p>The costs and payments for the NIFA are determined by the commissioner.</p> <p>The allotment for the NIFA is a part of the cost of the first tier of the FSP. This allotment is not counted in the calculation of weighted average daily attendance for the second tier of the FSP.</p> <p>If, for all eligible applicants combined, the total cost of the NIFA exceeds the amount appropriated, each allotment is reduced so that the total amount to be distributed equals the amount appropriated. Reductions to allotments are made by applying the same percentage adjustment to each school district.</p>

Allocations will be made in conjunction with allotments for the FSP in accordance with the school district's payment class. For school districts that are subject to the excess local revenue provisions under Education Code 48.257, and do not receive payments from the Foundation School Fund, NIFA distributions will be reflected as reduced recapture payments.

For school districts that are subject to the excess local revenue provisions under Education Code 48.257, NIFA distributions increase the amount of the FSP entitlement and so will automatically reduce any excess local revenue and reduce the requirement to send recapture to the state in the amount of the NIFA allocation.

For all school districts receiving the NIFA, a final (settle-up) amount earned is determined by the commissioner when information reported through the survey described above is available in the fall of the school year after the school year for which NIFA funds were received. [See Survey on Days of Instruction, above] The final amount earned is determined using the submitted survey information and final counts of ADA for the school year for which NIFA funds were received, as reported through PEIMS.

The amount of funds to be distributed for the NIFA to a school district is in addition to any other state aid entitlements.

19 TAC 61.1034(b)-(e)

**Safety and Security
Audit**

At least once every three years, each district shall conduct a safety and security audit of the district's facilities. A district, or a person included in the registry of persons providing school safety or security consulting services established by the Texas School Safety Center (TxSSC) who is engaged by the district to conduct a safety and security audit, shall follow safety and security audit procedures developed by the TxSSC in coordination with the commissioner of education.

A district must confirm that a person is included in the registry before the district may engage the person to provide school safety or security consulting services to the district.

In a district's safety and security audit, the district must certify that the district used the funds provided through the school safety allotment only for the purposes provided by Education Code 48.115.

A district shall report the results of the safety and security audit to the board and, in the manner required by the TxSSC, to the TxSSC. The report provided to the TxSSC must be signed by the board and the superintendent.

Education Code 37.108(b), (b-1), (c), 37.2091(b-1)

In addition to a review of a district's multihazard emergency operations plan under Education Code 37.2071 [see CKC], the TxSSC may require a district to submit its plan for immediate review if the district's audit results indicate that the district is not complying with applicable standards. *Education Code 37.207(c)*

**Failure to Report
Audit Results**

If a district fails to report the results of its audit, the TxSSC shall provide the district with written notice that the district has failed to report its audit results and must immediately report the results to the center.

If three months after the date of the initial notification the district has still not reported the results of its audit to the TxSSC, the TxSSC shall notify the Texas Education Agency (TEA) and the district of the district's requirement to conduct a public hearing under Education Code 37.1081. [See CKC]

Education Code 37.207(d)-(e)

Disclosure

Except as provided by Education Code 37.108(c-2) [see CKC], any document or information collected, developed, or produced during a safety and security audit is not subject to disclosure under Government Code Chapter 552 (Public Information Act). *Education Code 37.108(c-1)*

**TEA Monitoring of
Safety and Security
Requirements**

TEA shall monitor the implementation and operation of requirements related to school district safety and security, including school district multihazard emergency operations plans [see CKC] and safety and security audits [see above].

Office of School
Safety and Security

TEA shall establish an office of school safety and security to coordinate monitoring and, in coordination with the TxSSC and relevant local law enforcement agencies, provide technical assistance to school districts to support the implementation and operation of safety and security requirements.

Vulnerability
Assessments

As part of the technical assistance, TEA shall conduct a detailed vulnerability assessment of each school district on a random basis once every four years. Any documentation requested by TEA for a vulnerability assessment must be uploaded to Sentinel [see below at Reporting Through Sentinel].

On completion of a vulnerability assessment TEA shall provide to the superintendent and school safety and security committee [see CK] for the applicable school district a report on the results of the assessment that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the agency.

District Information
and Records

Each school district shall submit information requested by TEA in TEA's efforts to monitor the implementation and operation of school district safety and security requirements, including notice of an event requiring a district's emergency response including the discovery of a firearm on a campus and information regarding the district's response and use of emergency operations procedures during such an event [see below at Reporting Through Sentinel].

TEA may review school district records as necessary to ensure compliance with Education Code Subchapter D (Protection of Building and Grounds) and Subchapter G (Texas School Safety Center).

Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements is confidential under Government Code 418.177 and 418.181 (Texas Disaster Act), and not subject to disclosure under Government Code Chapter 552.

Education Code 37.1083; 19 TAC 103.1213(a), (e)(2)(B)

Reporting Through
Sentinel

Sentinel is TEA's formal school safety system designed to collect, process, store, and distribute school safety and security information. Sentinel serves as a repository for all safety and security-related data submitted to TEA. Each school district shall report information to TEA through Sentinel, including:

1. On or before June 30th of each year, a district shall input its upcoming school year calendar into Sentinel. Any changes to the school year calendar shall be updated in Sentinel within three business days after approval by district leadership.
2. On or before June 30th of each year, a district must verify that all district facilities listed in Sentinel reflect the correct address and campus emergency contact information.
3. If a district closes for a localized emergency, closure information must be immediately recorded in Sentinel.
4. School districts shall submit information related to events requiring an emergency response, including the discovery of a firearm on a campus [see above] in the Sentinel portal. This is inclusive of notifications regarding a bomb threat or terroristic threat [see CKC]. Submission of information in the Sentinel portal does not substitute the requirement for local law enforcement notification of certain activities [see GRAA].

[For additional requirements for reporting through Sentinel, see BJB for reporting a superintendent change, CKC for TxSSC uploading of multihazard emergency operations plans, FDA for transfer of threat assessments between districts, and FFB for application to behavioral threat assessments.]

19 TAC 103.1213(a), (b)(3), (c), (e)(3)(A)-(D)

Intruder Detection Audits

TEA's office of school safety and security shall establish a school safety review team in each region served by a regional education service center, which shall annually conduct on-site general intruder detection audits of school district campuses in the team's region.

Notice to Superintendent

In conducting an intruder detection audit, a safety review team must notify the superintendent of the district in which the campus being audited is located not later than the seventh day before the date of a scheduled audit.

Documentation

Any documentation requested by TEA for an intruder detection audit must be uploaded to Sentinel [see above at Reporting Through Sentinel].

Report

On completion of the audit, a safety review team must provide to the superintendent and school safety and security committee for the school district in which the campus is located a report on the results of the audit that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the team.

A report produced by a safety review team is confidential and not subject to disclosure under Government Code Chapter 552.

Education Code 37.1084; 19 TAC 103.1213(e)(4)(B)

**Assignment of
Conservator for
Noncompliance**

The commissioner may assign a conservator under Education Code Chapter 39A if a school district fails to:

1. Submit to any required monitoring, assessment, or audit under Education Code 37.1083 or 37.1084 [see above];
2. Comply with applicable safety and security requirements; or
3. Address in a reasonable time period, as determined by commissioner rule, issues raised by TEA's monitoring, assessment, or audit of the district under Education Code 37.1083 or 37.1084.

A conservator may exercise the powers and duties of a conservator under Education Code 39A.003 [see AIC] only to correct a failure identified above. TEA may not assign a conservator for a district's failure to comply with Education Code 37.0814 (Armed Security Officer Required) or a good cause exception claimed under that section. [See CKE]

Education Code 37.1085

**Notice of Bomb
Threat or Terroristic
Threat**

A district that receives a bomb threat or terroristic threat relating to a campus or other district facility at which students are present shall provide notification of the threat as soon as possible to the parent or guardian of or other person standing in parental relation to each student who is assigned to the campus or who regularly uses the facility, as applicable. *Education Code 37.113*

**Notice Regarding
Violent Activity**

The Texas Education Agency (TEA) shall develop model standards for providing notice regarding violent activity that has occurred or is being investigated at a district campus or other district facility or at a district-sponsored activity to parents, guardians, and other persons standing in parental relation to students who are assigned to the campus, regularly use the facility, or are attending the activity, as applicable. A district shall adopt a policy for providing this notice in a manner that meets TEA standards. *Education Code 37.1131*

**Emergency
Response Map and
Walk-Through**

A district shall provide to the Department of Public Safety (DPS) and all appropriate local law enforcement agencies and emergency first responders:

1. An accurate map of each district campus and school building that is developed and documented in accordance with the standards described by Education Code 37.351 related to developing site and floor plans, access control, and exterior door numbering; and
2. An opportunity to conduct a walk-through of each district campus and school building using the map.

Education Code 37.117

**Emergency
Operations Plan**

Each district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center (TxSSC) in conjunction with the governor's office of homeland security and the commissioner. The plan must provide for:

1. Training in responding to an emergency for district employees, including substitute teachers;
2. Measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

3. Measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;
4. Mandatory school drills and exercises, including drills required under Education Code 37.114 (emergency evacuations), to prepare district students and employees for responding to an emergency [see CKB];
5. Measures to ensure coordination with the Texas Department of State Health Services (TDSHS) and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency;
6. The implementation of a required safety and security audit [see CKA]; and
7. Any other requirements established by the TxSSC in consultation with TEA and relevant local law enforcement agencies.

Education Code 37.108(a)

A district shall include in its multihazard emergency operations plan:

1. A chain of command that designates the individual responsible for making final decisions during a disaster or emergency situation and identifies other individuals responsible for making those decisions if the designated person is unavailable;
2. Provisions that address physical and psychological safety for responding to a natural disaster, active shooter, and any other dangerous scenario identified for purposes of these provisions by TEA or TxSSC;
3. Provisions for ensuring the safety of students in portable buildings;
4. Provisions for ensuring that students and district personnel with disabilities are provided equal access to safety during a disaster or emergency situation;
5. Provisions for providing immediate notification to parents, guardians, and other persons standing in parental relation in circumstances involving a significant threat to the health or safety of students, including identification of the individual with responsibility for overseeing the notification;
6. Provisions for supporting the psychological safety of students, district personnel, and the community during the response

and recovery phase following a disaster or emergency situation that:

- a. Are aligned with best practice-based programs and research-based practices recommended under Education Code 38.351;
 - b. Include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;
 - c. Include training on integrating psychological safety and suicide prevention strategies into the district's plan, such as psychological first aid for schools training, from an approved list of recommended training established by the commissioner and TxSSC for:
 - (1) Members of the district's school safety and security committee [see CK];
 - (2) District school counselors and mental health professionals; and
 - (3) Educators and other district personnel as determined by the district;
 - d. Include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by item 2, above; and
 - e. Implement trauma-informed policies;
7. A policy for providing a substitute teacher access to school campus buildings and materials necessary for the substitute teacher to carry out the duties of a district employee during an emergency or a mandatory emergency drill;
 8. The name of each individual on the district's school safety and security committee and the date of each committee meeting during the preceding year [see CK]; and
 9. Certification that the district is in compliance with Education Code 37.117 [see Emergency Response Map, above].

Education Code 37.108(f)

Guidelines for
Individuals with
Disabilities or
Impairments

TEA shall establish guidelines for the provisions in a district's multi-hazard emergency operations plan to ensure the safety of students and district personnel with disabilities or impairments during a disaster or emergency situation. A district must follow the guidelines

SAFETY PROGRAM/RISK MANAGEMENT
EMERGENCY PLANS

CKC
(LEGAL)

	established by TEA in adopting and implementing the district's multihazard emergency operations plan. <i>Education Code 37.1086</i>
Active Shooter Emergency	A district shall include in its multihazard emergency operations plan a policy for responding to an active shooter emergency. The district may use any available community resources in developing the policy. <i>Education Code 37.108(g)</i>
Train Derailment	A district shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school. A district is only required to adopt the policy if a district facility is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. A district may use any available community resources in developing the policy. <i>Education Code 37.108(d)</i>
Polling Place Security	A district shall include in its multihazard emergency operations plan a policy for district property selected for use as a polling place under Election Code 43.031. In developing the policy, the board may consult with the local law enforcement agency with jurisdiction over the district property selected as a polling place regarding reasonable security accommodations that may be made to the property. This requirement may not be interpreted to require the board to obtain or contract for the presence of law enforcement or security personnel for the purpose of securing a polling place located on district property. Failure to comply with this subsection does not affect the requirement of the board to make a school facility available for use as a polling place under Election Code 43.031. <i>Education Code 37.108(e)</i> [See GKD]
Disclosure	A document relating to a district's multihazard emergency operations plan is subject to disclosure if the document enables a person to: <ol style="list-style-type: none">1. Verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including TDSHS, local emergency services agencies, law enforcement agencies, health departments, and fire departments;2. Verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;3. Verify that the plan addresses the five phases of emergency management listed above at Emergency Operations Plan;4. Verify that district employees have been trained to respond to an emergency and determine the types of training, the num-

ber of employees trained, and the person conducting the training;

5. Verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. Verify that the district has established a plan for responding to a train derailment if required [see Train Derailment, above];
7. Verify that the district has completed a safety and security audit and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the board [see CKA];
8. Verify that the district has addressed any recommendations by the board for improvement of the plan and determine the district's progress within the last 12 months; and
9. Verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

Education Code 37.108(c-2)

[See GRC for emergency management training requirements and response to requests from other governmental entities for mutual aid.]

Plan Review

A district shall submit its multihazard emergency operations plan to the TxSSC not later than the 30th day after the date the TxSSC requests the submission and in accordance with the review cycle developed under Education Code 37.2071(a).

Any document or information collected, developed, or produced during the review and verification of multihazard emergency operations plans is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

Upon completed review of a district's multihazard emergency operations plan, the TxSSC may upload a copy of that plan, including all required appendices, to the Sentinel portal. [See CKA] 19 TAC 103.1213(e)(3)(E)

Failure to Submit Plan

If a district fails to submit its multihazard emergency operations plan to the TxSSC for review following a notification by the TxSSC that the district has failed to submit the district's plan, the TxSSC shall provide the district with written notice stating that the district must hold a public hearing as outlined at Public Hearing on Non-compliance, below. The notice must state that the commissioner is

authorized to appoint a conservator under Education Code 37.1082.

*Notice of Plan
Deficiencies*

The TxSSC shall review each district's multihazard emergency operations plan and verify the plan meets the requirements or provide the district with written notice describing the plan's deficiencies, including specific recommendations to correct the deficiencies, and stating that the district must correct the deficiencies in its plan and resubmit the revised plan to the TxSSC.

The TxSSC may approve a district multihazard emergency operations plan that has deficiencies if the district submits a revised plan that the center determines will correct the deficiencies.

*Failure to Correct
Deficiencies*

If one month after the date of initial notification of a plan's deficiencies outlined above a district has not corrected the plan deficiencies, the TxSSC shall provide written notice to the district and TEA that the district has not complied with the requirements and must comply immediately.

If a district still has not corrected the plan deficiencies three months after the date of initial notification, the TxSSC shall provide written notice to the district stating that the district must hold a public hearing as outlined at Public Hearing on Noncompliance, below.

Education Code 37.2071

Public Hearing on
Noncompliance

If the board receives notice of noncompliance under Education Code 37.207(e) [see CKA], 37.2071(d) [see Failure to Submit Plan, above] or 37.2071(g) [see Failure to Correct Deficiencies, above], the board shall hold a public hearing to notify the public of:

1. The district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and security audit to the TxSSC as required by law;
2. The dates during which the district has not been in compliance; and
3. The names of each member of the board and the superintendent serving in that capacity during the dates the district was not in compliance. The district shall provide this information in writing to each person at the hearing.

The board shall give members of the public a reasonable opportunity to appear before the board and to speak on the issue of the district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and security audit during a hearing held under this provision. A district re-

quired to hold a public hearing shall provide written confirmation to the TxSSC that the district held the hearing.

Education Code 37.1081

Safe Firearm Storage

The TxSSC, in collaboration with DPS, shall provide to each district information and other resources regarding the safe storage of firearms for distribution by the district including information on the offense of making a firearm accessible to a child under Penal Code 46.13 and ways in which parents and guardians can effectively prevent children from accessing firearms.

A district shall provide the information and other resources to the parent or guardian of each student enrolled in the district or school.

Education Code 37.222

Confidential Information under the Texas Disaster Act

Information is confidential if the information is collected, assembled, or maintained by or for a district for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

Emergency Response Provider Information

1. Relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;
2. Relates to a tactical plan of the provider; or
3. Consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

Gov't Code 418.176

Risk or Vulnerability Assessment

Information is confidential if the information:

1. Is collected, assembled, or maintained by or for a district for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
2. Relates to an assessment by or for a district, or an assessment that is maintained by a district, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Gov't Code 418.177

Information, other than financial information, in the possession of a district is confidential if the information:

1. Is part of a report to an agency of the United States;
2. Relates to an act of terrorism or related criminal activity; and

3. Is specifically required to be kept confidential:
 - a. Under the Public Information Act, Government Code 552.101, because of a federal statute or regulation;
 - b. To participate in a state-federal information sharing agreement; or
 - c. To obtain federal funding.

Security Systems

Financial information in the possession of a district that relates to the expenditure of funds by a district for a security system is public information that is not excepted from required disclosure under the Public Information Act. [See GBA]

Information, including access codes and passwords, in the possession of a district that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

Gov't Code 418.182

Disaster Disclosure
Exception

At any time during a state of disaster, the superintendent may voluntarily disclose or otherwise make available all or part of the information that is confidential under Government Code 418.175-.182 to another person or another entity if the superintendent believes that the other person or entity has a legitimate need for the information. The disclosure or making available of confidential information under this provision does not waive or affect the confidentiality of the information. *Gov't Code 418.183(b), (e)*

Note: For information regarding the district's ability to request identification, refuse entry, or eject persons from district property, see GKA and GKC.

Safety Rules

The board may adopt rules for the safety and welfare of students, employees, and property and other rules it considers necessary to carry out Education Code Chapter 37, Subchapter D (Protection of Buildings and Grounds) and the governance of the district, including rules providing for the operation and parking of vehicles on school property. *Education Code 37.102(a)* [See also CLC]

**Human Trafficking
Warning Signs**

Each public primary or secondary school shall post warning signs of the increased penalties for trafficking of persons under Penal Code 20A.02(b-1)(2) in a conspicuous place reasonably likely to be viewed by all school employees and visitors.

Each warning sign must:

1. Describe the offense of trafficking in persons as provided under Penal Code 20A.02(a). The sign must emphasize that an offense under Penal Code 20A.02, is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that the actor committed the offense in a location that was:
 - a. On the premises of or within 1,000 feet of the premises of:
 - (1) A school;
 - (2) A juvenile detention facility;
 - (3) A post-adjudication secure correctional facility;
 - (4) A shelter or facility operating as a residential treatment center that serves runaway youth, foster children, people who are homeless, or persons subjected to human trafficking, domestic violence, or sexual assault;
 - (5) A community center offering youth services and programs;
 - (6) A child-care facility, as defined by Human Resources Code 42.002; or
 - (7) An institution of higher education or private or independent institution of higher education, as defined by Education Code 61.003; or

- b. On premises or within 1,000 feet of premises where:
 - (1) An official school function was taking place; or
 - (2) An event sponsored or sanctioned by the University Interscholastic League was taking place;
- 2. Be written in English and Spanish; and
- 3. Be at least 8.5 by 11 inches in size.

Education Code 37.086; 19 TAC 103.1403(c)

Note: For provisions regarding selection and adoption of instructional materials, see EFA.

**Instructional
Materials and
Technology**

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment. *Education Code 31.001*

Each instructional material, including electronic instructional material only to the extent of any applicable licensing agreement, purchased as provided by Education Code Chapter 31 for a district is the property of the district. *Education Code 31.102(a)-(b)*

Allotment

A district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner of education. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. The allotment shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology account as provided by Education Code 31.0212. *Education Code 31.0211(a)*

The commissioner shall, as early as practicable during each biennium, notify each district of the estimated amount to which the district will be entitled during the next fiscal biennium. *Education Code 31.0215(a)*

Additional State Aid

*State-Approved
Instructional
Materials*

For each student enrolled in the district, a school district is entitled to additional state aid for each school year in an amount equal to \$40, or a greater amount provided by appropriation, to procure instructional material that has been reviewed by the Texas Education Agency (TEA); placed on the State Board of Education (SBOE) list of approved instructional materials; designated by the SBOE as being included or capable of being included in an instructional materials parent portal; and acquired from a publisher, manufacturer, or other entity that has not been found to violate Education Code 31.151. *Education Code 48.307(a)*

*Open Education
Resource
Instructional
Materials*

Subject to Education Code 31.0751 (Open Education Resource [OER] transition plan), a district is entitled to additional state aid for each school year in an amount not to exceed \$20 for each student for the costs incurred or for which the district is obligated to pay during the school year in which the aid is provided for the printing

and shipping of OER instructional material made available under Education Code Chapter 31, Subchapter B-1. *Education Code 48.308(a)*

Allotment
Adjustment
*Change in
Enrollment*

Not later than May 31 of each school year, a district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination is final. *Education Code 31.0211(e)*

*High Enrollment
Growth*

Each year the commissioner shall adjust the instructional materials and technology allotment of districts experiencing high enrollment growth. *Education Code 31.0214(a)*

Permitted
Expenditures

The allotment funds may be used to purchase or pay for:

1. Instructional materials, regardless of whether the instructional materials are on the list of approved instructional materials maintained by the SBOE under Education Code 31.022;
2. Consumable instructional materials;
3. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
4. Instructional materials for use in college preparatory courses under Education Code 28.014, as provided by Education Code 31.031;
5. Supplemental instructional materials;
6. OER instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
7. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
8. Technological equipment necessary to support the use of any instructional materials purchased with an allotment under this provision;
9. Inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of instructional materials;

10. Services, equipment, and technology infrastructure necessary to ensure internet connectivity and adequate bandwidth;
11. Training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use;
12. Training personnel in the electronic administration of assessment instruments;
13. The salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning; and
14. Costs associated with distance learning, including services, equipment, and technology such as Wi-Fi, internet access hotspots, wireless network service, broadband service, and other services and technological equipment necessary to facilitate internet access.

The allotment funds may not be used to purchase instructional material that contains obscene or harmful content or would otherwise cause the district to which the funds were allotted to be unable to submit the certification required under Education Code 31.1011(a)(1)(B) [see Certification of Instructional Materials, below].

Education Code 31.0211(c), (f)

*Technological
Equipment*

In purchasing technological equipment, a district shall:

1. Secure technological solutions that meet the varying and unique needs of students and teachers in the district; and
2. Consider both the long-term cost of ownership of the technological equipment and flexibility for innovation.

Education Code 31.0211(d)

**Instructional
Materials and
Technology Account**

The commissioner shall maintain an instructional materials and technology account for each district. In the first year of each biennium, the commissioner shall deposit the district's allotment in the account. The commissioner shall pay the cost of instructional materials requisitioned by a district under Education Code 31.103 using funds from the district's instructional materials and technology account.

Money deposited in a district's instructional materials and technology account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium.

At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

A district shall provide to TEA the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials and technology allotment.

Education Code 31.0212(a)-(d)

Purchasing Method

A district is not required to use a method provided by Education Code 44.031(a) to purchase instructional materials that have been reviewed by TEA and included on the list of approved instructional materials maintained by the SBOE. *Education Code 31.102(d)*

Requisitions, Use, and Distribution

Delegation of Authority

The board may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials, consistent with Education Code Chapter 31 and rules adopted under that chapter. *Education Code 31.104(a)*

Local Funds

A district may use local funds to purchase any instructional materials in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

Online Requisition Program

A district shall make a requisition for instructional materials using the online requisition program maintained by the commissioner. A district may requisition instructional materials for grades above the grade level in which a student is enrolled. *Education Code 31.103(b)-(c)*

Distribution

The board shall distribute printed instructional materials to students in the manner that the board determines is most effective and economical. *Education Code 31.102(c)*

OER Instructional Materials

A district may adopt OER instructional material at any time. Except as otherwise provided by the Education Code, the commissioner may not require a district to adopt or use an OER instructional material. A district may not be charged for a cost associated with the selection of an OER instructional material, except for the cost of printing copies of the material. *Education Code 31.073(a), (c)-(d)*

OER Transition Plan

To qualify for additional state aid under Education Code 48.308, the board must adopt an OER instructional material transition plan to assist classroom teachers in the district who will be using an OER instructional material in a specific subject or grade level for which the teacher has not previously used an OER instructional material.

The plan must ensure that OER instructional materials are used in a manner that maintains the instructional flexibility of a classroom teacher to address the needs of each student.

A district that participates in the program developed and maintained by TEA under Education Code 31.0752 is not required to adopt a transition plan under this provision. [See OER Instructional Material Support Program, below]

Education Code 31.0751

The OER instructional material transition plan shall be submitted in a format determined by the commissioner.

A district is required to have a locally maintained OER transition plan that complies with 19 Administrative Code 67.1315 to access funding allotted under Education Code 48.308.

A district is required to submit an OER instructional material transition plan only when:

1. First adopting an SBOE-approved OER product for a grade level or subject/course; or
2. Expanding implementation of an SBOE-approved OER product to additional campuses and/or grade levels.

The OER instructional material transition plan adopted by the board of trustees shall include the plan of the district to ensure the following:

1. Clear communication and stakeholder change management plans and timelines;
2. Timely access to print materials and related manipulatives through OER procurement and distribution;
3. Sufficient planning and instructional time evidenced by instructional calendars and master schedules aligned to the requirements of the materials;
4. Clear expectations for the implementation of:
 - a. Instructional materials;
 - b. Internalization and student work analysis protocols; and
 - c. Curriculum-embedded assessments;
5. Processes for stakeholder communication and public posting, as outlined in Education Code 26.006, if materials have been modified by the district;

6. The maintenance of instructional flexibility through clear guidance for acceptable teacher modifications to instructional pacing, sequencing, and lesson content to address the needs of each student; and
7. Sufficient professional learning and development for school leaders, instructional coaches, and teachers, including:
 - a. Pre-service product onboarding and orientation; and
 - b. Ongoing, job-embedded, curriculum-based professional learning, including cycles of observation and feedback.

The commissioner may request and review OER instructional material transition plans before funding is released and reject a plan subsequent to review.

19 TAC 67.1315

OER Instructional
Material Support
Program

TEA shall develop and maintain a program to assist school districts in adopting and using OER instructional material, including by assisting districts to:

1. Maintain the instructional flexibility of classroom teachers to address the needs of each student; and
2. Schedule instructional periods in a manner that allows classroom teachers sufficient time to effectively prepare and present instructional material within the teacher's normal work day.

Education Code 31.0752

Requisition

A district that selects OER instructional material shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the district provides to each student:

1. Electronic access to the instructional material at no cost to the student; or
2. Printed copies of the portion of the instructional material that will be used in the course.

Education Code 31.103(d)

Parent Portal

An entity that hosts an instructional materials parent portal must comply with requests regarding parental access to the portal made by a district in compliance with Education Code 31.154 or Education Code 26.006 [see EFA]. *Education Code 31.154(e)*

[For more information regarding the requirements for certain entities that supply instructional materials to host a parent portal, see Education Code 31.154.]

**Bilingual
Instructional
Materials**

A district shall purchase with its allotment or otherwise acquire instructional materials for use in bilingual education classes. *Education Code 31.029*

**Certification of
Instructional
Materials**

Prior to the beginning of each school year, a district shall submit to the SBOE and commissioner certification that the district:

1. For each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level:
 - a. Provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level; and
 - b. In the provision of instructional materials, the district protects students from obscene or harmful content as necessary for compliance with the Children's Internet Protection Act (Pub. L. No. 106-554) [see CQ], Education Code 28.0022 [see EMB], Penal Code 43.22, and any other law or regulation that protects students from obscene or harmful content [see EFA]; and
2. The district used money allocated to the district or school under the instructional materials and technology allotment only for purposes allowed under Education Code 31.0211.

To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, a district may consider:

1. Instructional materials adopted by the SBOE;
2. Instructional materials developed, purchased, or otherwise acquired by the district; and
3. OER instructional materials and other electronic instructional materials included in the repository under Education Code 31.0722.

Education Code 31.1011

Annual Report

Each district shall annually report to TEA information regarding the instructional materials used by the district during the previous school year, including the cost of each material. *Education Code 31.1012*

Ownership

Except as otherwise provided, a student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school. At the end of the school year for which OER instructional material that a district does not intend to use for another student is distributed, the printed copy of the OER instructional material becomes the property of the student to whom it is distributed.

This provision does not apply to an electronic copy of OER instructional material.

Education Code 31.104(c), (g)-(h)

Responsibility for Instructional Materials and Equipment

Each student or the student's parent or guardian is responsible for all instructional material and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment forfeits the right to free instructional materials and technological equipment until all instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

As provided by board policy, a district may waive or reduce the payment required if the student is from a low-income family. [See FP] The district shall allow the student to use instructional materials and technological equipment at school during each school day.

If instructional materials or technological equipment is not returned in an acceptable condition or paid for, a district may withhold the student's records. A district may not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. [See FL and GBA regarding student and parental right to access records; and FD, FFAB, and FL regarding a district's duties to provide records to another district]

The board may not require an employee of the district who acts in good faith to pay for instructional materials or technological equipment that is stolen, misplaced, or not returned by a student. [See DG]

These provisions do not apply to an electronic copy of OER instructional material.

Education Code 31.104(d), (e), (h) [See also EFA]

Acceptable Condition

Printed instructional materials are considered to be in acceptable condition if:

1. The cover, binding, pages, spine, and all integral components of the instructional materials are wholly intact and the instructional materials are fully usable by students; and
2. No component of the instructional materials is soiled, torn, or damaged (whether intentionally or by lack of appropriate care) to the extent that any portion of the content is too disfigured or obscured to be fully accessible to other students.

Electronic instructional materials are considered to be in acceptable condition if:

1. All components or applications that are a part of the electronic instructional materials are returned;
2. The electronic materials perform as they did when they were new;
3. The electronic instructional materials do not contain computer code (e.g., bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and
4. The electronic instructional materials have not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the district.

Technological equipment is considered to be in acceptable condition if:

1. The equipment is returned with the software and hardware in their original condition unless the district authorized changes; and
2. The physical condition of the equipment is fully usable as it was originally intended to be used.

19 TAC 66.1310

Lost or Damaged
Instructional
Materials

A district may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of OER instructional material. *Education Code 31.104(b)*

Sale or Disposal

The board shall determine how the district will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

Sale

The board may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the SBOE or the commissioner. The board may also sell elec-

tronic instructional materials and technological equipment owned by the district.

Use of Proceeds

Any funds received by a district from a sale must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

Disposal

The board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the board determines that the instructional material is not needed by the district and the board does not reasonably expect that the instructional material will be needed. A district must notify the commissioner of any instructional material the district disposes of under this provision.

Education Code 31.105

Note: For additional legal requirements applicable to purchases with federal funds, see CBB.

Authorization to Purchase or Lease Vehicles

A district may purchase school motor vehicles through the comptroller or through competitive bidding under Education Code Chapter 44, Subchapter B. *Education Code 34.001(a)* [See CH]

Each contract proposed to be made by a district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)*

When a contract for the purchase of school buses is valued at \$20,000 or more, the contract must be made either through competitive bidding or by purchasing the buses through the comptroller. *Atty. Gen. Op. LO-98-063 (1998)*

Payment

A district financially unable to pay for a vehicle the district purchases may, as prescribed by Education Code 34.005, issue interest-bearing time warrants in amounts sufficient to make the purchase. *Education Code 34.005(a)*

A board may issue bonds to purchase new school buses. *Education Code 45.001(a)(1)(D)* [See CCA]

New Van Purchases or Leases

A school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multi-function school activity buses under United States Code Title 49. This provision does not apply in some limited circumstances, including the purchase or lease of a 15-passenger van under a contract executed before August 10, 2005, the date of enactment of this provision. *49 U.S.C. 30112*

Contracts for School Bus Use, Acquisition, or Lease

A board may contract with any person for use, acquisition, or lease with option to purchase a school bus if the board determines the contract to be economically advantageous to the district. Such a contract may have any lawful term of not less than two or more than 10 years. The competitive bidding requirements of Education Code Chapter 44, Subchapter B apply to a contract under this provision. A school bus that is leased or leased with an option to purchase must meet or exceed safety standards set out in Education Code 34.002. *Education Code 34.009* [See CH]

Registration	District-owned vehicles used exclusively in the service of a district are exempt from the state registration fee. The Department of Motor Vehicles (DMV) must approve an application for registration before exempt license plates are issued. <i>Transp. Code 502.451, .453</i>
Identification	The DMV may not issue exempt license plates unless the applicant for registration certifies in writing that the name of a district is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size. The letters or emblem must be of a color sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet. <i>Transp. Code 502.452(a)</i>
Maintenance	District vehicles are subject to inspection pursuant to Transportation Code Chapter 548.
School Bus Advertising	The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety-warning equipment. A school bus that violates this provision or rules adopted under this provision shall be placed out of service until it complies. <i>Transp. Code 547.701(d)</i>
Advertising Rules	A district may allow advertisements on school buses in accordance with rules. The rules adopted by the Texas Department of Public Safety (DPS) at 37 Administrative Code 14.61-14.65 apply to all school buses used to transport preprimary, primary, and secondary public school students. <i>37 TAC 14.61</i>
“Advertisement”	For purposes of this policy, “advertisement” means any communication brought to the attention of the public by paid announcement or in return for public recognition in connection with an event or offer or sale of a product or service, except for a single-line listing of a district name and/or school or manufacturer logo approved by DPS. <i>37 TAC 14.1(1)</i>
Material and Location	Advertisements must be of a material and in a location specified in the rules. <i>37 TAC 14.62-.64</i>
Annual Notice	By September 1 of each year, districts involved in an advertising program shall provide the School Bus Transportation Program at DPS written notification of the number of buses operated by or for the district that display exterior advertising or another paid announcement. <i>37 TAC 14.65(a)(1), (b)</i> [See CNC for required reporting of crashes involving buses with advertising]
<i>Delivery of Notice</i>	Notices to DPS shall be delivered by facsimile at (512) 424-2238, electronic mail at sbt@txdps.state.tx.us , or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. <i>37 TAC 14.65(d)</i>

TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

CNB
(LEGAL)

Nonschool Use

A board may contract with nonschool organizations for use of school buses. The board may provide services relating to the maintenance and operation of the buses in accordance with the contract. *Education Code 34.010*

Sale of Buses

At the request of a district, the comptroller shall dispose of a school bus. A district is not required to dispose of a bus through the comptroller. *Education Code 34.006*

Safety Standards

A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of the Texas Education Agency (TEA). A district that fails or refuses to meet these safety standards for school buses is ineligible to share in the transportation allotment until the first anniversary of the date the district begins complying with the safety standards. *Education Code 34.002; Transp. Code 547.102; 37 TAC 14.51-.52*

Student Safety
Prohibitions

A district may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

An operator of a school bus, while operating the bus, shall prohibit a passenger from:

1. Standing in the bus; or
2. Sitting:
 - a. On the floor of the bus, or
 - b. In any location on the bus that is not designed as a seat.

Transp. Code 545.426

Seat Belts
*Required on
Buses*

A bus, including a school bus, a school activity bus, multifunction school activity bus, or school-chartered bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement does not apply to:

1. A bus purchased by a school district that is a model year 2017 or earlier; or
2. A bus purchased by a school district that is a model year 2018 or later if the board:
 - a. Determines that the district's budget does not permit the district to purchase a bus that is equipped with the required seat belts; and
 - b. Votes to approve that determination in a public meeting.

Transp. Code 547.701(e)

*Student
Requirement*

A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

Donations

A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

Use of Warning
Signals

When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children.

A person may not operate a light or other equipment described above except when a school bus is being stopped or is stopped on a highway to:

1. Permit a student to board or exit the bus; or
2. Distribute to a student or the parent or guardian of a student:
 - a. Food; or
 - b. Technological equipment for use by the student for educational purposes.

Transp. Code 547.701(c), (c-1)

**Wireless
Communication
Devices**

General Rule

An operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped. *Transp. Code 545.4251(b)*

School Property

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone or on the property of a public elementary, middle, junior high, or high school served by a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

1. The vehicle is stopped; or
2. The wireless communication device is used with a hands-free device.

Transp. Code 545.4252

An operator may not use a wireless communication device while operating a school bus or passenger bus with a minor passenger on the bus unless the bus is stopped. This provision does not apply to an operator of a school bus or passenger bus using a wireless communication device in the performance of the operator's duties as a bus driver and in a manner similar to using a two-way radio. *Transp. Code 545.425(c), (e-1)*

Definitions

"Hands-free device" means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function. *Transp. Code 545.425(a)(1)*

"Electronic message" means data that is read from or entered into a wireless communication device for the purpose of communicating with another person. *Transp. Code 545.4251(a)(1)*

Disruption of Transportation

Any person other than a primary or secondary grade student who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school on a vehicle owned or operated by a district or to or from activities sponsored by a school on a vehicle owned and/or operated by a district shall be guilty of a misdemeanor. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

Exhibition of Firearm

For information regarding offenses pertaining to firearms on buses, see GKA(LEGAL).

Collision Reports

Notice to DPS for Buses With Advertising

A district shall provide DPS written notification of any collision directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. *37 TAC 14.65(a)(2)* [See CNB for rules related to school bus advertising.]

Notice must be received not more than five days from the date of the collision and shall include the following:

1. The name and address of the owner of the school bus;
2. The name and driver's license number of the school bus operator;
3. The date of the collision;
4. The city or county where the collision occurred; and

5. The investigating police agency.

37 TAC 14.65(c)

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. *37 TAC 14.65(d)*

Annual Report to
TEA

A district shall report annually to TEA the number of collisions in which its buses were involved in the past year in a manner prescribed by the commissioner of education. A district shall file annual collision reports to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus collisions;
2. The date each collision occurred;
3. The type of bus, as specified in 19 Administrative Code 103.1231(a), involved in each collision;
4. Whether the bus involved in each collision was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each collision;
6. The number and types of injuries that were sustained by the bus passengers in each collision; and
7. Whether the injured passengers in each collision were wearing seat belts at the time of the collision and, if so, the type of seat belts.

A school district shall report a bus collision involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus is owned, leased, contracted, or chartered by a school district and was transporting school district personnel, students, or a combination of personnel and students; or
2. The bus was driven by a school district employee or by an employee of the school district's bus contractor with no passengers on board and the collision involved a pedestrian.

Exceptions

A school district shall not report a bus collision involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus was driven by a school district employee or by an employee of the school district's bus contractor, the collision

occurred when no passenger other than the school district's driver or bus contractor's driver was on board the bus, and the collision did not involve a pedestrian; or

2. The collision involved a bus chartered by a school district for a school activity trip and no school district personnel or students were on board the bus at the time of the collision.

A school district shall not report a collision that occurred in a vehicle that is owned, contracted, or chartered by a school district and is not a school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

Education Code 34.015(b); 19 TAC 103.1231(b)

Fair Labor Standards Act	Unless an exemption applies, a district shall pay each of its employees not less than minimum wage for all hours worked. 29 U.S.C. 206(a)(1)
Minimum Wage and Overtime	Unless an exemption applies, a district shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in any workweek. 29 U.S.C. 207(a)(1); 29 C.F.R. pt. 778
Breaks for Nonexempt Employees	Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods. 29 C.F.R. 785.18 Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his or her desk is working while eating. It is not necessary that an employee be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. 29 C.F.R. 785.19
Compensatory Time <i>Accrual</i>	Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time. An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.
<i>Payment for Accrued Time</i>	Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).
<i>Use</i>	An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the district.

The Fair Labor Standards Act (FLSA) does not prohibit a district from compelling the use of accrued compensatory time.

29 U.S.C. 207(o); Christensen v. Harris Cnty., 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)

Exempt Employees

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. *29 U.S.C. 213(a)(1)*

*Academic
Administrators*

The term "employee employed in a bona fide administrative capacity" includes an employee:

1. Compensated on a salary or fee basis at the established weekly threshold, exclusive of board, lodging, or other facilities; or on a salary basis which is at least equal to the entrance salary for teachers in the district by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in a district or department or subdivision thereof.

"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. The superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
2. The principal and any vice principals responsible for the operation of an elementary or secondary school;
3. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
4. Other employees with similar responsibilities.

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunchroom managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

29 C.F.R. 541.204

Salary Basis

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the district did not intend to pay exempt employees on a salary basis. *29 C.F.R. 541.600, .602(a), .603*

*Partial-Day
Deductions*

A district employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a district employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

29 C.F.R. 541.710

*Safe Harbor
Policy*

If a district has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the district will not lose the exemption unless the district willfully violates the policy by con-

tinuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on a district's intranet.

29 C.F.R. 541.603(d)

Teachers

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an elementary or secondary school system by which the employee is employed. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include:

1. Regular academic teachers;
2. Teachers of kindergarten or nursery school pupils;
3. Teachers of gifted or disabled children;
4. Teachers of skilled and semi-skilled trades and occupations;
5. Teachers engaged in automobile driving instruction;
6. Home economics teachers; and
7. Vocal or instrumental music instructors.

Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for

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exemption, provided that such individual is employed as a teacher by the employing school or school system.

29 C.F.R. 541.303

Wage and Hour
Records

A district shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. *29 C.F.R. 516.2(a)*

**Payday Law
Exemption**

The Texas Payday Law does not apply to the state or a political subdivision. *Labor Code 61.003*

Staff Development

Educator

The staff development provided by a district to an educator other than a principal must be conducted in accordance with standards developed by the district and designed to improve education in the district.

Principal

The staff development provided by a district to a principal shall be governed by Education Code 21.3541 and rules adopted under that section. [See DNB]

Education Code 21.451(a), (a-1)

Professional
Development Policy

A board shall annually review the SBEC continuing education and training clearinghouse published under Education Code 21.4514 and adopt a professional development policy that must:

1. Be guided by the recommendations for training in the clearinghouse;
2. Note any differences in the policy adopted by the district or school from the recommendations in the clearinghouse; and
3. Include a schedule of all training required for educators or other school personnel at the district or school.

To the extent of any conflict, a frequency requirement for the completion of training provided by statute prevails over a frequency requirement for that training included in the professional development policy.

Education Code 21.4515(a), (b)

**Requirements for
Training**

In designing staff development for educators other than principals, a district must use procedures that, to the greatest extent possible, ensure the training included in the staff development:

1. Incorporates proactive instructional planning techniques using a framework that:
 - a. Provides flexibility in the ways:
 - (1) Information is presented;
 - (2) Students respond or demonstrate knowledge and skills; and
 - (3) Students are engaged;
 - b. Reduces barriers in instruction;
 - c. Provides appropriate accommodations, supports, and challenges; and

- d. Maintains high achievement expectations for all students, including students with disabilities and students of limited English proficiency; and
2. Integrates inclusive and evidence-based instructional practices for all students, including students with disabilities.

Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee.

A district may use district-wide staff development that has been developed and approved through the district-level decision process. [See BQA and BQB, as appropriate]

Education Code 21.451(a-2), (b), (c)

Optional Training

Staff development may include training in:

1. Technology and digital learning; and
2. Positive behavior intervention and support strategies, including classroom management, district discipline policies, and the Student Code of Conduct.

Technology and digital learning training must:

1. Discuss basic technology proficiency expectations and methods to increase an educator's digital literacy; and
2. Assist an educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

Staff development may include instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

Education Code 21.451(d)(1), (d-3), (g)

Required Training

Staff development must include training on:

1. Suicide prevention;
2. Strategies for establishing and maintaining positive relationships among students, including conflict resolution; and
3. Preventing, identifying, responding to, and reporting incidents of bullying.

Required training above must be provided in accordance with the board's professional development policy and use a best practice-based program recommended by the Health and Human Services

Commission under Education Code 38.351 [see FFEB]. Required training may include two or more topics listed together.

Education Code 21.451(d)(3), (d-1)

*Instruction of
Students with
Disabilities*

Definition

“Student with a disability” means a student who is:

1. Eligible to participate in a school district’s special education program under Education Code 29.003;
2. Covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794); or
3. Covered by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

Education Code 21.001(3-a)

Requirements

Staff development must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 USC 7801), and that:

1. Relates to the instruction of students with disabilities, including students with disabilities who also have other intellectual or mental health conditions; and
2. Is designed for educators who work primarily outside the area of special education.

A district is required to provide the training to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.

In developing or maintaining the training, a district must consult with persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district, regardless of whether the training is provided at the campus or district level.

Education Code 21.451(d)(2), (e)-(f)

*Suicide
Prevention*

The required suicide prevention training may be satisfied through independent review of suicide prevention training material that complies with the guidelines developed by the Texas Education Agency (TEA) and is offered online. *Education Code 21.451(d-2); 19 TAC 153.1013(d)*

Suicide prevention programs on TEA's list of recommended best practice-based programs [see FFEB] must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of attempting suicide, including students who are or may be the victims of or who engage in bullying;
2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;
3. Intervene effectively with students described above by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian; and
4. Assist students in returning to school following treatment of a mental health concern or suicide attempt.

A district shall provide training described in the components above for teachers, school counselors, principals, and all other appropriate personnel. A district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on TEA's list of recommended best practice-based programs [see FFEB] to satisfy this training requirement.

If a district provides the training, a district shall require completion in accordance with the district's professional development policy and maintain records that include district employees who participated in the training.

A district may satisfy a requirement to implement a program in the area of substance abuse prevention and intervention by providing instruction related to youth substance use and abuse education under Education Code 38.040. [See EHAC]

Education Code 38.351(e), (g), (g-1), (h); 19 TAC 153.1013

Staff Development
Account

A district that receives resources from the commissioner of education's staff development account must pay to the commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district. *Education Code 21.453(c)*

**Child Abuse,
Trafficking, and
Maltreatment**

A district's methods for increasing awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children [see District Improvement Plan at BQ and Sexual Abuse, Trafficking, and Maltreatment Policies and Programs at FFG] must include training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities.

The training must be provided in accordance with the district's professional development policy and as part of new employee orientation to all new employees.

The training must include:

1. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
2. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk of sexual abuse, trafficking, or other maltreatment; and
5. Information on community organizations that have relevant research-based programs and that are able to provide training or other education for district staff, students, and parents.

A district must maintain records that include staff members who participated in the training.

To the extent that resources are not yet available from TEA or the commissioner of education, districts shall implement the policies and trainings with existing or publicly available resources. The district may also work in conjunction with a community organization to provide the training at no cost to the district.

Education Code 38.0041(c)-(f); 19 TAC 103.1401(d)

**Trauma-Informed
Care**

A district's efforts to increase awareness and implementation of trauma-informed care must include training to new and existing employees in accordance with the district's professional development policy. [See BQ, FFBA] *Education Code 38.036(c)*

Mental Health

A district shall require each district employee who regularly interacts with students enrolled at the district to complete an evidence-

based mental health training program designed to provide instruction to participants regarding the recognition and support of children and youth who experience a mental health or substance use issue that may pose a threat to school safety.

A district may not require a district employee who has previously completed mental health training offered by a local mental health authority under Health and Safety Code 1001.203 to complete the required training.

Education Code 22.904

To complete the required evidence-based mental health training program, personnel who regularly interact with students shall participate and complete the general training program, participate and complete the training program related to local school district practices and procedures, and submit and maintain supporting documentation of completion. *19 TAC 153.1015(b)*

Records

School districts shall require each district employee to provide the certificate of completion of the general training program to the school district.

Documentation of the training program related to local school district practices and procedures may be satisfied when the employee submits to the district an acknowledgement form signed by the employee who received the current training and a copy of the local procedures and practices that are published in the district handbook and/or district improvement plan.

Documentation of training for the mental health training program must be kept by the school district and made available to TEA upon request, which may include a reporting process, for the duration of the employee's employment with the district.

19 TAC 153.1015(f)(1)-(3)

Student Discipline

Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding Education Code Chapter 37, Subchapter G. The professional development shall include training relating to the distinction between a discipline management technique used at the principal's discretion under Education Code 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Education Code 37.002(b) [see FOA].

The professional development training may be provided in coordination with an education service center through the use of distance

learning methods, such as telecommunications networks, and using available TEA resources.

Education Code 37.0181

Test Administration

The commissioner may require training for district employees involved in the administration of assessment instruments. The commissioner may only require the employee at each district campus who oversees the administration of the assessment instruments to annually receive the training. The district employee who oversees test administration on a district campus may, with discretion, require other district employees involved in the administration of assessment instruments to repeat the training. *Education Code 39.0304(a), (b-1), (b-2)*

Cybersecurity

Employees identified by the district with access to a district computer system or database and who use a computer to perform at least 25 percent of the employee's required duties must complete a cybersecurity training program selected by the board. The district, in consultation with its cybersecurity coordinator, shall determine how frequently employees must complete the training. [See CQB] *Gov't Code 2054.5191(a-1); Education Code 11.175(h-1)*

Special Programs

Teacher Literacy
Achievement
Academies
(Reading
Academies)

A district shall ensure that:

1. Not later than the 2022-23 school year, each classroom teacher in kindergarten or first, second, or third grade and each principal at a campus with kindergarten or first, second, or third grade has attended a teacher literacy achievement academy developed under Education Code 21.4552; and
2. Each classroom teacher and each principal initially employed in a grade level or at a campus described above for the 2022-23 school year or a subsequent school year has attended a teacher literacy achievement academy developed under Education Code 21.4552 by the end of the teacher's or principal's first year of placement in that grade level or campus.

Education Code 28.0062(a)(2)

[See EHAB for kindergarten-grade 3 reading standards.]

Gifted and Talented
Education

A district shall ensure that:

1. Prior to assignment in the program or within one semester of assignment, teachers who provide instruction and services that are a part of the program for gifted/talented students [see EHBB] have a minimum of 30 hours of professional learning that includes nature and needs of gifted/talented students, as-

sessing student needs, and curriculum and instruction for gifted/talented students;

2. Teachers who provide instruction and services that are a part of the program for gifted/talented students receive a minimum of six hours annually of professional learning in gifted/talented education; and
3. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional learning that includes nature and needs of gifted/talented students and program options with an update after legislative sessions.

19 TAC 89.2

Elective Bible
Course

A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a certificate in language arts, social studies, or history that qualifies the teacher to teach at the grade level at which the course is offered with, where practical, a minor in religious or biblical studies. The teacher must successfully complete staff development training developed by the commissioner for elective Bible courses. An elective Bible course may be taught only by a teacher who has successfully completed the commissioner's training under Education Code 21.459. *Education Code 28.011(f)*

Texas English
Language
Proficiency
Assessment
System Training

The employee assigned to oversee the administration of the Texas English Language Proficiency Assessment System (TELPAS) at a district campus may, with discretion, require other district employees involved in administering the TELPAS to complete training or online calibration activities described by Education Code 21.4571(a). An employee may not be required to complete a training or online calibration activity in one sitting. *Education Code 21.4571(b), (c)*

**Automated External
Defibrillators**

A district shall, in accordance with its professional development policy, make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the commissioner, and each student who serves as an athletic trainer, must:

1. Participate in the instruction; and

2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

Education Code 22.902

**Extracurricular
Activity Safety**

The following persons must satisfactorily complete an extracurricular activity safety training program in accordance with the district's professional development policy:

1. A coach, trainer, or sponsor for an extracurricular athletic activity; and
2. A director responsible for a school marching band.

The safety training program must include:

1. Certification of participants by the American Red Cross, the American Heart Association, or a similar organization or by the University Interscholastic League;
2. Current training in:
 - a. Emergency action planning;
 - b. Communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and
 - c. Recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and
3. A safety drill that incorporates the training and simulates various injuries described above.

Education Code 33.202(b), (c); 19 TAC 76.1003

Records

A superintendent shall maintain complete and accurate records of the district's compliance and the district shall make available to the public proof of compliance for each person employed by or volunteering for the district who is required to receive safety training.

A campus that is determined by a superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

Education Code 33.206; 19 TAC 76.1003(e)

Steroids

A district shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the UIL complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the district or a private entity with relevant expertise.

Education Code 33.091(c-1)

Concussions

At least once every two years, the following employees shall take a training course from an authorized provider:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL that provides for not less than two hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects.
2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course concerning the subject matter of concussions that meets the requirements set by the Texas Department of Licensing and Regulation (TDLR).
3. A school nurse or licensed health-care professional, other than an athletic trainer, who serves as a member of a district's concussion oversight team shall take a course approved by the UIL for coaches or that meets the requirements set by TDLR for athletic trainers, or a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for the profession.

The employee must submit proof of timely completion of an approved course to the superintendent or designee. A school nurse or licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. [See FM]

Education Code 38.158

**Seizure Recognition
and Related First Aid**

A school nurse employed by a district must complete a TEA-approved online course of instruction for school nurses regarding managing students with seizure disorders that includes information about seizure recognition and related first aid.

A district employee, other than a school nurse, whose duties at the school include regular contact with students must complete a TEA-approved online course of instruction for school personnel regard-

ing awareness of students with seizure disorders that includes information about seizure recognition and related first aid.

Education Code 38.033(a), (b)

[See FFAF for information about a seizure management and treatment plan.]

Identification

Child Find

A district shall ensure that all children residing within the district who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 C.F.R. 300.111(a)(1)(i), (c)

*Private School
Students*

A district shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools in the district.

A district shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending public schools in the district.

20 U.S.C. 1412(a)(10)(A)(ii)-(iv) [See EHBAC regarding students in nondistrict placement.]

*Preschool
Students*

A district shall develop a system to notify district residents with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

**Requests and
Referrals for
Evaluation**

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. *20 U.S.C. 1414(a)(1)(E)*

Multi-tiered System

Referral of students for a full individual and initial evaluation (FIIE) must be a part of the district's multi-tiered system of academic and behavioral supports. Students not making progress in the general education classroom should be considered for all interventions and support services available to all students; such as tutorial, compensatory, response to evidence-based intervention, and other academic or behavior support services.

The district cannot require a student to participate in interventions and support services for any specific length of time prior to a referral being made or an FIIE being conducted.

District Obligation to Refer	<p>If the student continues to experience difficulty in the general education classroom with the provision of interventions and support services or at any time district personnel suspect a disability and a possible need for special education and related services, district personnel must refer the student for an FIIE.</p> <p>A referral or request for an FIIE may be initiated at any time by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student. While an FIIE is being conducted, a student must continue to receive any necessary interventions and support services to target their academic or behavioral needs.</p> <p><i>19 TAC 89.1011(a)</i></p>
Prior Written Notice <i>Parent</i>	<p>If a parent submits a written request to a district's director of special education services or to a district administrative employee, such as a campus principal, for a FIIE of a student, the district shall, not later than the 15th school day after the date the district receives the request:</p> <ol style="list-style-type: none">1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 C.F.R. 300.503, a copy of the procedural safeguards notice required by 34 C.F.R. 300.504, a copy of the Overview of Special Education for Parents form created by the Texas Education Agency (TEA), and an opportunity to give written consent for the evaluation; or2. Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 C.F.R. 300.503, a copy of the Overview of Special Education for Parents form created by TEA, and a copy of the procedural safeguards notice required by 34 C.F.R. 300.504.
<i>District</i>	<p>When a district initiates the referral for an FIIE of a student, the district must provide the parent with the information and materials described at item 1 above.</p> <p><i>19 TAC 89.1011(b)-(c); Education Code 29.004(c); 20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301</i></p>
Notice of Rights	<p>A reasonable time before a district proposes or refuses to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (FAPE) to a student, the district shall provide written notice to the student's parent or guardian. <i>20 U.S.C. 1415(b)(3); 34 C.F.R. 300.503(a)</i> [See EHBAE]</p>

Initial Evaluation Required	A district shall conduct an FIE before the initial provision of special education and related services. <i>20 U.S.C. 1414(a)(1)(A)</i>
<i>Consent for Initial Evaluation</i>	<p>Before a district conducts an initial evaluation, it shall make reasonable efforts to obtain informed parental consent.</p> <p>If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, a district may, but is not required to, pursue the initial evaluation by utilizing due process procedures [see EHBAE], except to the extent inconsistent with state law relating to such parental consent.</p> <p>Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.</p> <p><i>20 U.S.C. 1414(a)(1)(D)(i)(I); 34 C.F.R. 300.300(b)</i></p>
Wards of the State	<p>If the child is a ward of the state and is not residing with the child's parent, a district shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:</p> <ol style="list-style-type: none">1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent;2. The rights of the parent have been terminated; or3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation. <p><i>20 U.S.C. 1414(a)(1)(D)(iii); 34 C.F.R. 300.300(a)(2)</i></p>
<i>Time Frame for Completion of Written Report</i>	<p>A district must complete the written report of a full individual and initial evaluation:</p> <ol style="list-style-type: none">1. Not later than the 45th school day following the date on which the district receives written consent for the evaluation from the student's parent. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or2. For students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or homeschool setting, not later than the 45th school day following the date on which the district receives written consent for the evaluation from the student's parent.

If a district receives written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a FIIE of a student must be provided to the student's parent not later than June 30 of that year.

If a district receives written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year but the student was absent three or more school days between the time that the school district received written consent and the last instructional day of the school year, the timeline in item 1 above applies to the date the written report of the FIIE must be completed.

If the district received the written consent for the evaluation from the student's parent less than 35 school days before the last day of the school year, the timeline in item 1, above, applies to the date the written report of the FIIE must be completed.

19 TAC 89.1011(d)-(e)

For purposes of the timelines under this provision, "school day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. In the case of a school that operates under a school year calendar without spring and fall terms, a school day does not include a day that falls after the last instructional day of one school year and before the first instructional day of the subsequent school year. *19 TAC 89.1011(i)-(j)*

These time frames do not apply if the parent repeatedly fails or refuses to produce the child for the evaluation. *34 C.F.R. 300.301(d)(1)*

Transfer
Students

A district shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *34 C.F.R. 300.304(c)(5)*

If a student was in the process of being evaluated for special education eligibility by a district and enrolls in another district before the previous district completed the FIIE, the new district must coordinate with the previous district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 C.F.R., 300.301(d)(2) and (e) and 300.304(c)(5).

The timelines above do not apply in such a situation if:

1. The new school district is making sufficient progress to ensure a prompt completion of the evaluation; and
2. The parent and the new school district agree to a specific time when the evaluation will be completed.

19 TAC 89.1011(f); Education Code 29.004; 20 U.S.C. 1414(a)(1)(C), (b)(3)(D); 34 C.F.R. 300.301(c)-(e)

*Student
Communication*

The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication. *Education Code 29.004(b)*

*Psychological
Examinations*

If a district determines that an additional examination or test is required for the initial and individual evaluation, the district shall provide the information required by Education Code 29.0041(a) and shall obtain additional parental consent. If a parent does not give consent within 20 calendar days after the district provided the information, the parent's consent is considered denied.

The time required for a district to provide information and seek consent may not be counted toward the time frame for completion of an evaluation. [See Time Frame for Completion of Written Report, above]

Education Code 29.0041

**Eligibility and
Reevaluations**

A student is eligible to participate in a district's special education program if:

1. The student is between the ages of 3 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student's disability(ies) prevents the student from being adequately or safely educated in the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035

Disability Definitions

To be eligible to receive special education services, a student must be a "child with a disability," as defined in 34 C.F.R. 300.8(a), subject to the provisions of 34 C.F.R. 300.8(c), Education Code Subchapter A, and 19 Administrative Code 89.1040. The provisions in 19 Administrative Code 89.1040 specify criteria to be used in determining whether a student's condition meets one or more of the definitions in federal regulations or in state law. *19 TAC 89.1040(a)*

[For additional information on special education of students with dyslexia and related disorders, see EHB.]

Visual and Auditory Impairments	Students with visual impairments or who are deaf or hard of hearing shall be eligible to participate in a district's special education program from birth. <i>19 TAC 89.1035(b); Education Code 30.002(e), .081</i>
<i>Birth Through Age Two</i>	Children from birth through the age of two with visual impairments (VI), who are deaf or hard of hearing (DHH), or who are deaf-blind (DB) must be enrolled at the parent's request by a district when the district becomes aware of a child needing services. The appropriate instructional arrangement [see EHBA] for students from birth through the age of two with VI, DHH, or DB shall be determined in accordance with the individualized family services plan, current attendance guidelines, and the agreement memorandum between TEA and Texas Health and Human Services Commission Early Childhood Intervention (ECI) Services. <i>19 TAC 89.1005(d)</i>
Determination of Initial Eligibility	<p>Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.</p> <p>A district shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.</p> <p><i>20 U.S.C. 1414(b)(4); 34 C.F.R. 300.306(a)</i></p> <p>The admission, review, and dismissal (ARD) [see EHBAB] committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written FIIE report. If the 30th day falls during the summer and school is not in session, the ARD committee must meet not later than the 15th school day of the following school year to finalize decisions concerning the student's initial eligibility determination, and, if appropriate, IEP and placement. If the 30th day falls during the summer and school is not in session but an FIIE report indicates that the student would need extended school year services during that summer, the ARD committee must meet as expeditiously as possible after completion of the report.</p>
<i>Parent Copy</i>	<p>A copy of the written FIIE report must be provided to the parent as soon as possible after completion of the report but no later than five school days prior to the initial ARD committee meeting, which will determine a student's initial eligibility, or not later than June 30 if the district received the written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year.</p> <p><i>19 TAC 89.1011(g)-(h); Education Code 29.004(a-1)</i></p>

[For additional information regarding the evaluation and identification process when dyslexia is a suspected disability, see EHB.]

Consent for
Services

*Initial Provision of
Services*

A district must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of services, the district:

1. May not use the procedures in 34 C.F.R. part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which the district requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

*Revoking
Consent*

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, the district:

1. May not continue to provide services to the child, but must provide prior written notice before ceasing services;
2. May not use the procedures in 34 C.F.R. part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child;
3. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further services; and
4. Is not required to convene an ARD meeting or develop an IEP for further provision of services.

34 C.F.R. 300.300(b)

Reevaluations

A district shall ensure that each child with a disability is reevaluated if the district determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and the district agree otherwise; and

2. At least once every three years, unless the parent and district agree that a reevaluation is unnecessary.

A district shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if the district can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond.

20 U.S.C. 1414(a)(2), (c)(3); 34 C.F.R. 300.303

Evaluation for
Change in Eligibility

A district must evaluate a child with a disability before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law. If a child's eligibility terminates under the aforementioned circumstances, a district must provide a summary of academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals. *34 C.F.R. 300.305(e); 20 U.S.C. 1414(c)(5)*

[See EIF(LEGAL) at Summary of Academic Achievement and Evaluation.]

Independent
Evaluation

The parents have a right to obtain an independent educational evaluation of their child. If a parent requests an independent evaluation, a district shall provide the parents with information regarding where one can be obtained and the district's criteria for independent evaluations.

The results of a parent-initiated independent educational evaluation, whether at public or private expense, must be considered by the district if it meets the district's criteria, in any decision made with respect to providing FAPE to the child.

*At Public
Expense*

If a parent requests an independent evaluation at public expense, the district shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
2. Ensure that an independent evaluation is provided at public expense, unless the district demonstrates that the evaluation obtained by the parent did not meet district criteria.

*At Private
Expense*

If a district initiates a hearing, and the final decision is that the district's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense.

34 C.F.R. 300.502

**Prescription
Medication**

An employee of a district is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

Observations

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)

**Transition Services
Defined**

“Transition services” means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. 1401(34); 34 C.F.R. 300.43

**Individual Transition
Planning**

14 Years of Age

Not later than the first individualized education program (IEP) to be in effect when a student turns 14 years of age, the admission, review, and dismissal (ARD) committee must consider, and if appropriate, address the following issues in the IEP:

1. Appropriate student involvement in the student’s transition to life outside the public school system;
2. Appropriate involvement in the student’s transition by the student’s parents and other persons invited to participate by the student’s parents or the district in which the student is enrolled;
3. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
4. An appropriate functional vocational evaluation;
5. Appropriate circumstances for facilitating a referral of a student or the student’s parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act [42 U.S.C. 1396n(c)]; and
6. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and supports and services to foster the student’s independence and self-deter-

mination, including a supported decision-making agreement under Estates Code Chapter 1357.

Beginning not later than the first IEP to be in effect when the student turns 14 years of age, or younger if determined appropriate by the ARD committee, the IEP must include:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals .

18 Years of Age

Beginning not later than the first IEP to be in effect when the student turns 18 years of age, the ARD committee must consider and, if appropriate, address the following issues in the student's IEP:

1. Involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:
 - a. Is invited to participate by the student or the district in which the student is enrolled; or
 - b. Has the student's consent to participate pursuant to a supported decision-making agreement under Estates Code Chapter 1357; and
2. The availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives.

Annual Review

A student's ARD committee shall review at least annually the issues described above and, if necessary, update the portions of the student's IEP that address those issues.

[See EHBAB regarding membership of ARD committee for transition services meetings.]

19 TAC 89.1055(k)-(o); 20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.011(a-1), .0111

Transition and
Employment
Designee

The transition and employment designee required of each district must complete the required training as developed by the commissioner of education and provide information about transition requirements and coordination among parents, students, and appro-

appropriate state agencies to ensure that school staff can communicate and collaborate effectively. *19 TAC 89.1075(i)*

Transition and
Employment Guide

The Texas Education Agency (TEA) is required to develop a transition and employment guide for students enrolled in special education programs and their parents to provide information on statewide services and programs that assist in the transition to life outside the public school system. A school district shall:

1. Post the transition and employment guide on the district's website if the district maintains a website;
2. Provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - a. The first meeting of the student's ARD committee at which transition is discussed; and
 - b. The first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and
3. On request, provide a printed copy of the guide to a student or parent.

Education Code 29.0112(a), (e)

Graduation

Graduation under 19 Administrative Code 89.1070(b)(1), or reaching maximum age eligibility described by 19 Administrative Code 89.1035 (Age Ranges for Student Eligibility) terminates a student's eligibility for special education services. For students who graduate and receive a diploma according to 19 Administrative Code 89.1070(b)(2) or (b)(3)(A), (B), or (C), the ARD committee must determine needed special education services upon the request of the student or parent to resume services, as long as the student meets the age requirements. *19 TAC 89.1070(a), (j)* [See EHBAA]

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

A district is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for FAPE under state law.

A district shall provide the child with a summary of the child's academic achievement and functional performance, which shall in-

clude recommendations on how to assist the child in meeting the child's postsecondary goals.

[See EIF]

20 U.S.C. 1414(c)(5); 34 C.F.R. 300.102(a)(3), .305(e)(2)

**Driving with
Disability Program**

A district shall provide information regarding the Texas Driving with Disability Program to students who have a health condition or disability that may impede effective communication with a peace officer and who receive special education services or who are covered by Section 504 and their parents.

The information shall be provided to each student who is 16 years of age or older and annually until the earlier of the student's graduation from high school or 21st birthday.

Education Code 29.0113(a)-(b)

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**Parental Consent
Not Required**

An employee of a district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used for a purpose related to the promotion of student safety under Education Code 29.022. *Education Code 26.009(b)*

**Video Surveillance of
Special Education
Settings**

In order to promote student safety, on receipt of an authorized written request, a district shall provide equipment, including a video camera, to the campus in the district specified in the request.

**Classroom or Other
Setting**

A campus that receives equipment shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that:

1. A campus that receives equipment as a result of the request by a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable; and
2. A campus that receives equipment as a result of the request by a board of trustees, principal, or assistant principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings subject to Education Code 29.022.

Education Code 29.022(a)

Definitions

"Incident" means an event or circumstance that:

Incident

1. Involves alleged "abuse" or "neglect," as described in Family Code 261.001, of a student by a staff member of the district or alleged "physical abuse" or "sexual abuse," as described in Family Code 261.410, of a student by another student; and
2. Allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under Education Code 29.022 and 19 Administrative Code 103.1301 is conducted.

*Other Special
Education Setting*

"Other special education setting" means a classroom on a separate campus (i.e., a campus that serves only students who receive special education and related services) of a district—including a room attached to the classroom or setting used for time-out—in which a

majority of the students in regular attendance are provided special education and related services, are assigned to the setting for at least 50 percent of the instructional day, and have one of the following instructional arrangements/settings described in the student attendance accounting handbook:

1. Residential care and treatment facility—separate campus; or
2. Off home campus—separate campus.

Parent

“Parent” means a person described in Education Code 26.002, whose child receives special education and related services in one or more self-contained classrooms or other special education settings. “Parent” also means a student who receives special education and related services in one or more self-contained classrooms or other special education settings and who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code, Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order.

School Business Day

“School business day” means a day that campus or district administrative offices are open.

Self-contained Classroom

“Self-contained classroom” means a classroom on a regular campus (i.e., a campus that serves students in general education and students in special education), including a room attached to the classroom used for time-out, but not including a classroom that is a resource room instructional arrangement under Education Code 48.102, in which a majority of the students in regular attendance are provided special education and related services for at least 50 percent of the instructional day and have one of the following instructional arrangements/settings described in the student attendance accounting handbook:

1. Self-contained (mild/moderate/severe) regular campus;
2. Full-time early childhood (preschool program for children with disabilities) special education setting;
3. Residential care and treatment facility—self-contained (mild/moderate/severe) regular campus;
4. Residential care and treatment facility—full-time early childhood special education setting;
5. Off home campus—self-contained (mild/moderate/severe) regular campus; or
6. Off home campus—full-time early childhood special education setting.

<i>Staff Member</i>	“Staff member” means a teacher, a related service provider, a paraprofessional, a counselor, or an educational aide assigned to work in the self-contained classroom or other special education setting.
<i>Time-out</i>	“Time-out” has the meaning assigned by Education Code 37.0021.
<i>Video Camera</i>	“Video camera” means a video surveillance camera with audio recording capabilities.
<i>Video Equipment</i>	“Video equipment” means one or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by Education Code 29.022 and 19 Administrative Code 103.1301. “Video equipment” also means any technology and equipment needed to store and access video recordings as required. <i>19 TAC 103.1301(b); Education Code 29.022</i>
<i>Administrative Coordinator</i>	Each district shall designate an administrator at the primary administrative office of the district with responsibility for coordinating the provision of equipment to schools and campuses. <i>Education Code 29.022(a-2)</i>
<i>Authorized Requestors</i>	The following people may request in writing that equipment be provided to a campus at which one or more children receive special education services in a qualifying classroom or setting: <ol style="list-style-type: none">1. A parent of a child who receives special education services for the campus at which the child receives those services;2. The board of trustees for one or more specified campuses;3. The principal or assistant principal for their campus; and4. A staff member assigned to work with one or more children receiving special education services for the campus at which the staff member works. <i>Education Code 29.022(a-1)</i>
<i>Processing the Request</i>	A written request must be submitted and acted on as follows: <ol style="list-style-type: none">1. A parent, staff member, or assistant principal must submit a request to the principal or the principal's designee of the campus addressed in the request, and the principal or designee must provide a copy of the request to the district's designated administrator;2. A principal must submit a request by the principal to the district's designated administrator; and

3. A board of trustees must submit a request to the district's designated administrator, and the administrator must provide a copy of the request to the principal or the principal's designee of the campus addressed in the request.

A campus shall operate and maintain the camera in the classroom or setting as long as the classroom or setting continues to satisfy these requirements, for the remainder of the school year in which the campus received the request, unless the requestor withdraws the request in writing.

Education Code 29.022(a-3)-(b)

Video Camera
Coverage

The video cameras must be capable of:

1. Covering all areas of the classroom or setting, including a room attached to the classroom or setting used for time-out; and
2. Recording audio from all areas of the classroom or setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of the classroom or setting.

Education Code 29.022(c)-(c-1)

Written Notice

Before a campus activates a video camera in a classroom or special education setting, the campus shall provide written notice of the placement to all campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting.

If for any reason a campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request. Not later than the 10th school day before the end of each school year, the campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following

school year unless a person eligible to make a request for the next school year submits a new request.

Education Code 29.022(b), (d)

Retention Period

A district shall retain video recorded from a video camera for at least three months after the date the video was recorded.

If a person requests to view a video recording from a video camera, a district must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, the district or campus shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

Education Code 29.022(e)-(e-1)

Gifts, Grants, and Donations

A district may solicit and accept gifts, grants, and donations from any person to implement the requirements of Education Code 29.022 and 19 Administrative Code 103.1301. A district is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement these requirements. *19 TAC 103.1301(d)*

No Waiver of Immunity

The requirements described by Education Code 29.022 do not:

1. Waive any immunity from liability of a district, or of district officers or employees; or
2. Create any liability for a cause of action against a district or against district officers or employees.

No Monitoring

A district may not:

1. Allow regular or continual monitoring of video recorded under Education Code 29.022; or
2. Use video for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services.

Education Code 29.022(g)-(h)

Confidentiality

A video recording of a student made under this provision is confidential and may not be released or viewed except as provided below.

Limited Release

A district shall release a recording for viewing by:

1. An employee who is involved in an alleged incident that is documented by the recording and has been reported to the district, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to the district or campus, on request of the parent;
3. Appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation of alleged or suspected abuse or neglect of a child under Family Code 261.406;
4. A peace officer, a school nurse, a district administrator trained in de-escalation and restraint techniques as provided by commissioners rule, or a human resources staff member designated by the board in response to a report of an alleged incident or an investigation of district personnel or a report of alleged abuse committed by a student; or
5. Appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording does not violate these confidentiality provisions.

Education Code 29.022(i)-(i-1); 19 TAC 103.1301(h)-(i)

Duty to Report

If a person described by item 4 or 5, above, views a video recording and has cause to believe that the recording documents possible abuse or neglect of a child under Family Code Chapter 261, the person must submit a report to the Texas Department of Family and Protective Services or other authority in accordance with the local policy adopted under 19 Administrative Code 61.1051 (Reporting Child Abuse and Neglect) and Family Code Chapter 261.

Note: 19 Administrative Code 61.1051 was repealed and the requirements were recodified at 19 Administrative Code 103.1401. [See FFG]

19 TAC 103.1301(j); Education Code 29.022(j)

*Use in
Disciplinary
Actions Against
District Personnel*

If a person described by items 3, 4, or 5, above, views the recording and believes that it documents a possible violation of district or campus policy, the person may allow access to the recording to appropriate legal and human resources personnel of the district to the extent not limited by the Family Educational Rights and Privacy

Act (FERPA) or other law. A recording believed to document a possible violation of district policy relating to the neglect or abuse of a student may be used in a disciplinary action against district personnel and must be released in a legal proceeding at the request of a parent of the student involved in the incident documented by the recording. A recording believed to document a possible violation of district policy relating to the neglect or abuse of a student must be released for viewing by the district employee who is the subject of the disciplinary action at the request of the employee. *19 TAC 103.1301(k)*

*Federal Law /
FERPA*

19 Administrative Code 103.1301(j) (child abuse reporting) and (k) (disciplinary actions against personnel) do not limit the access of a student's parent to a record regarding the student under FERPA or other law. To the extent any provisions in Education Code 29.022 and 19 Administrative Code 103.1301 conflict with FERPA or other federal law, federal law prevails. *19 TAC 103.1301(l)*

District Policy

A district must adopt written policies relating to the placement, operation, and maintenance of video cameras under Education Code 29.022 and 19 Administrative Code 103.1301. At a minimum, the policies must include:

1. A statement that video surveillance is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings;
2. Information on how a person may appeal an action by the district that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeal and expedited review processes under 19 Administrative Code 103.1303 (Commissioner's Review of Actions Concerning Video Cameras in Special Education Settings) and the appeals process under Education Code 7.057;
3. A requirement that the district provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under Education Code 29.022(a-3) (at Limited Release, above) that authorizes the request or states the reason for denying the request;
4. Except as provided by item 6 of this provision, a requirement that a campus begin operation of a video camera in compliance with this provision not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized unless the Texas Education Agency (TEA) grants an extension of time;

5. A provision permitting the parent of a student whose admission, review, and dismissal (ARD) committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed under this section to make a request for the video camera by the later of:
 - a. The date on which the current school year ends; or
 - b. The 10th school business day after the date of the placement determination by the ARD committee;
6. A requirement that, if a request is made by a parent in compliance with item 5 of this provision, unless TEA grants an extension of time, a campus begins operation of a video camera in compliance with this provision not later than the later of:
 - a. The 10th school day of the fall semester; or
 - b. The 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made;
7. The procedures for requesting video surveillance and the procedures for responding to a request for video surveillance;
8. The procedures for providing advanced written notice to the campus staff and the parents of the students assigned to a self-contained classroom or other special education setting that video and audio surveillance will be conducted or cease in the classroom or setting, including procedures for notice, in compliance with Education Code 29.022(b), of the opportunity to request continued video and audio surveillance if video and audio surveillance will otherwise cease;
9. A requirement that video cameras be operated at all times during the instructional day when one or more students are present in a self-contained classroom or other special education setting in which video cameras are placed;
10. A statement regarding the personnel who will have access to video equipment or video recordings for purposes of operating and maintaining the equipment or recordings;
11. A requirement that a campus continue to operate and maintain any video camera placed in a self-contained classroom or other special education setting for as long as the classroom or setting continues to satisfy the requirements in Education Code 29.022(a), for the remainder of the school year in which

the campus received the request, unless the requester withdraws the request in writing;

12. A requirement that video cameras placed in a self-contained classroom or other special education setting be capable of recording video and audio of all areas of the classroom or setting, except that no visual monitoring of bathrooms and areas in which a student's clothes are changed may occur. Incidental visual coverage of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is permitted only to the extent that such coverage is the result of the layout of the classroom or setting. Audio recording of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is required;
13. A statement that video recordings must be retained for at least three months after the date the video was recorded and that video recordings will be maintained in accordance with the requirements of Education Code 29.022(e-1), when applicable;
14. A statement that the regular or continual monitoring of video is prohibited and that video recordings must not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety;
15. At the district's discretion, a requirement that campuses post a notice at the entrance of any self-contained classroom or other special education setting in which video cameras are placed stating that video and audio surveillance are conducted in the classroom or setting;
16. The procedures for reporting an allegation to the district that an incident occurred in a self-contained classroom or other special education setting in which video surveillance under Education Code 29.022 and 19 Administrative Code 103.1301 is conducted;
17. The local grievance procedures for filing a complaint alleging violations of Education Code 29.022, and/or 19 Administrative Code 103.1301; and
18. A statement that video recordings made under Education Code 29.022 and 19 Administrative Code 103.1301 are confidential and a description of the limited circumstances under which the recordings may be viewed.

19 TAC 103.1301(g)

Governmental Record	A video recording under this section is a governmental record only for purposes of Penal Code 37.10.
Operation of Camera	<p>These provisions apply to the placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.</p> <p>A video camera placed under this section is not required to be in operation for the time during which students are not present in the classroom or other special education setting.</p> <p><i>Education Code 29.022(s)-(t)</i></p>
Exclusions	A district is not required to provide video equipment to a campus of another district or charter school or to a nonpublic school. <i>19 TAC 103.1301(c)</i>
Dispute Resolution	The special education dispute resolution procedures in 34 Code of Federal Regulations 300.151-.153 and 300.504-.515 do not apply to complaints alleging that a district has failed to comply with Education Code 29.022 and 19 Administrative Code 103.1301. Complaints alleging violations of those sections must be addressed through the district's local grievance procedures or other dispute resolution channels. <i>19 TAC 103.1301(e)</i>
Denial of Request	The following standards and procedures apply to a denial of a request for placement of a video camera under Education Code 29.022(a), or to the denial of a request to release a video or to view a video made under Education Code 29.022(i) or (l)(2).
<i>Exhaustion of Administrative Remedies</i>	<p>Once a request for placement of a video camera or a request to release a video is administratively denied, the requester must exhaust administrative remedies through the district's grievance process even if the requester opts for the expedited review process. However, a district, parent, staff member, or administrator may request an expedited review even before the local remedies are exhausted.</p> <p>After local remedies are exhausted by filing a grievance with the board and obtaining a board determination, the requester may appeal the denial to the commissioner of education under Education Code 7.057 by filing a petition for review.</p>
<i>Proper Request</i>	In a case where there is a denial of a request for the placement of a video camera, the commissioner will determine whether the person requesting placement is a person allowed to request placement under Education Code 29.022(a-1) (see Limited Release, above) and whether the requester made a proper request under Education Code 29.022(a-3) (see Processing the Request, above).

<i>Cost</i>	The commissioner will not consider the cost to the district of installing cameras or releasing video.
<i>Release Determination</i>	In a case where there is a denial of a request to release a video, the commissioner will determine whether the requester is a person allowed to receive a video under Education Code 29.022(i) (described at Limited Release, above).
<i>Timelines for Petition for Review</i>	<p>The following timelines are established for filing a petition for review:</p> <ol style="list-style-type: none">1. A petition for review shall be filed with the commissioner within 10 calendar days of the decision of the board denying the request being first communicated to the requester or requester's counsel, whichever occurs first. The petition for review shall be made in accordance with 19 Administrative Code 157.1073(c) (hearings brought under Education Code 7.057) and may include a request for expedited review.2. The district's answer and local record shall comply with 19 Administrative Code 157.1052(b) and (c) and 19 Administrative Code 157.1073(d) and shall be filed with the commissioner within 10 calendar days of the district receiving notification from the commissioner of the appeal.3. The procedures specified in 19 Administrative Code 157.1059; .1061; and .1073(e)-(h), (j), and (k) apply to a case brought to the commissioner under this section.
<i>Expedited Review</i>	<p>A request for expedited review is governed by the following.</p> <ol style="list-style-type: none">1. The expedited review process is designed to allow a requester to promptly receive a preliminary judgment from the commissioner as to a decision to deny a request for the installation of cameras or a decision to deny a request to release a video while at the same time respecting the school grievance process. The expedited review process does not apply to a request to only view a video. Invoking the expedited review process results in a prompt initial determination. However, the final commissioner's determination is to be based on a substantial evidence review of the district's grievance record. This allows for a full record to be developed at the district level and does not require the requester and the district to make an evidentiary record before TEA in Austin, Texas. Because the requirements of Education Code 7.057 are met when the board's decision is heard by the commissioner, an appeal to district court is allowed under Education Code 7.057(d). Education Code 29.022 does not by itself allow an appeal to district court.

2. A district, parent, staff member, or administrator may request an expedited review. Any request for an expedited review shall include the names, telephone numbers, and addresses of all interested parties to the request. "Interested parties" are all persons who brought the grievance, all persons who have testified or provided written statements as part of the grievance process, and the district. The request for expedited review shall specify whether the district denied a request for the placement of a video camera or the district denied a request to release a video and briefly describe why that decision is either correct or incorrect.
3. A request for expedited review shall be filed with the commissioner no earlier than 14 business days after a request for placement of a video camera or a request to release a video is administratively denied under Education Code 29.022(i) or (l)(2) (see Limited Release and Process, above), and no later than the fifth business day after a board resolves a grievance as to a request for placement of a video camera or a request to release a video. A request for expedited review shall be filed with the commissioner electronically as provided on TEA's Division of Hearings and Appeals website or by U.S. Mail, facsimile, hand-delivery, or by a commercial delivery service.
4. Whenever an interested party files a document with the commissioner, with the exception of the request for expedited review, the interested party shall send the same document to all other interested parties by the same method that the document was sent to the commissioner. Hand-delivery of the document by the next day may be substituted for service by facsimile delivery.
5. If a request for expedited review is timely filed, the commissioner will establish a briefing schedule and will send to all interested parties a notice that an expedited review has been filed, which will include relevant statutes and rules. Any interested party who knows of any additional interested parties who have not been notified will promptly inform the commissioner in writing.
6. All briefing shall clearly state the facts relied upon. Documents relevant to the issues presented may be attached to a brief. All briefing shall provide the reasons why the commissioner should or should not grant the request for expedited review. Citations to statutes, rules, commissioner decisions, and case law are important to identify the legal basis for the claims made.

7. All interested parties who are in favor of granting the request for expedited review shall file briefing at the time specified for the requester of the expedited review.
8. All interested parties who are opposed to granting the request for expedited review shall file briefing at the same time.
9. Briefing is not limited to the issues specifically raised in the pleadings in the case. However, no new arguments may be raised in the reply briefs. Reply briefs may contain new citations to the record and legal authority as to issues previously raised.
10. A preliminary judgment shall be issued based on the briefing of the interested parties. The preliminary judgment will be sent to the requestor, the district, and all interested parties. If it is determined that a district is not likely to prevail on the issue of a request for the placement of video cameras or the issue of a request to view a video under full review, the district will fully comply with Education Code 29.022.
11. After a preliminary judgment is made, a final judgment will be made in accordance with the procedures set forth in 19 Administrative Code 103.1303(b)(1)-(5) (the Denial of Request Review process).

19 TAC 103.1303(b)

Extension of Time

A request by a district for an extension of time to begin the operation of a video camera under Education Code 29.022 shall be made and decided using the following procedures.

Request

Any request by a district for an extension of time to begin the operation of a video camera shall be filed with the commissioner prior to the 45th school business day after a request to begin operating a video camera is received. However, a district should request an extension of time as soon as it determines that an extension of time should be filed.

A request for an extension of time to begin the operation of a video camera shall specify why an extension of time should be granted. The request shall include affidavits supporting any factual claims made in the request and reference any legal authority as to why the request should be granted. The request may include a request for expedited review. The request shall name the individual who requested the installation of cameras and provide the individual's address and telephone number. Immediately following the individual's address and telephone number there shall appear in bold type: "You have been identified as the individual who requested the operation of a video camera that is the subject of this request to the

commissioner of education to extend the statutory timeline. You may, but are not required to, participate in the proceedings before the commissioner concerning the school district's request for an extension of time. It is entirely up to you whether and to what extent you wish to participate in these proceedings. The procedures governing these proceedings are found at 19 Texas Administrative Code 103.1303(c) and Texas Education Code 29.022.”

A request for an extension of time to begin the operation of a video camera shall list the names, telephone numbers, and addresses of all interested parties to the request. All interested parties include all parents of students in the classroom or other special education setting for which a video camera has been requested and all staff who provided services in a classroom for which a video camera has been requested.

Filing Documents

All documents in a case shall be filed with the Division of Hearings and Appeals, Texas Education Agency, 1701 N. Congress Ave., Austin, Texas 78701, facsimile number (512) 475-3662. Documents shall be filed electronically as provided on the division's website or by mail, delivery, or facsimile. All documents must be actually received by the Division of Hearings and Appeals by the date specified in this section. The mailbox rule does not apply to filings in a case filed under this subsection. Electronic filing is strongly encouraged.

All filings in a case shall be sent to the district, the individual who initially requested the installation of the cameras, and all interested parties who have filed a request to receive documents filed in the case by the same method as the request is filed with the commissioner. Due to the requirements of FERPA, the names, telephone numbers, and addresses of parents and other publicly identifiable student information may not be given to the interested parties. The copies of the filings sent to interested parties shall be redacted to remove all personally identifiable student information.

Filing Responses

Any response to a request for an extension of time to begin the operation of a video camera shall be filed with the commissioner by an interested party within 10 calendar days of the filing of the request. If no response to the request is timely filed, the commissioner shall issue a final decision within 20 calendar days of the filing of the request.

A response to a request for an extension of time to begin the operation of a video camera shall specify why an extension of time should or should not be granted. The response shall include affidavits concerning any factual claims made in the request and reference any legal authority as to why the request should or should not

be granted. The response may include a request for expedited review.

*Expedited
Review*

A request for expedited review must be filed with the commissioner within 10 calendar days of the filing of the request for an extension of time to begin the operation of a video camera. If a request for expedited review is made, all interested parties shall be notified that they have been identified as interested parties in the request for an extension of time to begin the operation of a video camera. In particular, the interested parties will be informed that it is their choice whether to participate in the proceedings before the commissioner, that it is entirely up to them to determine to what extent they wish to participate in the proceedings, that the procedures governing these proceedings are found in 19 Administrative Code 103.1303 and Education Code 29.022, and that upon their written request filed with the commissioner they will be sent all filings in this case.

If a request for an expedited review is not made, the commissioner shall issue a final decision within 45 calendar days of the filing of the request for an extension of time to begin the operation of a video camera, unless the commissioner determines that an evidentiary hearing would be helpful in deciding the issues raised. If the commissioner decides to hold an evidentiary hearing, the commissioner shall establish the timelines and procedures to be used. Whether to conduct the hearing by telephone or other electronic methods will be considered.

If a request for expedited review is made, the following procedures shall be followed:

1. Any reply by the district to any response to the request shall be filed with the commissioner within 25 calendar days of the filing of the request for an extension of time to begin the operation of a video camera.
2. A preliminary judgment shall be made by the commissioner within 35 calendar days of the filing of the request for an extension of time to begin the operation of a video camera.
3. Any interested party or the district may file objections to the preliminary judgment within 40 calendar days of the filing of the request for an extension of time to begin the operation of a video camera.
4. Any reply to an objection to a preliminary judgment must be filed within 45 calendar days of the filing of a request for an extension of time to begin the operation of a video camera.

5. The commissioner shall issue a final decision within 55 calendar days of the filing of the request for an extension of time to begin the operation of a video camera, unless the commissioner determines that an evidentiary hearing would be helpful in deciding the issues raised. If the commissioner decides to hold an evidentiary hearing, the commissioner shall establish the timelines and procedures to be used. Whether to conduct the hearing by telephone or other electronic methods will be considered.

*Commissioner
Consideration*

In making either a preliminary judgment or a final judgment under this subsection, the commissioner will consider whether granting the requested extension is reasonable considering all factors, including contracting statutes, architectural and structural issues, and the difference in costs to the district if a moderate extension of time is granted.

No Appeal

A commissioner's final decision under this provision is not subject to appeal.

19 TAC 103.1303(c)

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Title III Requirements A district that receives funds under Title III of the Elementary and Secondary Education Act shall comply with the statutory requirements regarding English learners and immigrant students. *20 U.S.C. 6801-7014*

A district that receives funds under Title I or Title III to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform the parents of an English learner identified for participation in such a program of the information required by 20 U.S.C. 6312(e)(3). *20 U.S.C. 6312(e)(3)*

Definitions

Alternative Methods

“Alternative methods” means a temporary instructional plan that meets the affective, linguistic, and cognitive needs of emergent bilingual (EB) students and equips the teacher under a bilingual exception or an English as a second language (ESL) waiver to align closely to the required bilingual or ESL program through the comprehensive professional development plan.

Certified Bilingual Program Teacher

“Certified bilingual program teacher” means a teacher holding bilingual certification and appropriately certified for the grade level and content area. The term “certified bilingual program teacher” is synonymous with the term “professional bilingual educator” used in Education Code 29.063.

Certified English as a Second Language Teacher

“Certified English as a second language teacher” means a teacher appropriately certified in ESL as well as for the grade level and content area. The term “certified English as a second language teacher” is synonymous with the term “professional transitional language educator” used in Education Code 29.063.

Dual Language Immersion Program

“Dual language immersion (DLI) program” means a state-approved bilingual program in accordance with Education Code 29.066 that uses English and a partner language. The two state-approved DLI program models are one-way DLI and two-way DLI.

Emergent Bilingual

“Emergent bilingual (EB)” means a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork in English. “Emergent bilingual” also means a student identified by the Language Proficiency Assessment Committee (LPAC) who is in the process of acquiring English and has another language as the student’s home language. This term is interchangeable with English learner as used in federal regulations and replaces the term “limited English proficient student.”

English as a Second Language Program

“English as a second language (ESL) program” means a special language program in accordance with Education Code, Chapter 29, Subchapter B, to include both content-based and pull-out pro-

	<p>gram models. Another related term for an ESL program is “English as an additional language program.”</p>
English Proficient Student	<p>“English proficient student” means a former EB student who has met reclassification as English proficient by the LPAC.</p>
Exit	<p>“Exit” refers to the point when an EB student is reclassified as English proficient and ends bilingual or ESL program participation with LPAC recommendation and parental approval. The term “exit” is synonymous with the description in Education Code, Chapter 29, Subchapter B, of a student having been “transferred out” of bilingual or special language programming. For the purpose of meeting the goals of a DLI program, the LPAC recommends that the EB student is reclassified as English proficient but continues participation in the program to further develop biliteracy for the duration of the program for prekindergarten through grade 12.</p>
Language Proficiency Assessment Committee	<p>“Language Proficiency Assessment Committee” means a designated group of committee members as described in 19 Administrative Code 89.1220 (relating to Language Proficiency Assessment Committee) and Education Code 26.063 that ensures the appropriate identification, placement, assessment, services, reclassification, and monitoring of EB students. The LPAC also meets in conjunction with all other committees related to programs and services for which an EB student qualifies.</p>
Parent	<p>“Parent” includes the parent or legal guardian of the student in accordance with Education Code 29.052(2).</p>
Reclassification	<p>“Reclassification” means the process by which the LPAC determines that an EB student has met the appropriate criteria to be classified as English proficient, and the student enters year 1 of monitoring as indicated in the Texas Student Data System Public Education Information Management System.</p> <p><i>Education Code 29.052; 19 TAC 89.1203(1), (3)-(4), (6), (8)-(9), (11), (13), (16), (19), (22)</i></p>
District Responsibility	<p>Each district shall:</p> <ol style="list-style-type: none">1. Identify EB students based on criteria established by the state;2. Provide bilingual education, including bilingual and ESL programs as integral parts of the general program;3. Seek appropriately certified teaching personnel to ensure that EB students are afforded full opportunity to master the essential knowledge and skills; and

4. Assess academic achievement and linguistic progress in accordance with Education Code Chapter 29, Subchapter B, to ensure accountability for EB students and the schools that serve them.

19 TAC 89.1201(a)

**Identification of
Emergent Bilingual
Students**

Within the first four weeks of the first day of school, the LPAC shall determine and report to the board the number of EB students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. A board shall report that information to the Texas Education Agency (TEA) before November 1 each year. *Education Code 29.053(b)*

Language
Proficiency
Assessment
Committees

A district shall by local board policy establish and operate one or more LPACs. The district shall have on file a policy and procedures for the selection, appointment, and orientation of members of the LPAC(s).

A district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four calendar weeks of the enrollment of an EB student.

19 TAC 89.1220(a), (e)

*Membership of
LPAC*

The LPAC shall include:

1. An appropriately certified bilingual educator (for students served through a bilingual program);
2. An appropriately certified ESL educator (for students served through an ESL program);
3. A parent of an (EB) student participating in a bilingual or ESL program; and
4. A campus administrator.

A district may add other members to the committee.

All required members of an LPAC must be present either in person or virtually to make individualized student decisions.

No parent serving on the LPAC shall be an employee of the district.

All members of the LPAC, including parents, shall be acting for the district and shall observe all laws and rules governing confidentiality of information concerning individual students. A district shall be responsible for the orientation of all members, including the parents, of the LPAC.

<i>Meetings</i>	<p>The LPAC may use alternative meeting methods, such as phone or video conferencing and the use of electronic signatures that adhere to district policy.</p> <p><i>19 TAC 89.1220(b)-(d), (f); Education Code 29.063(a)-(b);</i></p>
<i>Duties</i>	<p>The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 Administrative Code 89.1220(g)-(i), (k), including duties to review information, classify students, notify parents, and monitor student academic progress.</p>
Home Language Survey	<p>For each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through grade 12, the TEA-developed home language survey shall be administered. This home language survey will serve as the original and only home language survey throughout the student's educational experience in Texas public schools.</p> <p>The district shall:</p> <ol style="list-style-type: none">1. Ensure that the student's parent understands the language used in the survey and its implications;2. Require that the survey be signed by the student's parent for each student in prekindergarten through grade 8 or by the student in grades 9-12;3. Ensure the student's parent is aware of the benefits of bilingual and ESL programs; and4. Maintain the original copy of the survey in the student's permanent record and transfer it to any subsequent Texas public school districts in which the student enrolls. <p>If the response on the home language survey indicates that a language other than English is or was used for communication, the student shall be tested in accordance with 19 Administrative Code 89.1226 (Testing and Classification of Students).</p> <p>If a parent determines an error was made when completing the original home language survey, the parent may request a correction only if the student has not yet been assessed for English proficiency; and corrections are made within two calendar weeks of the student's initial enrollment date in Texas public schools.</p> <p><i>19 TAC 89.1215(a), (c), (e)</i></p>
English Language Proficiency Testing	<p>Within four calendar weeks of initial enrollment in a Texas public school, a student with a language other than English indicated on the home language survey shall be administered the state-approved English language proficiency test in accordance with 19 Ad-</p>

ministrative Code 89.1226(c) and shall be identified as an EB student and recommended for placement into the required bilingual or ESL program in accordance with the testing and classification requirements in 19 Administrative Code 89.1226(f). *19 TAC 89.1226(b)*

Emergent Bilingual
Classification

The LPAC may classify a student as EB if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c)

Parental Notice and
Consent

Not later than the 10th day after the date of the student's classification as an EB student, the LPAC shall give written notice to the student's parent. *Education Code 29.056(d)*

The district shall notify the parent in English and in the parent's home language that their child has been identified as an EB student and recommended for placement in the required bilingual or ESL program using the TEA-developed identification and placement letter.

The parent shall be provided information describing the bilingual or ESL program recommended, its benefits and goals, and its being an integral part of the school program to ensure that the parent understands the purposes and content of the program and their parental rights.

The placement of a student in the bilingual or ESL program must be approved in writing by the student's parent or through allowable alternatives described in 19 Administrative Code 89.1220, in order to have the student included in the bilingual education allotment (BEA). The parent's approval shall be considered valid for the student's continued participation in the required bilingual or ESL pro-

gram until the student meets the reclassification criteria described in 19 Administrative Code 89.1226(i) (Testing and Classification of Students), the student graduates from high school, or a change occurs in program placement. A change between bilingual and ESL program placement requires new parental approval using the TEA-developed continuation of language program services letter.

If a parent denies program placement at any point, the TEA-developed parental denial of program services letter shall be used to ensure parents are informed of the implications of program denial, including understanding that the child will continue to be identified as an EB student and will continue to be assessed annually using the Texas English Language Proficiency Assessment System (TELPAS) until reclassification criteria have been met.

19 TAC 89.1240(a)

Pending completion of the identification process, receipt of LPAC documentation for transferring students, or parental approval of an identified EB student's placement into the bilingual education or ESL program recommended by the LPAC, a district shall place the student in the recommended program. Only EB students with parental approval for program participation will be included in the bilingual education allotment.

A district may place a student in or exit a student from a program without written approval of the student's parent if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. The parent provides approval through a phone conversation or email that is documented in writing and retained; or
3. An adult who the district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.

19 TAC 89.1220(j), (m)

*Reclassification
and Exit Approval*

The district shall use the TEA-developed parent notification of reclassification and approval of program exit letter to give written notification to the student's parent of the student's reclassification as English proficient and acquire written approval for their exit from the bilingual or ESL program.

The district shall use the TEA-developed parent notification of reclassification and option to continue in a dual language immersion

program letter to give written notification to the student's parent of the student's reclassification as English proficient and acquire written approval for continued program participation as an English proficient student.

Students meeting reclassification criteria who have been recommended for exit by the LPAC may only exit the bilingual or ESL program with parental approval.

19 TAC 89.1240(b); Education Code 29.056(a)

Participation of
Other Students

With the approval of a district and a student's parents, a student who is not LEP may also participate in a bilingual education program. *Education Code 29.058*

The number of participating non-EB students shall not exceed 40 percent of the number of students enrolled in those bilingual or ESL program models district-wide. *19 TAC 89.1233(c)*

Students with
Disabilities

For students with disabilities, a district shall utilize the state's criteria for identification of EB students as described in 19 Administrative Code 89.1226(f) (relating to Testing and Classification of Students) and shall establish placement procedures that ensure that the placement recommendation by the LPAC, in conjunction with the admission, review, and dismissal (ARD) committee, in a bilingual or English as a second language program is not refused based on the student's disabling condition.

LPAC members shall meet in conjunction with ARD committee members to review progress and provide recommendations regarding the educational needs of each EB student who also qualifies for services in the district's special education program. [See EHBAB] *19 TAC 89.1230*

**Bilingual and ESL
Programs**

Each district that has an enrollment of 20 or more students identified as EB students in any language classification in the same grade level district-wide shall offer a bilingual program for the EB students in prekindergarten through the elementary grades with that language classification. "Elementary grades" shall include prekindergarten through grade 5; grade 6 shall be included when clustered with elementary grades.

A district required to provide a bilingual program shall offer dual-language instruction (English and home or partner language) in prekindergarten through the elementary grades, using one of the four bilingual program models described in 19 Administrative Code 89.1210 (relating to Program Content and Design).

19 TAC 89.1205(a)-(b); Education Code 29.053(c)-(d)

A district shall provide an ESL program to all EB students for whom a district is not required to offer a bilingual program, regardless of the students' grade levels and home language, and regardless of the number of such students, except in cases where a district exercises the option to provide a bilingual education program that is not required by law [see below]. A district required to provide an ESL program shall provide an ESL program using one of the two models described in 19 Administrative Code 89.1210. *19 TAC 89.1205(c)-(d)*

A district is authorized to establish a bilingual program even if the district has fewer than 20 students identified as EB bilingual students in any language classification in the same grade level district-wide and at grade levels in which the bilingual program is not required under 19 Administrative Code 89.1205(a). If a district does operate such a program under this authorization, the district shall adhere to all program requirements in 19 Administrative Code 89.1210, .1227, .1228, and .1229. *19 TAC 89.1205(f)-(g)*

Exceptions and
Waivers

A district shall comply with the requirements for bilingual exceptions and ESL waivers under 19 Administrative Code 89.1207. *Education Code 29.054; 19 TAC 89.1207*

A district that is unable to employ a sufficient number of teachers, including part-time teachers, who meet the certification requirements for the bilingual and ESL programs shall apply on or before November 1 for an exception to the bilingual program or a waiver for the ESL program as provided in 19 Administrative Code 89.1207. *19 TAC 89.1245(b)*

Program Design

A district that is required to offer bilingual education through bilingual or ESL program models shall provide each EB student the opportunity to be enrolled in the required program at their grade level.

A district's bilingual and ESL program models shall comply with the program content and design requirements of 19 Administrative Code 89.1210. A district shall ensure ongoing collaboration between bilingual and ESL programs and the general education programs to provide equitable educational access for all learners.

19 TAC 89.1210(a)-(b)

EB students shall participate with their non-EB peers in general education classes provided in subjects such as art, music, and physical education. A district shall provide students enrolled in the program a meaningful opportunity to participate fully with other non-EB peers in all extracurricular activities. Elective courses included in the curriculum may be taught in a language other than English. *Education Code 29.055, .057(b); 19 TAC 89.1210(f)*

*Bilingual
Education
Program Models*

Bilingual education shall be implemented through at least one of the following program models:

1. Transitional bilingual/early exit;
2. Transitional bilingual/late exit;
3. Dual language immersion/one-way; or
4. Dual language immersion/two-way.

19 TAC 89.1210(c)

*ESL Program
Models*

The ESL program shall be implemented through one of the following program models:

1. An ESL/content-based program model is an English acquisition program that serves students identified EB students through English instruction by a teacher appropriately certified in ESL under Education Code 29.061(c), using content-based language instruction in reading and language arts, mathematics, science, and social studies. The goal of content-based ESL is for program participants to attain full proficiency in English in order to participate equitably in school.
2. An ESL/pull-out program model is an English acquisition program that serves identified EB students through English instruction using content-based language instruction methods provided by an appropriately certified ESL teacher under Education Code 29.061(c), in reading and language arts in a pull-out or inclusionary delivery setting. The goal of ESL pull-out is for program participants to attain full proficiency in English in order to participate equitably in school.

19 TAC 89.1210(d)

Dual Language
Immersion Program

A district may adopt a DLI program for students enrolled in elementary school grades. *Education Code 28.005(c), .0051(c)*

Implementation

Program implementation shall:

1. Begin at prekindergarten, kindergarten, or grade 1 as applicable, according to the district's earliest grade level provided;
2. Continue without interruption incrementally through the elementary grades;
3. Consider expansion to middle school and high school whenever possible; and

4. Include participation of former EB students who have reclassified as English proficient for the duration of the program.

19 TAC 89.1227(e)

Requirements

A DLI program model shall be a full-time program of academic instruction in the program's partner language and English for all program participants, emphasizing the participation of identified EB students. Access to the DLI program shall not be restricted based on race, creed, color, religious affiliation, age, or disability.

A DLI program shall meet the minimum requirements described in 19 Administrative Code 89.1227.

19 TAC 89.1227(b)

*Two-Way DLI
Program
Enrollment*

Student enrollment in a two-way DLI program model is optional for non-EB students. The program shall fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or disability. Additionally, identified and reclassified EB students and non-EB students shall not be restricted access to the two-way DLI program model based on any linguistic or academic achievement measures in the program's partner language or English.

A district implementing a two-way DLI program model shall develop a policy for enrollment and continuation for students in the program model. The policy must address:

1. Equitable access, including the program's intention to maintain a ratio of 50 percent EB students to 50 percent non-EB students and have no more than two-thirds speakers of the partner language to one-third speakers of English in each classroom;
2. Support of program benefits and goals as stated in 19 Administrative Code 89.1210 (Program Content and Design);
3. The district's commitment to providing equitable access to services for EB students and to ensuring continuity of program for all program participants;
4. The program's language allocation plan for the grade levels in which the program will be implemented; and
5. Expectations for students, families, and district and campus stakeholders.

19 TAC 89.1228(a)-(c)

A district implementing a two-way DLI program model shall obtain written parental approval as follows:

1. For EB students in accordance with 19 Administrative Code 89.1240; and
2. For non-EB students, through a district-developed process.

19 TAC 89.1228(d)

*Two-Way DLI
Program State
Assessment*

A district implementing a two-way DLI program model shall determine the appropriate assessment option for program participants as follows:

1. For EB students, the LPAC shall convene before the administration of the state criterion-referenced test each year to determine the appropriate assessment option for each EB student in accordance with 19 Administrative Code 89.1220(i) (Language Proficiency Assessment Committee).
2. For reclassified EB students and non-EB students, the appropriate assessment option for the administration of the state criterion-referenced test each year is determined by the LPAC or through a district-developed process.

19 TAC 89.1228(e)

*School District
Recognition*

A district may recognize one or more of its campuses that implement an exceptional DLI program if the campus meets all of the following criteria. The school shall:

1. Meet the minimum requirements stated in 19 Administrative Code 89.1227;
2. Receive an acceptable performance rating in the state accountability system; and
3. Not have a bilingual and/or ESL program identified in any stage of intervention under the state's accountability system.

*Student
Recognition*

An individual student participating in a DLI is eligible for local school district recognitions, including a performance acknowledgment in accordance with 19 Administrative Code 74.14. [See EIF]

19 TAC 89.1229

Facilities

Bilingual and ESL programs shall be located in public schools of the district with equitable access to all educational resources rather than in separate facilities. A district may cluster the programs at designated facilities within the district. Recent immigrant EB students shall not remain enrolled in a newcomer center for longer than two years. *Education Code 29.057; 19 TAC 89.1235*

Cooperation Among
Districts

A district may join with one or more other districts to provide the required bilingual education or special language programs. The avail-

ability of the programs shall be publicized throughout the districts involved.

A district may allow a nonresident EB student to enroll in or attend its bilingual education or special language programs if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district in which the student resides.

Education Code 29.059; 19 TAC 89.1205(e)

Documentation

A student's permanent record shall contain the documentation items required by 19 Administrative Code 89.1220(l). Documentation in a student's permanent record shall be forwarded in the same manner as other student records to another school district in which the student enrolls. *19 TAC 89.1220(l)*

For students previously enrolled in a Texas public school, the receiving district shall secure the student records, including the original home language survey and LPAC documentation as described in 19 Administrative Code 89.1220(l), as applicable. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the student's original home language survey shall be made. *19 TAC 89.1215(d)*

Summer Program

If a district is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for EB children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.

A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the board. A school that operates on any other system shall offer 120 hours of instruction on a schedule approved by the board.

The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. A district shall comply with the requirements of 19 Administrative Code 89.1250 in providing such a program.

Other Programs

A district may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual education or special language programs for EB students and may join with other districts in establishing such programs.

The programs required or authorized by Education Code 29.060 may not be a substitute for programs required to be provided during the regular school year.

Education Code 29.060; 19 TAC 89.1250

Personnel

Teachers assigned to a bilingual education program using one of the following program models must be appropriately certified in bilingual education:

1. Transitional bilingual/early exit program model; or
2. Transitional bilingual/late exit program model.

Education Code 29.061(b)

Teachers assigned to a bilingual education program using a dual language immersion/one-way or two-way program model must be appropriately certified for:

1. Bilingual education for the component of the program provided in a language other than English; and
2. Bilingual education or English as a second language for the component of the program provided in English.

A district that provides a bilingual education program using a dual language immersion/one-way or two-way program model may assign a teacher certified for the language other than English component of the program and a different teacher certified for the English language component.

Education Code 29.061(b-1)-(b-2)

A district shall take all reasonable affirmative steps to assign appropriately certified teachers to the required bilingual and ESL programs. A district that is unable to secure a sufficient number of appropriately certified bilingual education and/or ESL teachers to provide the required programs may request activation of the appropriate permits in accordance with 19 Administrative Code Chapter 230. *19 TAC 89.1245(a); Education Code 29.061(c)*

A district that is unable to provide the required bilingual and/or ESL program because of an insufficient number of appropriately certified teachers shall request from the commissioner of education an exception to the bilingual program and/or a waiver for the ESL program and the approval of temporary alternative methods. EB students with parental approval for program participation under a bilingual exception or an ESL waiver will be included in the bilingual education allotment (BEA) designated for temporary alternative methods. The approval of a bilingual exception and/or an ESL

waiver application shall be valid only during the school year for which it was granted, which includes summer school. The bilingual exception and/or ESL waiver application shall be submitted by November 1 and shall adhere to the requirements in 19 Administrative Code 89.1207. [See Exceptions and Waivers, above] 19 TAC 89.1207(a)-(d); *Education Code 29.054*

Emergent Bilingual Students and State Assessments

In kindergarten-grade 12, an EB student shall participate in the state assessment in accordance with commissioner's rules at 19 Administrative Code Chapter 101, Subchapter AA. [See EKBA]

Program Exit

A district may transfer an EB student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g)

Post-Exit Monitoring and Reenrollment

The LPAC may reenroll the student in the program if later evidence suggests that a student who has been transferred out of a bilingual education or special language program has inadequate English proficiency and achievement. Classification of students for reenrollment must be based on the criteria required by Education Code 29.056. *Education Code 29.056(h)*

The LPAC shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561

Program Evaluation

A district that is required to implement a bilingual education or ESL program shall conduct an annual evaluation in accordance with 19 Administrative Code 89.1265. The annual evaluation report shall be presented to the board before November 1 of each year. The report shall be retained at the district level and must meet the requirements of 19 Administrative Code 89.1265(b)-(c).

A district shall report to parents their child's English proficiency development as a result of participation in the program offered to EB students.

In alignment with the district improvement plan, each school year, the principal of each campus, with assistance from the campus level committee, shall develop, review, and revise the campus improvement plan for the purposes of improving student performance for EB students. [See BQB]

19 TAC 89.1265

**Distance Learning
and Correspondence
Courses**

Credit toward state graduation requirements may be granted for distance learning and correspondence courses only as follows:

1. The institution offering the correspondence course is The University of Texas at Austin, Texas Tech University, or another public institution of higher education approved by the commissioner of education.
2. Students may earn course credit through distance learning technologies such as satellite, internet, two-way videoconferencing, online courses, the Texas Virtual School Network (TXVSN), and instructional television.
3. The distance learning and correspondence courses must include the state-required essential knowledge and skills for such a course.

19 TAC 74.23

**Texas Virtual School
Network**

The TXVSN is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TXVSN is a partnership network administered by the Texas Education Agency (TEA) in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, institutions of higher education, and other eligible entities.

The TXVSN is comprised of two components—the online school (OLS) program and the statewide course catalog.

19 TAC 70.1001(4)

**Online School
(OLS) Program**

“Online School (OLS) program” is a full-time, virtual instructional program that is made available through an approved course provider and is designed to serve students in grades 3-12 who are not physically present at school. *19 TAC 70.1001(7)*

A TXVSN OLS may serve students in grades 3-12 but may not serve students in kindergarten-grade 2.

A school district that operates a TXVSN OLS that serves students in full-time virtual instruction shall, prior to the start of each academic year, notify TEA of grade levels to be served and the total number of students to be served during that academic year. A school district may not add grade levels after the start of the school year.

A TXVSN OLS or a school district wishing to add additional grade levels to its online program shall certify that the OLS has courses sufficient to comprise a full instructional program for each additional grade level to be served by the OLS prior to serving that grade level.

School districts approved to serve as TXVSN OLSs shall follow the TEA procedures related to obtaining a campus number for the virtual campus through which they serve their TXVSN OLS students.

School districts serving as TXVSN OLSs must follow all requirements in 19 Administrative Code 70.1011.

19 TAC 70.1011

Statewide Course Catalog

“Statewide course catalog” is a supplemental online instructional program available through approved providers. *19 TAC 70.1001(10)*

Course Providers

A TXVSN course provider is an entity that provides an electronic course through the TXVSN. Course providers include TXVSN OLSs and providers in the statewide course catalog. *19 TAC 70.1001(8)*

Electronic Course

“Electronic course” means an educational course in which:

1. Instruction and content are delivered primarily over the internet;
2. A student and teacher are in different locations for a majority of the student’s instructional period;
3. Most instructional activities take place in an online environment;
4. The online instructional activities are integral to the academic program;
5. Extensive communication between a student and a teacher and among students is emphasized; and
6. A student is not required to be located on the physical premises of a school district or open-enrollment charter school.

An electronic course is the equivalent of what would typically be taught in one semester. For example: English IA is treated as a single electronic course and English IB is treated as a single electronic course.

Education Code 30A.001(4); 19 TAC 70.1001(1)

OLS Eligibility

To be eligible to serve as a TXVSN OLS, a school district shall:

1. Have a current accreditation status of Accredited under 19 Administrative Code 97.1055 (Accreditation Status);
2. Be rated acceptable under Education Code 39.054;

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3. Be rated at the Standard Achievement level or higher under the state financial accountability rating system under 19 Administrative Code 109.1001 (Financial Accountability Ratings);
4. Have met statutory requirements for timely submission of annual audit and compliance reports, Public Education Information Management System (PEIMS) reports, and timely deposits with the Teacher Retirement System, with all records and reports reflecting satisfactory performance;
5. Be in good standing with other programs, grants, and projects administered through TEA; and
6. Have been approved to operate a TXVSN OLS as of January 1, 2013.

19 TAC 70.1009(a)

*Statewide Course
Catalog Provider
Eligibility*

To be eligible to serve as a course provider in the TXVSN statewide course catalog, a district must be rated acceptable under Education Code 39.054. A Texas school district may provide an electronic course through the TXVSN to a student enrolled in that district or school, a student enrolled in another school district or school in the state, or a student who resides in Texas who is enrolled in a school other than a public school district or charter school. *19 TAC 70.1007(a)*

*General
Requirements*

TXVSN course providers shall:

1. Provide the TXVSN receiver district in which each TXVSN student is enrolled with written notice of a student's performance in the course at least once every 12 weeks;
2. Provide the TXVSN receiver district in which each TXVSN student is enrolled with written notice of a student's performance at least once every three weeks if the student's performance in the course is consistently unsatisfactory, as determined by the TXVSN course provider;
3. Notify students in writing upon enrollment to participate in the TXVSN course with specific dates and details regarding enrollment;
4. Meet all federal and state requirements for educating students with disabilities;
5. Provide a contingency plan for the continuation of instructional services to all TXVSN students allowing them to complete their TXVSN courses in the event that the contract or agreement through which the electronic courses are provided

are terminated or the TXVSN courses become unavailable to students;

6. Ensure a maximum class size limit of 40 students in a single section of a course and ensure that the class size does not exceed the maximum allowed by law, as applicable, whichever is less; and
7. Meet all reporting requirements established by TXVSN central operations, including timely submission of student performance reports, course completion results, catalog data, data required to verify instructor qualifications, and all data necessary for the TXVSN Informed Choice Report required under 19 Administrative Code 70.1031 (Informed Choice Reports).

19 TAC 70.1007(c)

Receiver District Requirements

A district is eligible to serve as a receiver district in the TXVSN statewide course catalog. Each TXVSN receiver district shall:

1. Register as a receiver district with TXVSN central operations;
2. Assign a qualified staff member to serve as the TXVSN coordinator;
3. Enroll a student who resides in Texas and who is enrolled in a school other than a public school district or charter school upon request by the student and/or parent or guardian; and
4. In accordance with 19 Administrative Code 74.26 (Award of Credit), award credit to a student enrolled in the district who has successfully completed all state and local requirements and received a grade that is the equivalent of 70 on a scale of 100, based upon the essential knowledge and skills for a high school course offered through the TXVSN statewide course catalog.

19 TAC 70.1008

Courses

All electronic courses to be made available through the TXVSN shall be reviewed and approved prior to being offered in accordance with the course requirements at 19 Administrative Code 70.1005. *19 TAC 70.1005(a)*

An electronic course or program that was offered or could have been offered during the 2008-09 school year under former Education Code 29.909, as that section existed on January 1, 2009, may be offered during a subsequent school year through the TXVSN. *Education Code 30A.006*

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Student Eligibility <i>Generally</i>	<p>A student is eligible to enroll in a TXVSN course only if the student:</p> <ol style="list-style-type: none">1. On September 1 of the school year is younger than 21 years of age or is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 48.003;2. Has not graduated from high school; and3. Is otherwise eligible to enroll in a public school in this state. <p>A student is eligible to enroll full-time in courses provided through the TXVSN only if the student:</p> <ol style="list-style-type: none">1. Was enrolled in a public school in this state in the preceding school year;2. Is a dependent of a member of the United States military who has been deployed or transferred to this state and was enrolled in a publicly funded school outside of this state in the preceding school year; or3. Has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.
Exception for Military Dependents	<p>A student is eligible to enroll in one or more TXVSN courses or enroll full-time in courses provided through the network if the student:</p> <ol style="list-style-type: none">1. Is a dependent of a member of the United States military;2. Was previously enrolled in high school in this state; and3. No longer resides in this state as a result of a military deployment or transfer.
Provisional Enrollment	<p>If a student has not provided required evidence of eligibility to enroll, a TXVSN OLS may enroll a student provisionally for 10 school days and withdraw the student from the OLS if the student does not provide the required evidence of eligibility within 10 school days of the provisional enrollment.</p> <p>Upon enrolling a student provisionally, the TXVSN OLS shall notify the student and the student's parents or guardians that the student will be withdrawn if documentation is not provided within the required timeframe.</p>
<i>Enrolled Students</i>	<p><i>Education Code 30A.002; 19 TAC 70.1013</i></p> <p>A student who is enrolled in the district as a full-time student may take one or more electronic courses through the TXVSN. <i>Education Code 30A.107(b)</i></p>

*Unenrolled
Students*

A student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TXVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TXVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the network; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c)

*Enrollment,
Advancement,
and Withdrawal*

A student taking a course through the TXVSN statewide course catalog or a TXVSN OLS program is considered to:

1. Be enrolled in a TXVSN course when he or she begins receiving instruction and actively engages in instructional activities in a TXVSN subject area or course;
2. Have successfully completed a course if the student demonstrates academic proficiency and, for a high school course, earns credit for the course, as determined by the TXVSN teacher; and
3. Be, and must be reported as, withdrawn from the TXVSN when the student is no longer actively participating in the TXVSN course or program.

A student taking a course through the TXVSN statewide course catalog:

1. Shall enroll in each TXVSN course through the TXVSN online registration system;
2. Shall be assigned a grade by the TXVSN teacher after the drop period established by TXVSN central operations;
3. May withdraw from a course taken through the TXVSN after the instructional start date without academic or financial

penalty within the drop period established by TXVSN central operations; and

4. Shall have the grade assigned by the TXVSN teacher added to the student's record by the student's home district, and for a high school course, added to the student's transcript.

A student enrolled full time in a TXVSN online program in grades 3-8 must demonstrate academic proficiency sufficient to earn promotion to the next grade, as determined by the TXVSN teacher for the educational program.

19 TAC 70.1015

*Compulsory
Attendance*

Texas public school students are not required to be in physical attendance while participating in courses through a TXVSN OLS or the TXVSN course catalog.

Based upon successful completion of a TXVSN course for students in grades 9-12 or a TXVSN OLS instructional program for students in grades 3-8, students are considered to have met attendance requirements for that course or program. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible.

For audit purposes, TXVSN course providers and TXVSN receiver districts shall maintain documentation to support the students' successful completion and to support verification of compulsory attendance.

"TXVSN receiver district" means a Texas public school district that has students enrolled in the school district who take one or more online courses through the TXVSN statewide course catalog.

19 TAC 70.1001(9), .1017

Local Policy

A district shall adopt a written policy that provides students enrolled in the district with the opportunity to enroll in electronic courses provided through the TXVSN statewide course catalog. The policy must be consistent with the requirements regarding notice, enrollment requests, and students with disabilities as described below.

A district shall, at least once per school year, send to a parent of each district student enrolled at the middle or high school level a copy of the policy. A district may send the policy with any other information that the district sends to a parent.

Education Code 30A.007; 19 TAC 70.1033

Notice

At the time and in the manner that a district informs students and parents about courses that are offered in the district's traditional

classroom setting, the district shall notify parents and students of the option to enroll in an electronic course offered through the TXVSN.

*Requests to
Enroll*

Except as provided below, a district may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TXVSN.

A district may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;
2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the district providing the course; or
3. The district offers a substantially similar course.

The course provider shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TXVSN course, a district has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b).

Appeals

A parent may appeal to the commissioner a district's decision to deny a request to enroll a student in an electronic course offered through the TXVSN. The commissioner's decision under this subsection is final and may not be appealed.

Education Code 26.0031; 19 TAC 70.1008, .1035

*Students with
Disabilities*

For purposes of the policy, the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal (ARD) committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794. *Education Code 30A.007(b)*

*Required
Enrollment
Prohibited*

A school district or open-enrollment charter school may not require a student to enroll in an electronic course. *Education Code 30A.107(d)*

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Inducements for Enrollment Prohibited	<p>A course provider may not promise or provide equipment or any other thing of value to a student or a student's parent as an inducement for the student to enroll in an electronic course offered through the TXVSN. The commissioner shall revoke approval of electronic courses offered by a course provider that violates this prohibition. The commissioner's action under this section is final and may not be appealed. <i>Education Code 30A.1052</i></p>
Course Portability	<p>A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course. <i>Education Code 30A.1051; 19 TAC 70.1015(d)</i></p>
Student Assessment	<p>All Texas public school students enrolled in the TXVSN are required to take the statewide assessments as required in Education Code 39.023 [see EKB]. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.</p> <p>A district shall report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the TXVSN separately from the results of assessment instruments administered to other students.</p> <p>All districts participating in the TXVSN OLS program are included in the state's academic accountability system.</p> <p><i>Education Code 30A.110; 19 TAC 70.1023</i></p>
Funding	<p>A district in which a student is enrolled is entitled to funding under Education Code Chapter 48 for the student's enrollment in a TXVSN course in the same manner that the district is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.</p> <p>Funding is limited to a student's enrollment in not more than three electronic courses during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.</p> <p><i>Education Code 30A.153</i></p> <p>A district may decline to pay the cost for a student of more than three yearlong electronic courses, or the equivalent, during any school year unless the student is enrolled in a full-time online program that was operating on January 1, 2013. If the district declines to pay the cost, a student is able to enroll in additional electronic courses at the student's cost. <i>Education Code 26.0031(c-1)</i></p>

Course Cost

A district may charge the course cost for enrollment in a TXVSN course to a student who resides in this state and:

1. Is enrolled in the district as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other school districts; or
2. Elects to enroll in a TXVSN course for which the district in which the student is enrolled as a full-time student declines to pay the cost as authorized by Education Code 26.0031(c-1).

A district may charge the course cost for enrollment in a TXVSN course during the summer.

A district shall charge the course cost for enrollment in a TXVSN course to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TXVSN course cost may not exceed the lesser of the cost of providing the course or \$400.

A district may decline to pay the course costs for a student who chooses to enroll in more than three year-long electronic courses, or the equivalent, during any school year. This does not limit the ability of the student to enroll in additional electronic courses offered through the TXVSN at the student's expense.

A district that is not the course provider may charge a student enrolled in the district a nominal fee, not to exceed \$50, if the student enrolls in a TXVSN course that exceeds the course load normally taken by students in the equivalent grade level.

A course provider in the TXVSN statewide course catalog shall receive:

1. No more than 70 percent of the catalog course cost prior to a student successfully completing the course; and
2. The remaining 30 percent of the catalog course cost when the student successfully completes the course.

Education Code 30A.155(a)-(c-1); 19 TAC 70.1025

Educators of
Electronic Courses

Each instructor of an electronic course, including a dual credit course, offered through the TXVSN by a course provider must be certified under Education Code Chapter 21, Subchapter B, to teach that course and grade level or meet the credentialing requirements of the institution of higher education with which they are affiliated and that is serving as a course provider.

In addition, each instructor must successfully complete one continuing professional development course specific to online learning every three years, and:

1. Successfully complete a professional development course or program approved by TXVSN central operations before teaching an electronic course offered through the TXVSN; or
2. Have a graduate degree in online or distance learning and have demonstrated mastery of the National Standards for Quality Online Teaching; or
3. Have two or more years of documented experience teaching online courses for students in grades 3-12 and have demonstrated mastery of the National Standards for Quality Online Teaching.

Each instructor of an electronic course, including a dual credit course, offered through the TXVSN by a course provider must meet highly qualified teacher requirements under the Elementary and Secondary Education Act, as applicable.

TXVSN course providers shall affirm the preparedness of teachers of TXVSN electronic courses to teach public school-age students in a highly interactive online classroom and shall:

1. Maintain records documenting:
 - a. Valid Texas educator certification credentials appropriate for the instructor's TXVSN assignment;
 - b. Successful initial completion of TXVSN-approved professional development, evidence of prior online teaching, or a graduate degree in online or distance learning; and
 - c. Instructors' demonstrated mastery of the National Standards for Quality Online Teaching prior to teaching through the TXVSN;
2. Conduct and maintain records for background checks;
3. Maintain records of successful completion of continuing professional development;
4. Maintain records documenting successful completion of TXVSN-approved professional development before the end of the school year for any instructor who is hired after the school year has begun; and

5. Make the records specified in this subsection available to TEA and TXVSN central operations upon request.

19 TAC 70.1027

Revocation

The commissioner may revoke the right to participation in the TXVSN based on any of the following factors:

1. Noncompliance with relevant state or federal laws;
2. Noncompliance with requirements and assurances outlined in the contractual agreements with TXVSN central operations and/or these provisions and Education Code Chapter 30A; or
3. Consistently poor student performance rates as evidenced by results on statewide student assessments, student withdrawal rates, student completion rates, successful completion rates, or campus accountability ratings.

19 TAC 70.1029

Applicability

Unless a district chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of a school district or open-enrollment charter school, Chapter 30A does not affect the provision of a course to such a student.

Requirements imposed by or under Education Code Chapter 30A do not apply to a virtual course provided by a district only to district students if the course is not provided as part of the TXVSN.

Education Code 30A.004

ACADEMIC ACHIEVEMENT

EI
(LOCAL)

**Certificate of
Coursework
Completion**

The District shall issue a certificate of coursework completion to a student who has successfully completed state and local credit requirements for graduation but has failed to meet all applicable state testing requirements. [See EIF, FMH]

Partial Credit

When a student earns a passing grade in only half of a course and the average of both halves is lower than 70, the District shall award the student credit for the half with the passing grade.

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High School Diploma A student may graduate and receive a diploma only if the student:

1. Successfully completes the curriculum requirements identified by the State Board of Education (SBOE) [see State Graduation Requirements, below], has performed satisfactorily on applicable state assessments [see EKB], and complies with the financial aid application requirements in Education Code 28.0256 [see below]; or
2. Successfully completes an individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c)

Note: Education Code 28.0256 applies beginning with students enrolled at the 12th grade level during the 2021-22 school year.

FAFSA Required

Before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA), except as provided below.

A student is not required to comply with the above provision if:

1. The student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
2. The student signs and submits the form described above on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes under Family Code Chapter 31; or
3. A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

If a school counselor notifies a district whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements under Education Code 28.025, the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied, except as necessary for the district to comply with the commissioner's rules.

A school counselor may not indicate that a student has not complied with this section if the district fails to provide the required form

to the student or the student's parent or other person standing in parental relation to the student.

Education Code 28.0256; 19 TAC 74.11(b)

Opt-Out Form

The board shall adopt the standard opt-out form provided by the Texas Education Agency (TEA).

The opt-out form shall be available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program in the district. A district is responsible for translations not provided by TEA.

The opt-out form must include the student's signature of intent to decline to complete a financial aid application prior to the student's anticipated graduation date.

19 TAC 74.1023(c)

Notification

A district shall provide students with the notifications regarding the financial aid application requirement, in accordance with 19 Administrative Code 74.1023(d).

Proof of Submission

A district shall require one of the following methods of proof that a student has completed and submitted the FAFSA or TASFA.

For completion and submission of the FAFSA:

1. ApplyTexas Counselor Suite FAFSA data;
2. Notification from the U.S. Department of Education that demonstrates a student has completed and submitted a FAFSA; or
3. A local policy developed by a district for the method by which a student must provide proof that the student has completed a FAFSA.

A district shall develop a local policy for the method by which a student must provide proof that the student has completed a TASFA.

19 TAC 74.1023(e)

Information Submission and Confidentiality

A district shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) not later than December 1 of each school year for students awarded diplomas in the previous school year the number of students who completed and submitted a financial aid application and the number of students who submitted an exception.

A district shall maintain student financial aid application information securely and ensure compliance with federal law regarding the

confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information [see FL].

19 TAC 74.1023(f)-(g)

Individual
Graduation
Committee

A student may receive a diploma if the person is eligible for a diploma as determined by an individual graduation committee (IGC) established under Education Code 28.0258. *Education Code 28.025(c-6)*

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258 or 19 Administrative Code 74.1025. A student's admission, review, and dismissal (ARD) committee determines whether a student is required to achieve satisfactory performance on an end-of-course (EOC) assessment to graduate. *19 TAC 74.1025(n)* [See EHBAB]

For each 11th or 12th grade student who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses, the district shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. A student may not qualify to graduate as a result of an IGC decision before the student's 12th grade year.

The IGC shall be composed of:

1. The principal or principal's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) above; and
4. As applicable:
 - a. The student's parent or person standing in parental relation to the student;
 - b. A designated advocate if the parent is unable to serve; or
 - c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

The superintendent shall establish procedures for convening the committee.

The district shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a)-(c), (c-2); 19 TAC 74.1025(b)

A district may not establish an initial IGC for eligible students after June 10 or before the start of the next school year. Once the IGC has been established, it is the original IGC for that student.

If a student leaves a district after an original IGC has been established and before that original IGC awards a high school diploma to the student, any other district that later enrolls the student shall request information from the student's original IGC of record and shall implement the original IGC recommendations to the extent possible.

*Alternate
Members*

In the event that the teacher identified in item 2 above is unavailable, the principal shall designate as an alternate member of the committee a teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

In the event that the individual identified above in item 3 above is unavailable, the principal shall designate as an alternate member of the committee an experienced teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is familiar with the content of and instructional practices for the applicable course.

In the event that the student's parent or person standing in parental relation to the student is unavailable to participate in the IGC, the principal shall designate an advocate with knowledge of the student to serve as an alternate member of the committee.

19 TAC 74.1025(c), (e), (g)-(i)

Notice

A district shall ensure a good faith effort is made to timely notify the appropriate person described under item 4 above of the time and place for convening the IGC and the purpose of the committee. The notice must be provided in person or by regular mail or email; clear and easy to understand; and written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person. *Education Code 28.0258(d)*

*Curriculum
Requirements*

To be eligible to graduate and receive a high school diploma from the IGC, a student must successfully complete the curriculum requirements required for high school graduation. [See State Graduation Requirements, below] *Education Code 28.0258(e)*

*Additional
Requirements to
Graduate*

A student's IGC shall recommend additional requirements by which the student may qualify to graduate, including additional remediation; and for each EOC assessment instrument on which the student failed to perform satisfactorily:

1. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
2. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

Education Code 28.0258(f), (g)

In determining whether a student is qualified to graduate, the committee shall consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the board. After considering the criteria, the committee may determine that the student is qualified to graduate. A student may graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee, the student meets applicable curriculum requirements, and the committee's vote is unanimous. The decision of a committee is final and may not be appealed. *Education Code 28.0258(i)*

*Emergent
Bilingual
Students*

For provisions related to an IGC and emergent bilingual students, see EKBA.

Special Education

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. *19 TAC 101.3023(a)* [See Graduation of Students Receiving Special Education Services, below, and EKB]

Posthumous
Diploma

Beginning with students who would have graduated at the end of the 2019-20 school year, and on request of the student's parent, a district shall issue a high school diploma posthumously to each student who died while enrolled in the district at the end of the school year in which the student was expected to graduate under the regular schedule of school attendance. The high school diploma may not be issued before the graduation date of the class in which the student was enrolled at the time of death.

Exception

A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Penal Code Title 5 or 6 or adjudicated as having engaged in conduct constituting a felony offense under Penal Code Title 5 or 6.

Education Code 28.0254

Diplomas for
Veterans

Notwithstanding any other provision of this policy, a district may issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States; was scheduled to graduate from high school after 1940 and before 1975 or after 1989; and left school after completing the sixth or a higher grade, before graduating from high school, to serve in:

1. World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or
2. Any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973, 50 U.S.C. 1541, et seq.

Education Code 28.0251

**Texas First Early
High School
Completion Program**

A district shall allow a student to graduate and receive a high school diploma under the Texas First Early High School Completion Program if, using the standards established by TEA and the Texas Higher Education Coordinating Board and eligible institutions of higher education, the student demonstrates mastery of and early readiness for college in each of the subject areas described by the standards and in a language other than English, notwithstanding any other local or state requirements.

A student who earns a high school diploma through the program is considered to have earned a distinguished level of achievement.

Notice Upon
Enrollment

On a student's initial enrollment in high school in a grade level below grade 12 in a district, the district shall provide to the student and the student's parent or guardian information regarding the requirements to earn a high school diploma under the Texas First Early High School Completion Program and the Texas First Scholarship Program.

Education Code 28.0253(e)-(g); 19 TAC 21.52(a)

The notice must include information about the requirement that a student must provide an official copy of their assessment results

and transcripts, as applicable, to receive credit for the assessments and credits required to receive early graduation from the program. *19 TAC 21.54*

Personal Graduation Plan

Junior High or
Middle School PGP

A principal of a junior high or middle school shall designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in the junior high or middle school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level 9, as determined by a district.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

Education Code 28.0212

*Students
Receiving
Special
Education
Services*

For a student receiving special education services, the student's ARD committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

High School PGP

A principal of a high school shall designate a school counselor or school administrator to review PGP options with each student entering grade 9 together with that student's parent or guardian. The

PGP options reviewed must include the distinguished level of achievement and endorsements.

Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a PGP for the student that identifies a course of study that:

1. Promotes college and workforce readiness and career placement and advancement; and
2. Facilitates the student's transition from secondary to postsecondary education.

A district may not prevent a student and the student's parent or guardian from confirming a PGP that includes pursuit of a distinguished level of achievement or an endorsement.

A student may amend the student's PGP after the initial confirmation of the plan. If a student amends the student's PGP, the school must send written notice to the student's parents regarding the change.

TEA must make available to a district information that explains the advantages of the distinguished level of achievement described by Education Code 28.025(b-15) and each endorsement described by Education Code 28.025(c-1). A district, in turn, shall publish the information from TEA on the internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students in the language in which the parents or legal guardians are most proficient.

A district is required to provide this information in the language in which the parents or legal guardians are most proficient only if at least 20 students in a grade level primarily speak that language.

Education Code 28.02121

Early Graduation

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), (b)* [See FMH, FNG]

**State Graduation
Requirements**

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2007-08 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and 19 Administrative Code Chapter 74.

Students Entering
Grade 9

To receive a high school diploma, a student entering grade 9 in the 2014-15 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 [see Foundation High School Program, below];
2. Testing requirements for graduation under 19 Administrative Code Chapter 101 [see EKB]; and
3. Demonstrated proficiency, in grade 8 or higher, as determined by the district, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement.

Education Code 28.025(c); 19 TAC 74.11(a), (d)

*Foundation High
School Program*

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts — 4 credits;
2. Mathematics — 3 credits;
3. Science — 3 credits;
4. Social Studies — 3 credits;
5. Languages other than English — 2 credits;
6. Physical Education — 1 credit;
7. Fine Arts — 1 credit; and
8. Elective courses — 5 credits.

19 TAC 74.12(a)-(b)

Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. *19 TAC 74.13(a)*

A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;
3. Public services;
4. Arts and humanities; and
5. Multidisciplinary studies.

A district must make at least one endorsement available to students. A district that offers only one endorsement curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;
2. An additional credit in science; and
3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement. The same course may count as part of the set of four courses for more than one endorsement.

A district shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

A district may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110-117, 127, and 130 are followed.

19 TAC 74.13(a)-(d); Education Code 28.025

For more information on endorsements, including the requirements for specific endorsements, see 19 Administrative Code 74.13(e)-(g).

Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
2. The student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by TEA, allowing the student to graduate under the foundation high school program without earning an endorsement.

19 TAC 74.11(e)

*Distinguished
Level of
Achievement*

A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. *19 TAC 74.11(f)*

*Algebra II
Notification*

Not later than September 1 of each school year, a district shall notify by regular mail or email the parent of or other person standing in parental relation to each student enrolled in grade 9 or above that the student is not required to complete an Algebra II course to graduate under the foundation high school program. The notification must include information regarding the potential consequences to a student of not completing an Algebra II course, including the impact on eligibility for:

1. Automatic college admission under Education Code 51.803; and
2. Certain financial aid authorized under Title 3 of the Education Code.

Education Code 28.02123

Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has completed the prerequisite course(s);
2. The student has demonstrated equivalent knowledge as determined by the district; or

3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

A district may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

19 TAC 74.11(j)-(k)

*Dual Credit
Courses*

Courses offered for dual credit at or in conjunction with an institution of higher education (IHE) that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(i)*

*Core Curriculum
College Courses*

A district shall permit a student to comply with the curriculum requirements under the foundation high school program by successfully completing appropriate courses in the core curriculum of an IHE. A student who has completed the core curriculum of an IHE in accordance with Education Code 61.822, as certified by the IHE in accordance with Education Code 4.28:

1. Is considered to have earned an endorsement by successfully completing the appropriate courses for that endorsement;
2. Is considered to have earned a distinguished level of achievement under the foundation high school program; and
3. Is entitled to receive a high school diploma.

19 TAC 74.11(o)

*Languages Other
Than English*

Students may earn credit for languages other than English in accordance with 19 Administrative Code 74.12(b)(5).

A student who successfully completes a dual language immersion program may satisfy one credit of the two credits required in a language other than English in accordance with 19 Administrative Code 74.12(b)(5)(F).

19 TAC 74.12(b)(5)

A student who successfully completes a course in American Sign Language while in elementary school may satisfy one credit of the two credits required in a language other than English. *19 TAC 74.12(b)(5)(G)*

*Physical
Education*

The required credit may be selected from one full credit or a combination of two half credits from two different courses from the following courses:

1. Lifetime Fitness and Wellness Pursuits;
2. Lifetime Recreation and Outdoor Pursuits; and
3. Skill-Based Lifetime Activities.

*Other Physical
Education
Activities*

In accordance with local district policy, the required physical education credit may be earned through completion of any TEKS-based course that meets the requirement for 100 minutes of moderate to vigorous physical activity per five-day school week and that is not being used to satisfy another specific graduation requirement. [See Restrictions, below]

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. Junior Reserve Officer Training Corps (JROTC); and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
 - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
 - b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the required physical education courses may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

Restrictions

All substitution activities permitted by local district policy must include at least 100 minutes of moderate to vigorous physical activity per five-day school week.

No more than four substitution credits may be earned through any combination of substitutions listed above.

Credit may not be earned more than once for the Lifetime Fitness and Wellness Pursuits course or the Skill-Based Lifetime Activities course. Credit may not be earned more than twice for the Lifetime Recreation and Outdoor Pursuits course.

Student with
Disability or
Illness

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies, or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

19 TAC 74.12(b)(6); Education Code 28.025(b-10)-(b-11)

*Community-
Based Fine Arts
Programs*

In accordance with local district policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by the school district in which the student is enrolled.

In accordance with local policy, credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. The district must apply to the commissioner for approval of the community-based fine arts program;
2. The board must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code Chapter 117, Subchapter C;
3. The district must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

The district shall require that instructors of the community-based fine arts program provide the district, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code Chapter 153, Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030

*Performance
Acknowledgments*

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:
 - a. In a dual credit course;
 - b. In bilingualism and biliteracy;
 - c. On a College Board advanced placement test or international baccalaureate examination;

- d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace; or
 - e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14

Students Who
Entered Grade 9
Before the 2014-15
School Year

*Minimum High
School Program*

All credit for graduation must be earned no later than grade 12. *19 TAC 74.61(b), .71(b)*

A student entering grade 9 prior to the 2014-15 school year who does not choose to complete the curriculum requirements for high school graduation under the foundation high school program must enroll in the courses necessary to complete the curriculum requirements for the Recommended High School Program or the Advanced/Distinguished Achievement High School Program, unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program, and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or
3. Has failed to be promoted to the 10th grade one or more times as determined by the school district.

Students with
Disabilities

If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.

Applicability

A student who was permitted to take courses under the Minimum High School Program prior to the 2009-10 school year may remain in the Minimum High School Program.

19 TAC 74.61(c), (d), .71(c), (d)

Requirements

A student must earn at least 22 credits to complete the Minimum High School Program.

A student who entered grade 9 in the 2012-13 or 2013-14 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.72.

A student who enters grade 9 before the 2012-13 school year must meet the applicable program requirements in 19 Administrative Code Chapter 74, Subchapters D-F.

Education Code 28.025; 19 TAC 74.62, .72

Recommended High School Program

A student who entered grade 9 in the 2012-13 or 2013-14 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.73. *Education Code 28.025; 19 TAC 74.63, .73*

Advanced / Distinguished Achievement High School Program

A student who entered grade 9 in the 2012-13 or 2013-14 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.74. *Education Code 28.025; 19 TAC 74.64, .74*

Substitutions

No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. *19 TAC 74.63(d), .64(e), .73(d), .74(e)*

AP or IB Courses

College Board advanced placement and international baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. *19 TAC 74.61(k), .71(i)*

Reading

A district may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the district:

1. Adopts policies to identify students in need of additional reading instruction;
2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

19 TAC 74.61(h), .71(f)

College Courses A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an IHE. 19 TAC 74.61(l), .71(j)

Physical Education Substitutions In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

Other Physical Activity

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
 - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
 - b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

Restrictions	<p>All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.</p> <p>No more than four substitution credits may be earned through any combination of substitutions listed above.</p>
<i>Student with Disability or Illness</i>	<p>A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, or social studies for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:</p> <ol style="list-style-type: none">1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.
<i>Student with Physical Limitations</i>	<p>If a student entering grade 9 during the 2007-08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A student with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.</p> <p><i>Education Code 28.025(b-10)-(b-11); 19 TAC 74.62(b)(7), .63(b)(7), .64(b)(7), .72(b)(6), .73(b)(6), .74(b)(6)</i></p>
Transfers from Out-of-State or Nonpublic Schools	<p>Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspon-</p>

dence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. *19 TAC 74.11(g)* [See EHDB, EHDC, EHDE, and EI]

**Graduation of
Students Receiving
Special Education
Services**

Modified Curriculum
and Content

Modified curriculum and modified content refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110-117, 126-128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. *19 TAC 89.1070(k)*

Employability and
Self-Help Skills

Employability and self-help skills are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment. *19 TAC 89.1070(i)*

Summary of
Academic
Achievement and
Evaluation

A summary of academic achievement and functional performance must be provided prior to exit from public school for students who meet one of the following conditions:

1. A student who has met requirements for graduation specified in 19 Administrative Code 89.1070(b)(1) or who has exceeded the maximum age eligibility as described by 19 Administrative Code 89.1035; or
2. A student who has met requirements for graduation specified in 19 Administrative Code 89.1070(b)(2) or (b)(3)(A), (B), or (C). A student meeting this condition is entitled to an evaluation as described by 34 C.F.R. 300.305(e)(1).

The summary of performance must include recommendations on how to assist the student in meeting the student's postsecondary goals, as required by 34 C.F.R. 300.305(e)(3). This summary must also consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. Students who meet graduation requirements under 19 Administrative Code 89.1070(b)(2) or (b)(3)(A), (B), or (C) and who will continue enrollment in public school to receive special education services aligned to their transition plan will be provided the summary of performance upon exit from the public school system. These students are entitled to participate in commencement ceremonies and receive a certificate of attendance after completing four years of high school.

19 TAC 89.1070 (f)-(h)

*Graduation
Criteria*

A student who receives special education services may graduate and be awarded a diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-117, 126-128, and 130; satisfactorily completed credit requirements for graduation under the foundation high school program applicable to students in general education; and demonstrated satisfactory performance as established in Education Code Chapters 28 and 39, on the required EOC assessment instruments, which could include meeting the requirements of 19 Administrative Code 89.1070(d).
2. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-117, 126-128, and 130; the student has satisfactorily completed credit requirements for graduation under the foundation high school program specified in 19 Administrative Code 74.12 applicable to students in general education; and the student's ARD committee has determined that satisfactory performance, beyond what would otherwise be required in 19 Administrative Code 89.1070(b)(1) and (d), on the required EOC assessment instruments is not required for graduation.
3. The student has satisfactorily completed credit requirements for graduation under the foundation high school program, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education; demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-117, 126-128, and 130 in accordance with modified content and curriculum expectations established in the student's IEP; and demonstrated satisfactory performance on the required EOC assessment instruments, unless the student's ARD committee has determined that satisfactory performance on the required EOC assessment instruments is not required for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:
 - a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;
 - b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help

skills that do not require direct ongoing educational support of the local school district; or

- c. The student has access to services or other supports that are not within the legal responsibility of public education, including employment or postsecondary education established through transition planning.

When a student receives a diploma under item 2 or 3(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(b), (j)

Endorsements

A student who is enrolled in a special education program may earn an endorsement on the student's transcript by:

1. Successfully completing, with or without modification of the curriculum:
 - a. The curriculum requirements identified by the SBOE for the foundation high school program; and
 - b. The additional endorsement curriculum requirements prescribed by the SBOE; and
2. Successfully completing all curriculum requirements for that endorsement adopted by the SBOE:
 - a. Without modification of the curriculum; or
 - b. With modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's ARD committee.

The ARD committee of a student in a special education program shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.

Education Code 28.025(c-7)-(c-8), 19 TAC 89.1070(c)

**Graduation of
Military Dependents**

Course Waiver

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

Transfers During
Senior Year

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the district after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

Substitute Passing
Standard

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the 10th-grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, A, C [See FDD]

**Graduation of
Student Who Is
Homeless or in
Conservatorship of
DFPS**

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. *Education Code 28.025(i)*

Note: The Board has adopted an [innovation plan](#)¹ that affects application of provisions in this legally referenced policy.

Agreement Between Districts

The boards of two or more adjoining school districts or the boards of county school trustees of two or more adjoining counties may, by agreement and in accordance with Education Code 25.032-.034, arrange for the transfer and assignment of any student from the jurisdiction of one board to that of another. In the case of the transfer and assignment of a student under this provision, the participating governing boards shall also agree to the transfer of school funds or other payments proportionate to the transfer of attendance. *Education Code 25.035*

Initiated by Student or Parent

Any student, other than a high school graduate, who is under 21 years of age and eligible for enrollment on September 1, may transfer to another Texas district, provided that both the receiving district and the applicant's parent, guardian, or person having lawful control agree in writing to the transfer.

Discipline and
Threat Assessment
Records

In the case of a transfer under this provision, a child's district of residence shall provide the receiving district with the child's disciplinary record and any threat assessment involving the child's behavior conducted under Education Code 37.115 [see FFB].

Effective August 1, 2025, a district shall utilize Sentinel to securely transfer any threat assessment conducted on a student to a receiving district when a student transfers to a new district [see CKA]. All threat assessments for a student are subject to the transfer requirement. Any threat assessments conducted prior to August 1, 2025, that are associated with a student transfer shall be uploaded into Sentinel in a manner determined by the Texas Education Agency (TEA).

Education Code 25.036; 19 TAC 103.1213(e)(1)(B) [See FD for placement of transfer students.]

Transfer to a District Offering In-Person Instruction

If a district provides notice to the parent or person standing in parental relation to a student enrolled in the district of the district's intent to offer only virtual instruction for more than one grading period during a school year, the student may transfer for that school year to another district that offers in-person instruction during that school year and accepts the student's transfer.

"Virtual instruction" means instructional activities delivered to students primarily over the internet.

A student who transfers to another school district under this section may not be charged tuition. The student is included in the average daily attendance of the district in which the student attends school.

Education Code 25.045

Basis for Transfer

A board or its designee must make transfer decisions on an individual basis and may not consider as a factor in arriving at any decision regarding assignments any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032* [See FDAA]

Transportation

A board may establish and operate an economical public school transportation system outside the district if students enrolled in the district reside outside the district and the district meets the requirements of Education Code 34.007(a)(3) [see CNA]. *Education Code 34.007(a)*

Funding for Transfers

Upon the filing and certification of any transfer, the state per capita apportionment shall transfer with the student. For purposes of computing state allotments to districts eligible under the Foundation School Program, the student's attendance prior to the date of transfer shall be counted by the sending district and the student's attendance after transfer shall be counted by the receiving district. *Education Code 25.037*

Credits and Records

Credits earned in local credit courses may be transferred at the enrolling district's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

Nonpublic Schools

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. A district may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

Tuition Fee for Transfer Students

A receiving district may charge a tuition fee to the extent that the district's actual expenditure per student in average daily attendance exceeds the sum of state available school fund apportionment benefits transferred under Education Code 25.037. However, unless a tuition fee is prescribed and set out in a transfer agreement prior to its execution by the parties, no increase in tuition charge shall be made for the year of that transfer that exceeds the tuition charge, if any, of the preceding school year. *Education Code 25.038*

**Transfer by
Servicemember
Request**

On request of a servicemember who is a parent of or person standing in parental relation to a student, the board or the board's designee shall transfer the student to another district campus or to another school district under an agreement under Education Code 25.035 [see Agreement Between Districts, above].

"Servicemember" means an active duty member of the armed forces of the United States, a reserve component of the armed forces of the United States, or the Texas National Guard.

A transfer under this provision must be to the campus or district, as applicable, selected by the servicemember making the request.

A district is not required to provide transportation to a student who transfers to another campus or district under this provision.

Education Code 25.0344

**Transfer by Peace
Officer Request**

On request of a peace officer who is a parent of or person standing in parental relation to a student, the board or the board's designee shall transfer the student to another district campus or to another district under an agreement under Education Code 25.035.

"Peace officer" has the meaning assigned by Occupations Code 1701.001.

A transfer under this provision must be to the campus or school district, as applicable, selected by the peace officer making the request.

A district is not required to provide transportation to a student who transfers to another campus or district under this provision.

Education Code 25.0344

**Transfers to
Adjoining States**

Note: The following provision applies to a district located on the border of an adjoining state.

Any student who would be entitled to attend the public school of any district situated on the border of Louisiana, Arkansas, Oklahoma, or New Mexico and who may find it more convenient to attend the public school in a district in one of those contiguous states, may have the state and county per capita apportionment of the available school funds paid to the school district of the contiguous state and may have additional tuition, if necessary, paid by the district of residence on such terms as may be agreed upon by the trustees of the receiving district and the trustees of the residence district. *Education Code 25.040*

**Contracts for
Education Outside
Districts**

Note: The following section applies only to districts that do not offer all grades, kindergarten-grade 12.

A district that does not offer each grade, kindergarten-grade 12, may provide by contract for students residing in the district who are at grade levels not offered by the district to be educated at those grade levels in one or more other districts. In each contract, the districts also shall agree to the transfer of school funds or other payments proportionate to the transfer of attendance.

Tuition

The district in which the students reside shall pay tuition to any district with which it has a contract under this section for each of its students attending school in that district at a grade level for which the district has contracted. The amount of the tuition paid may not exceed the greater of the amount provided for by Education Code 25.038 [see above], or an amount specified by commissioner rule [see below].

A district is not required to pay tuition to any district with which it has not contracted for the attendance by any of its students at a grade level for which it has contracted under this provision with another district.

A contract under this provision may not be for a period exceeding five years.

Education Code 25.039

Definitions

“Home district” means a district of residence of a transferring student.

“Receiving district” means a district to which a student is transferring for the purpose of obtaining an education.

“Tuition” means an amount charged to the home district by the receiving district to educate the transfer student.

*Tuition Allotment
of the Home
District*

For the purposes of calculating the tuition allotment of the home district as authorized by Education Code 48.154, the amount of tuition that may be attributed to a home district for a transfer student in payment for that student’s education may not exceed an amount per enrollee calculated for each receiving district. The calculated limit applies only to tuition paid to a receiving district for the education of a student at a grade level not offered in the home district. Tuition may be set at a rate higher than the calculated limit if both districts enter a written agreement, but the calculated tuition limit will be used in the calculation of the tuition allotment for the home district. The calculation will use the most currently available data in an ongoing school year to determine the limit that applies to the

subsequent school year. For purposes of this provision, the number of students enrolled in a district will be appropriately adjusted to account for students ineligible for the Foundation School Program funding and those eligible for half-day attendance.

*Calculated
Tuition Limit*

The calculated tuition limit is the sum of the excess maintenance and operations (M&O) revenue per enrollee and the excess debt revenue per enrollee, as calculated in 19 Administrative Code 61.1012(b)(2)-(3).

*Notification and
Appeal Process*

In the spring of each school year, the commissioner will provide each district with its calculated tuition limit and a worksheet with a description of the derivation process. A district may appeal to the commissioner if it can provide evidence that the use of projected student counts from the LPE in making the calculation is so inaccurate as to result in an inappropriately low authorized tuition charge and undue financial hardship. A district that used significant nontax sources to make any of its debt service payments during the base year for the computation may appeal to the commissioner to use projections of its tax collections for the year for which the tuition limit will apply. The commissioner's decision regarding an appeal is final.

19 TAC 61.1012

¹ Innovation Plan: <https://www.wimberleyisd.net>

Safe Schools Data

The Superintendent shall ensure that the District complies with Texas Education Agency (TEA) guidelines for the collection and maintenance of data regarding:

1. Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD]; and
2. Any student who becomes a victim of one of the following violent criminal offenses while on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property:
 - a. Attempted murder;
 - b. Indecency with a child;
 - c. Aggravated kidnapping;
 - d. Aggravated assault on someone other than a District employee or volunteer;
 - e. Sexual assault or aggravated sexual assault against someone other than a District employee or volunteer;
 - f. Aggravated robbery;
 - g. Continuous sexual abuse of a young child or disabled individual; or
 - h. Bullying.

School Safety Transfers

The parent of a student who becomes a victim of a violent criminal offense as described in the state guidance for unsafe school choice options or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

From a Persistently Dangerous School

The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent an application for transfer. The Superintendent shall complete the transfer prior to the beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

For a Victim of a
Violent Criminal
Offense

Within 14 calendar days after a violent criminal offense described above occurs in or on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent an application for transfer. The Superintendent shall approve or disapprove the request within 14 calendar days of its submission.

Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.

For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.

**Additional Transfer
Options**

In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus.

[For other transfer provisions, see also FDA and FDB.]

**Absences
Considered**

Except as otherwise provided by law, all absences incurred while enrolled in the District shall be considered in determining whether a student has been in attendance for 90 percent of the days the class is offered.

**Attendance
Committees**

The Board authorizes the establishment of an attendance committee or as many attendance committees as necessary for efficient implementation of state law.

The Superintendent is authorized to make the specific appointments in accordance with legal requirements.

**Parental Notice of
Excessive Absences**

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

**Methods for
Regaining Credit or
Awarding a Final
Grade**

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

A petition for credit or a final grade may be filed in accordance with administrative regulations. The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit or a final grade. [See Imposing Conditions for Awarding Credit or a Final Grade, below]

Regardless of whether a petition is filed, the attendance committee may also review the records of all students whose attendance drops below 90 percent of the days the class is offered.

A student who has lost credit or has not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

Personal Illness

The principal or attendance committee may require verification from a health-care provider in accordance with administrative regulations as a condition of classifying an absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding a student's absences and how the student can be awarded credit or a final grade, the attendance committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent shall develop administrative regulations to document the attendance committee's decision.

Guidelines on Extenuating Circumstances

The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject.

When makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences as days of attendance for award of credit or a final grade. [See FEA]

The attendance committee shall consider whether the reasons for the absences were out of the parent's or student's control and whether documentation for the absence is acceptable.

The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

Imposing Conditions for Awarding Credit or a Final Grade

The attendance committee or principal, as applicable, is not required to assign a student to attend a specified program for an amount of time equivalent to the student's absences (i.e., "seat time").

The attendance committee or principal, as applicable, shall consider the student's unique circumstances and, if necessary, shall impose other conditions for awarding credit or a final grade that permit the student to meet the instructional requirements of the class. Conditions may include:

1. Maintaining attendance standards for the rest of the semester.
2. Completing additional assignments, as specified by the committee or teacher.
3. Attending tutorial sessions as scheduled.
4. Completing other instructional programs, as specified by the committee.
5. Taking an examination to earn credit. [See EHDB]

In all cases, the student must earn a passing grade in order to receive credit.

Appeal Process

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).

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WELLNESS AND HEALTH SERVICES
MEDICAL TREATMENT

FFAC
(LEGAL)

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Consent to Medical Treatment

The school in which a minor student is enrolled may consent to medical, dental, psychological, and surgical treatment of that student, provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

Family Code 32.001(a)(4)

Form of Consent

Consent to medical treatment under this policy shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student.
2. The name of one or both parents, if known, and the name of the managing conservator or guardian of the student, if either has been appointed.
3. The name of the person giving consent and the person's relation to the student.
4. A statement of the nature of the medical treatment to be given.
5. The date on which the treatment is to begin.

Family Code 32.002

Minor's Consent to Treatment

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of the income;
2. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services (DSHS), including all reportable diseases under Health and Safety Code 81.041;

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3. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy; or
4. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use.

Family Code 32.003; Planned Parenthood of Cent. Mo. v. Danforth, 428 U.S. 52 (1976); Bellotti v. Baird, 443 U.S. 622 (1979)

**Telehealth in
Medicaid Covered
Services**

Telemedicine medical services and telehealth services authorized as Texas Medicaid covered services must meet the conditions specified in 1 Administrative Code 354.1432(5). 1 TAC 354.1432(5)

**Administering
Medication**

Upon adoption of policies concerning the administration of medication to students by district employees, the district, its board, and its employees are immune as described below, provided:

1. The district has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student.
2. When administering prescription medication, the medication is administered either:
 - a. From a container that appears to be the original container and to be properly labeled; or
 - b. From a properly labeled unit dosage container filled by a registered nurse or another qualified district employee, as determined by district policy, from a container that appears to be the original container and to be properly labeled.

**By Volunteer
Professionals**

If a district provides liability insurance for a licensed physician or registered nurse who provides volunteer services to the district, a board may allow the physician or nurse to administer to any student nonprescription medication or medication currently prescribed for the student by the student's personal physician.

**Immunity from Civil
Liability**

A district, a board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of medication to a student in accordance with this policy.

Education Code 22.052(a)-(b)

[See DG regarding protection of nurses for refusal to perform acts.]

**Self-Administration
of Asthma or
Anaphylaxis
Medicine**

A student with asthma or anaphylaxis may possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

1. The medicine has been prescribed for that student as indicated by the prescription label on the medicine;
2. The student has demonstrated to the student's physician or other licensed health-care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;
3. The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health-care provider; and
4. A parent of the student provides to the school:
 - a. Written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and
 - b. A written statement, signed by the student's physician or other licensed health-care provider, that states:
 - (1) That the student has asthma or anaphylaxis and is capable of self-administering the medicine;
 - (2) The name and purpose of the medicine;
 - (3) The prescribed dosage for the medicine;
 - (4) The times at which or circumstances under which the medicine may be administered; and
 - (5) The period for which the medicine is prescribed.

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the principal of the school the student attends.

[See FFAF for care of students with diagnosed food allergies at risk for anaphylaxis.]

No Waiver of
Immunity

The provisions above neither waive any liability or immunity nor create any liability for or a cause of action against a district, a board, or its employees.

Education Code 38.015

Sunscreen Products A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use. This provision does not waive any immunity from liability of a district, its board, or its employees; or create any liability for or a cause of action against a district, its board, or its employees. *Education Code 38.021*

Dietary Supplements A district employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school district duties; or
2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school district duties.

Education Code 38.011(a), (c)

Prescription Medication and Special Education Students An employee of a district is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)

[See FFEB for information regarding psychotropic drugs and psychiatric evaluations]

Low-THC Cannabis A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by the Texas Compassionate-Use Act. *Health and Safety Code 487.201*

**Dextromethorphan
(Certain Cold
Medication)**

A district may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan. *Health and Safety Code 488.005*

**Maintenance and
Administration of
Opioid Antagonists**

Each district shall adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that serves students in grades 6 through 12 and may adopt and implement such a policy at each campus in the district, including campuses serving students in a grade level below grade 6.

The policy adopted must:

1. Provide that school personnel and school volunteers who are authorized and trained may administer an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose;
2. Require that each school campus subject to a policy adopted under this provision have one or more school personnel members or school volunteers authorized and trained to administer an opioid antagonist present during regular school hours;
3. Establish the number of opioid antagonists that must be available at each campus at any given time; and
4. Require that the supply of opioid antagonists at each school campus subject to a policy adopted under this provision must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist.

Education Code 38.222(a), (c); 25 TAC 40.84(b)-(c); 19 TAC 103.1103

Definitions

“Authorized health-care provider” means a physician, as defined in Education Code 38.201, or person who has been delegated prescriptive authority by a physician under Occupations Code Chapter 157.

“Campus” means a unit of a district that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

“Opioid antagonist” as defined in Health and Safety Code 483.101, means any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors.

“Opioid-related drug overdose” as defined in Health and Safety Code 483.101, means a condition, evidenced by symptoms of extreme physical illness, decreased level of consciousness, constriction of the pupils, respiratory depression, or coma, that a layperson would reasonably believe to be the result of the consumption or use of an opioid.

25 TAC 40.82(2)-(3), (5)-(6)

Maintenance

Once a district adopts an opioid antagonist medication policy, a campus implementing an opioid policy must stock opioid antagonist medication.

Prescription

A campus must obtain a prescription from a physician or a person who has been delegated prescriptive authority to stock, possess, and maintain the established number of doses of opioid antagonists as determined by a district, on each campus as described in Education Code 38.225 (Prescription of Opioid Antagonists).

The campus must renew this prescription or obtain a new prescription annually.

The number of additional doses may be determined by an individual campus review led by a physician or a person who has been delegated prescriptive authority.

25 TAC 40.85(a)-(b)

Standing Order

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe opioid antagonists in the name of a school district. *Education Code 38.225(a); 25 TAC 40.85(c)*

Storage of Medication

The unassigned opioid antagonist medication must be stored in a secure location and be easily accessible, in accordance with the manufacturer's guidelines and local policy of the district.

Disposal

Used, unassigned opioid antagonists are considered infectious waste and must be disposed of according to the school's blood-borne pathogen control policy.

Expired, unassigned opioid antagonists must be disposed of in accordance with the Federal Drug Administration's disposal of unused medications guidelines and local policy of the district.

25 TAC 40.85(d)-(f)

Reporting Requirement

The campus must submit the report no later than the 10th business day after the date a school personnel member or school volunteer administers an opioid antagonist in accordance with the unassigned opioid antagonist medication policy.

The report shall be submitted to the following individuals and entities:

1. The district;
2. The physician or other person who prescribed the opioid antagonist; and
3. The commissioner of DSHS.

Notifications to the commissioner of DSHS must be submitted on the designated electronic form available on DSHS School Health Program website found at dshs.texas.gov.

25 TAC 40.87(b)-(c)

The school shall report the following information:

1. The age of the person who received the administration of the opioid antagonist;
2. Whether the person who received the administration of the opioid antagonist was a student, a school personnel member or school volunteer, or a visitor;
3. The physical location where the opioid antagonist was administered;
4. The number of doses of opioid antagonist administered;
5. The title of the person who administered the opioid antagonist; and
6. Any other information required by the commissioner of education.

Education Code 38.223(b)

Records Retention

Records relating to implementing and administering the district unassigned opioid antagonist medication policy must be retained per the campus record retention schedule. *25 TAC 40.87(a)*

Training

A district that adopts an opioid antagonist policy is responsible for training school personnel and school volunteers in the administration of an opioid antagonist. *Education Code 38.224(a)*

Training must include information on:

1. Recognizing the signs and symptoms of an opioid-related drug overdose;
2. Responding to an opioid-related drug overdose and administering an opioid antagonist;

3. Implementing emergency procedures, after administering an opioid antagonist;
4. Understanding the medical purpose and misuse of opioids; and
5. Properly disposing of used or expired opioid antagonists.

Training must:

1. Be provided annually in a formal training session or through online education, including practicing the administration of an opioid antagonist with an opioid antagonist trainer device; and
2. Be provided in accordance with the policy adopted under Education Code 21.4515.

Each campus must maintain training records and must make available upon request a list of school personnel and school volunteers who are trained and authorized to administer the unassigned opioid antagonist medication on the campus.

25 TAC 40.86(b)-(c)

Gifts, Grants, and
Donations

A district may accept gifts, grants, donations, and federal and local funds to implement these provisions. *Education Code 38.226*

Immunity

A person who in good faith takes, or fails to take, any action under Education Code Chapter 38, Subchapter E-1 is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act as described by Education Code 38.227. *Education Code 38.227*

**Maintenance and
Administration of
Epinephrine Auto-
Injectors**

Note: The following provisions apply only to a district that adopts an unassigned epinephrine auto-injector policy.

A district may adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors at each campus in the district.

If a policy is adopted, the policy:

1. Must provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus; and
2. May provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be ex-

periencing anaphylaxis at an off-campus school event or while in transit to or from a school event.

A district that adopts a policy must require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector present during all hours the campus is open. The supply of epinephrine auto-injectors at each campus must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an epinephrine auto-injector.

Education Code 38.208

A district that chooses to adopt and implement a written unassigned epinephrine auto-injector policy under Education Code Chapter 38, Subchapter E is not required to create an additional policy for care of certain students at risk for anaphylaxis under Education Code 38.0151 [see FFAF]. *25 TAC 40.62(c)*

A district may develop, as part of the policy, provisions for additional doses to be stocked and utilized at off-campus school events, or in transit to or from school events. *25 TAC 40.65(a)(2)*

Definitions

*All Hours the
Campus Is Open*

“All hours the campus is open” is defined as, at a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.

Campus

A “campus” is defined as a unit of a school district that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

*Unassigned
Epinephrine
Auto-Injector*

An “unassigned epinephrine auto-injector” is an epinephrine auto-injector prescribed by an authorized health-care provider in the name of the school issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, issued by a physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157.

25 TAC 40.63(1), (4), (11)

Prompt Notification

Local emergency medical services must be promptly notified by the school when an individual is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered. If the trained school personnel or school volunteer is the only individual available to notify emergency medical services, the trained individ-

ual should administer the unassigned epinephrine auto-injector before notifying emergency medical services.

The parent, legal guardian, or emergency contact must be promptly notified by the school when an unassigned epinephrine auto-injector is utilized on their child as soon as is feasible during the emergency response to suspected anaphylaxis.

25 TAC 40.65(e)-(f)

Records

School records of the administration of the unassigned epinephrine auto-injector and suspected anaphylaxis must be provided to the parent or guardian of the recipient upon request.

Records relating to implementation and administration of the school's unassigned epinephrine auto-injector policy shall be retained per the record retention schedule for records of public school districts found in 13 Administrative Code 7.125 [see CPC].

25 TAC 40.65(f)-(g)

Reports

Not later than the 10th business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector in accordance with district policy, the school shall send a report to the school district; the physician who prescribed the epinephrine auto-injector; and the commissioner of state health services.

The report must include the following information:

1. The age of the person who received the administration of the epinephrine auto-injector;
2. Whether the person who received the administration of the epinephrine auto-injector was a student, a school personnel member or school volunteer, or a visitor;
3. The physical location where the epinephrine auto-injector was administered;
4. The number of doses of epinephrine auto-injector administered;
5. The title of the person who administered the epinephrine auto-injector; and
6. Any other information required by the commissioner of education.

Education Code 38.209

Notifications to the commissioner of DSHS shall be submitted on the designated electronic form available on the DSHS School Health Program website. *25 TAC 40.68(b)*

Assignment of
Trained Individuals

At each campus in which a school adopts an unassigned epinephrine auto-injector policy, the principal may assign school personnel or school volunteers to be trained to administer unassigned epinephrine auto-injectors or seek school personnel or school volunteers who volunteer to be trained to administer unassigned epinephrine auto-injectors.

In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools may distribute to school personnel or school volunteers in the district, at least once per school year, a notice that includes a description of the request seeking volunteers to be trained to administer an epinephrine auto-injector to a person believed to be experiencing anaphylaxis and a description of the training that the school personnel or school volunteers will receive in the administration of epinephrine with an auto-injector.

25 TAC 40.66(a)-(b)

Signed Statement

Trained school personnel or school volunteers who administer the unassigned epinephrine auto-injector must submit a signed statement indicating that they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis. *25 TAC 40.66(c)*

Training

A district that adopts an unassigned epinephrine auto-injector written policy is responsible for training school personnel and school volunteers in the administration of an unassigned epinephrine auto-injector.

Training must include information on:

1. Recognizing the signs and symptoms of anaphylaxis;
2. Administering an epinephrine auto-injector;
3. Implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and
4. Properly disposing of used or expired epinephrine auto-injectors.

Training must be provided in accordance with the district professional development policy [see DMA].

Education Code 38.210(a), (b)

Each assigned school personnel or school volunteer shall receive initial training and an annual refresher training.

Training:

1. Shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention;
2. May be provided in a formal face-to-face training session or through an online education course;
3. Must include information on properly inspecting unassigned epinephrine auto-injectors for usage and expiration; and
4. Must include information about promptly notifying local emergency medical services.

25 TAC 40.67(1)-(2), (5)

The initial training must include hands-on training with an epinephrine auto-injector trainer. The annual refresher training must include a hands-on demonstration of administration skills.

Each school campus shall maintain training records and make available upon request a list of those school personnel or school volunteers trained and authorized to administer the unassigned epinephrine auto-injector on the campus.

25 TAC 40.67(3)-(4), (6)

Standing Orders

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe epinephrine auto-injectors in the name of a district in accordance with law. *Education Code 38.211(a)*

A district shall obtain a prescription from an authorized health-care provider each year, to stock, possess, and maintain at least one unassigned adult epinephrine auto-injector pack (two doses) on each school campus.

A school may choose to stock unassigned pediatric epinephrine auto-injector packs, based on the need of the school's population.

25 TAC 40.65(a)-(a)(1)

Epinephrine
Coordinator

The superintendent will designate appropriate school personnel to coordinate and manage policy implementation, including training of school personnel, and the acquisition or purchase, usage, expiration, and disposal of unassigned epinephrine auto-injectors. Throughout the school calendar year, the designated school per-

	<p>sonnel must coordinate with each campus to ensure that the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented. <i>25 TAC 40.65(b)</i></p>
Notice to Parents	<p>If a district implements a policy for the maintenance, administration, and disposal of epinephrine auto-injectors, the district shall provide written notice of the policy to a parent or guardian of each student enrolled in the district. Notice must be provided before the policy is implemented by the district and before the start of each school year. <i>Education Code 38.212</i></p> <p>A district shall provide electronic or written notice to the parent or guardian of each student.</p> <p>If a district changes or discontinues the policy under this subchapter, written or electronic notice detailing the change or discontinuation must be provided to the parent or guardian of each student within 15 calendar days.</p> <p><i>25 TAC 40.69</i></p>
Storage	<p>Unassigned epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency, in accordance with manufacturer's guidelines. It is recommended that the school administrator develop a map to be placed in high traffic areas that indicates the location of the unassigned epinephrine auto-injectors on each school campus. It is recommended that the map also indicates the locations of the automated external defibrillator (AED). <i>25 TAC 40.65(h)</i></p>
Replacement	<p>The district shall develop a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration. <i>25 TAC 40.65(i)</i></p>
Disposal	<p>Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy.</p> <p>Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy.</p> <p><i>25 TAC 40.65(j)-(k)</i> [See DBB]</p>
Gifts, Grants, and Donations	<p>A district may accept gifts, grants, donations, and federal and local funds to implement its policy. <i>Education Code 38.213</i></p>

**Maintenance and
Administration of
Medication for
Respiratory Distress**

Note: The following provisions apply only to a district that adopts a policy on medication for respiratory distress.

A district may adopt and implement a policy regarding the maintenance, administration, and disposal of unassigned medication for respiratory distress at each campus in the district. *Education Code 38.208(a-1); 25 TAC 40.44(a)*

If a policy is adopted, the policy must provide that school personnel and school volunteers who are authorized and trained may administer medication for respiratory distress to a person reasonably believed to be experiencing respiratory distress on a school campus, or at a school-sponsored or school-related activity on or off school property. *Education Code 38.208(b-1); 25 TAC 40.44(a)(1)(C)*

In developing the policy, a district may consider performing a review to include:

1. Consultation with school nurses, the local school health advisory committee, local health-care providers, or any department or organization involved with student well-being;
2. Campus geography; and
3. Student population size.

19 TAC 40.44(b)

An adopted unassigned medication for respiratory distress policy must be publicly available. *25 TAC 40.44(d)*

Definitions

“School personnel” means an employee of a district. The term includes a member of the board.

“School volunteer” means a person providing services for or on behalf of a district, on the premises of the district or at a school-sponsored or school-related activity on or off school property, who does not receive compensation in excess of reimbursement for expenses.

“Unassigned medication for respiratory distress” means albuterol, levalbuterol, or another medication based on the best available medical evidence for the treatment of respiratory distress that is:

1. Delivered by metered-dose inhaler (MDI) with a spacer (valved holding chamber) or by a nebulizer as a rescue medication;
2. Prescribed by an authorized health-care provider in the name of the district;

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3. Issued with a non-patient-specific standing delegation order for the administration of a medication for respiratory distress; and
4. Issued by an authorized health-care provider.

Education Code 38.201(3-a), (6), 22.053(b); 25 TAC 40.42(8), (10), (12)

Each Campus
During Regular
School Hours

Each district that adopts a policy must require that each campus have one or more school personnel or school volunteers authorized and trained to administer unassigned medication for respiratory distress present during regular school hours, which means at least 30 minutes before the first bell to 30 minutes after the last bell of the school day. *Education Code 38.208(d-1); 25 TAC 40.42(5), 40.44(a)(1)(C)*

A “campus” is defined as a geographic unit of a district that:

1. Has an assigned administrator;
2. Has enrolled students who are counted for average daily attendance;
3. Has assigned instructional staff;
4. Provides instructional services to students;
5. Has one or more grades in the range from early childhood education through grade 12 or is ungraded; and
6. Is subject to Texas laws.

25 TAC 40.42(2)

Medication
Inventory

Subject to the availability of funding, a district that adopts a policy must allow for treatment of multiple students and secure or obtain at least:

1. One MDI with appropriate spacers (valved holding chambers) to accommodate the developmental needs of the student population; or
2. At least five vials of nebulizer solution with appropriate nebulizer-required equipment to accommodate the developmental needs of the student population.

25 TAC 40.44(a)(2)

In addition to the minimum number of doses described above, the number of additional doses may be determined by an individual campus review led by an authorized health-care provider. *25 TAC 40.45(b)(2)*

Designated
Campus
Administrator

A district that adopts a policy must include in the policy the designated campus administrator to coordinate and manage policy implementation for each campus, which includes:

1. Conducting a review at the campus to determine the need for additional doses;
2. Training school personnel and school volunteers;
3. Acquiring or purchasing, maintaining, storing, and using unassigned medication for respiratory distress, subject to available campus funding; and
4. Disposing of expired unassigned medication for respiratory distress.

25 TAC 40.44(c)(1)

Notification
Procedures

Each district that adopts a policy must include in the policy the procedures for notifying a parent, prescribing authorized health-care provider, and the student's primary health-care provider when unassigned medication for respiratory distress is administered. *25 TAC 40.44(c)(4)*

Referral Required

If unassigned medication for respiratory distress is administered to a student whose parent or guardian has not provided notification to the school that the student has been diagnosed with asthma, the school must refer the student to the student's primary care provider on the day the medication for respiratory distress is administered and inform the student's parent or guardian regarding the referral. The referral must include:

1. The symptoms of respiratory distress observed;
2. The name and dosage of the unassigned medication for respiratory distress administered to the student;
3. Any patient care instructions given to the student; and
4. Information about the purpose and use of an asthma action plan and medical authorization for schools, including a blank copy of the plan and authorization the provider completes and returns to the school.

If a student who has received medication for respiratory distress does not have a primary care provider or the parent or guardian of the student has not engaged a primary care provider for the student, the student's parent or guardian must receive information to assist the parent or guardian in selecting a primary care provider for the student.

Education Code 38.208(b-2)-(b-3); 25 TAC 40.44(c)(6)-(7)

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Storage	<p>The supply of medication for respiratory distress at each campus must be stored in accordance with the manufacturer's guidelines and local policy of the district in a secure location and be easily accessible to authorized school personnel and school volunteers. <i>Education Code 38.208(e-1); 25 TAC 40.45(d)</i></p> <p>The location of the unassigned medication for respiratory distress must be specified in the policy. <i>25 TAC 40.44(c)(3)</i></p>
Disposal	<p>The policy must include a plan to check inventory of unassigned medication for respiratory distress for expiration at least twice during the school year, to replace, as soon as reasonably possible, and to document the findings. <i>25 TAC 40.44(c)(5)</i></p> <p>Expired unassigned medication for respiratory distress and other used or expired supplies must be disposed of in accordance with the manufacturer's guidelines and local policy of the district. <i>25 TAC 40.45(e)</i></p>
Records Retention	<p>Records relating to implementing and administering the district's unassigned medication for respiratory distress policy must be retained per the campus record retention schedule. <i>25 TAC 40.47(a)</i></p>
Training	<p>Each district that adopts a policy for the administration of medication for respiratory distress is responsible for training school personnel and school volunteers in the administration of medication for respiratory distress. Each authorized school personnel or school volunteer must receive initial training and an annual refresher training. The training must:</p> <ol style="list-style-type: none">1. Include information on recognizing the signs and symptoms of respiratory distress;2. Include information on administering medication for respiratory distress;3. Include information on implementing emergency procedures, if necessary, after administering medication for respiratory distress;4. Include information on proper sanitization, reuse, and disposal of medication for respiratory distress;5. Cover the authorized health-care provider's standing order;6. Include processes to follow-up with the prescribing authorized health-care provider and the student's primary health-care provider;7. Provide information on the report required after administering unassigned medication [see below];

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8. Include information on the district's adopted unassigned medication for respiratory distress policy;
9. Incorporate hands-on training with unassigned medication for respiratory distress; and
10. Inform school personnel or school volunteers of the purpose and use of asthma action plans.

Education Code 38.210(a-1); 25 TAC 40.46(a)

Training must be provided in a formal training session or through online education and must be provided in accordance with the district professional development policy [see DMA]. *Education Code 38.210(b)*

The policy must include a list of trained and authorized school personnel and school volunteers available to administer unassigned medication for respiratory distress. *25 TAC 40.44(c)(2)*

Each campus must maintain training records and must make available upon request a list of school personnel and school volunteers trained and authorized to administer unassigned medication for respiratory distress at the campus or at a school-sponsored event. *25 TAC 40.46(b)*

Reporting
Requirement

Not later than the 10th business day after the date a school personnel member or school volunteer administers medication for respiratory distress to a person experiencing respiratory distress, the school shall report the following information to the district, the physician or other person who prescribed the medication for respiratory distress, and the commissioner of state health services:

1. The age of the person who received the administration of the medication for respiratory distress;
2. Whether the person who received the administration of the medication for respiratory distress was a student, a school personnel member or school volunteer, or a visitor;
3. The dosage of the medication for respiratory distress administered;
4. The title of the person who administered the medication for respiratory distress; and
5. Any other information required by the commissioner.

Notifications to the commissioner of state health services must be submitted on the designated electronic form available on the DSHS School Health Program website found at dshs.texas.gov.

Education Code 38.2091; 25 TAC 40.47

No Negative Fiscal Impact

The policy may not require a district to purchase prescription medication for respiratory distress or require any other expenditure related to the maintenance or administration of medication for respiratory distress that would result in a negative fiscal impact on the district or school. *Education Code 38.208(f)*

Standing Order

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe medication for respiratory distress in the name of a school district. *Education Code 38.211(a)*

Each district campus in a district that adopts a policy for the administration of medication for respiratory distress must obtain a prescription from an authorized health-care provider to stock, possess, and maintain unassigned medication for respiratory distress at each campus and any equipment necessary to administer the medication. The campus must renew this prescription or obtain a new prescription annually. *25 TAC 40.45(b)*

Notice to Parents

If a district implements a policy for the maintenance, administration, and disposal of medication for respiratory distress, the district shall provide written or electronic notice of the policy to a parent or guardian of each student enrolled in the district. Notice must be provided before the policy is implemented by the district and before the start of each school year. *Education Code 38.212; 25 TAC 40.48(a)*

If a district changes or discontinues the unassigned medication for respiratory distress policy, the campus must provide written or electronic notice detailing the change or discontinuation of the policy to a parent or guardian of each student within 15 calendar days after the change or discontinuation. *25 TAC 40.48(b)*

Refusal to Administer

A school personnel member or school volunteer may not be subject to any penalty or disciplinary action for refusing to administer or receive training to administer epinephrine auto-injectors or medication for respiratory distress, as applicable, in accordance with a policy for the maintenance and administration of epinephrine auto-injectors or a policy for medication for respiratory distress. *Education Code 38.208(d-2)*

Immunity from Liability

A person who in good faith takes, or fails to take, any action related to Education Code Chapter 38, Subchapter E, related to the maintenance and administration of epinephrine auto-injectors and medi-

ation for respiratory distress, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act as described by Education Code 38.215 and 25 Administrative Code 40.49. *Education Code 38.215; 25 TAC 40.71*

No employee shall give any student prescription medication, non-prescription medication, herbal substances, anabolic steroids, or dietary supplements of any type, except as authorized by this or other District policy.

**Medication Provided
by Parent**

The Superintendent shall designate the employees who are authorized to administer medication that has been provided by a student's parent. An authorized employee is permitted to administer the following medication in accordance with administrative regulations:

1. Prescription medication in accordance with legal requirements.
2. Nonprescription medication, upon a parent's written request, when properly labeled and in the original container.
3. Herbal substances or dietary supplements provided by the parent and only if required by the individualized education program or Section 504 plan for a student with disabilities.

**Medication Provided
by District**

Except as required by law and provided by this policy, the District shall not purchase medication to administer to a student.

As-Needed Basis

The District shall purchase certain nonprescription medications to administer to students only on an as-needed basis and in accordance with:

1. Protocols established by the District's medical adviser who must be licensed to practice medicine in the state of Texas; and
2. Parental consent given on the emergency treatment form.

The Superintendent shall designate the employees who are authorized to administer nonprescription medication under these protocols and permissions.

Athletic Program

The District shall purchase nonprescription medication that may be used to prevent or treat illness or injury in the District's athletic program. Only a licensed athletic trainer or a physician licensed to practice medicine in the state of Texas may administer this medication and may do so only if:

1. The District has prior written consent for medication to be administered [see Medical Treatment, below]; and
2. The administration of a medication by an athletic trainer is in accordance with a standing order or procedures approved by a physician licensed to practice medicine in the state of Texas.

WELLNESS AND HEALTH SERVICES
MEDICAL TREATMENT

FFAC
(LOCAL)

Epinephrine	<p>The District authorizes school personnel who have agreed in writing and been adequately trained to administer an unassigned epinephrine auto-injector in accordance with law and this policy. Administration of epinephrine shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing anaphylaxis.</p>
<i>On Campus</i>	<p>Authorized and trained individuals may administer an unassigned epinephrine auto-injector at any time to a person experiencing anaphylaxis on a school campus.</p> <p>The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer epinephrine so that at least one trained individual is present on campus during all hours the campus is open. In accordance with state rules, the campus shall be considered open for this purpose during regular on-campus school hours and whenever school personnel are physically on site for school-sponsored activities.</p>
<i>Maintenance, Availability, and Training</i>	<p>The Superintendent shall develop administrative regulations designating a coordinator to manage policy implementation and addressing annual training of authorized individuals in accordance with law; procedures for auto-injector use; and acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned epinephrine auto-injectors at each campus.</p>
<i>Notice to Parents</i>	<p>In accordance with law, the District shall provide notice of the policy to parents regarding the epinephrine program, including notice of any change to or discontinuation of this program.</p>
Opioid Antagonist	<p>This provision shall be applicable to every campus.</p>
<i>On Campus</i>	<p>The District authorizes school personnel who have been adequately trained to administer an opioid antagonist in accordance with law and this policy. Administration of an opioid antagonist shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing an opioid-related overdose.</p> <p>Each applicable campus shall have at least one individual who is authorized and trained to administer an opioid antagonist present during regular school hours.</p>
<i>Maintenance, Availability, Training, and Reporting</i>	<p>Each applicable campus shall have at least two unused, unexpired opioid antagonist doses available.</p> <p>All opioid antagonists shall be stored in a secure location and shall be easily accessible by individuals who are authorized and trained to administer an opioid antagonist.</p>

	<p>The Superintendent shall develop administrative regulations addressing acquisition, maintenance, expiration, and disposal of opioid antagonists in the District, as well as reporting, employee training, and emergency notification requirements.</p>
<p>Medication for Respiratory Distress</p>	<p>The District authorizes school personnel who have been adequately trained to administer unassigned medication for respiratory distress in accordance with law and this policy. Administration of this type of medication shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing respiratory distress.</p>
<p><i>On-Campus</i></p>	<p>Authorized and trained individuals may administer unassigned medication for respiratory distress at any time a person is experiencing this type of distress on a school campus.</p> <p>The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer this medication so that at least one trained individual is present on campus during regular school hours as defined in state rules.</p>
<p><i>Maintenance, Availability, and Training</i></p>	<p>The Superintendent shall develop administrative regulations:</p> <ol style="list-style-type: none">1. Designating a coordinator to manage policy implementation;2. Addressing annual training of authorized individuals in accordance with law;3. Listing the trained individuals authorized to administer unassigned medication for respiratory distress;4. Addressing procedures for use; and5. Addressing acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned medication for respiratory distress at each campus.
<p><i>Notice to Parents</i></p>	<p>In accordance with law, the District shall provide notice of the policy to parents regarding the administration of unassigned medication to a person experiencing respiratory distress, including notice of any change to or discontinuation of these provisions.</p>
<p><i>After Administration of Medication</i></p>	<p>After the administration of unassigned medication to a student experiencing respiratory distress, the coordinator shall provide written notice to the student's parent, the health-care provider authorizing the unassigned medication for respiratory distress, and the student's primary health-care provider.</p>
<p>Psychotropics</p>	<p>Except as permitted by law, an employee shall not:</p> <ol style="list-style-type: none">1. Recommend to a student or a parent that the student use a psychotropic drug;

2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Medical Treatment

A student's parent, legal guardian, or other person having lawful control shall annually complete and sign a form that provides emergency information and addresses authorization regarding medical treatment. A student who has reached age 18 shall be permitted to complete this form.

The District shall seek appropriate emergency care for a student as required or deemed necessary.

Threat Assessment

Definitions

“Harmful, threatening, or violent behavior” includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

1. Specific interventions, including mental health or behavioral supports;
2. In-school suspension;
3. Out-of-school suspension; or
4. The student’s expulsion or removal to a disciplinary alternative education program (DAEP) or a juvenile justice alternative education program (JJAEP).

“Team” means a threat assessment and safe and supportive school team established by the board under Education Code 37.115.

Education Code 37.115(a)

Threat Assessment
and Safe and
Supportive Schools
Team

The board shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams.

The team is responsible for developing and implementing the safe and supportive school program in compliance with Texas Education Agency (TEA) rules at the district campus served by the team.

The policies and procedures adopted under Education Code 37.115 must:

1. Be consistent with the model policies and procedures developed by the Texas School Safety Center (TxSSC) [see Education Code 37.220];
2. Require each team to complete training provided by the TxSSC or a regional education service center (ESC) regarding evidence-based threat assessment programs;
3. Require each team established under this section to report the required information regarding the team’s activities to TEA [see Reporting to TEA, below];
4. Require each district campus to establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate school employee; and

5. Provide for:
 - a. A district employee who reports a potential threat to a team to elect for the employee's identity to be confidential and not subject to disclosure Government Code Chapter 552 (Public Information Act), except as necessary for the team, the district, or law enforcement to investigate the potential threat; and
 - b. The district to maintain a record of the identity of a district employee who elects for the employee's identity to be confidential.

Membership The superintendent shall ensure, to the greatest extent practicable, that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus of a district, provided that each district campus is assigned a team.

Oversight
Committee The superintendent may establish a committee, or assign to an existing committee established by the district, the duty to oversee the operations of teams established for the district. A committee with oversight responsibility must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance use, school safety and security, emergency management, and law enforcement.

Team Duties Each team shall:

1. Conduct a threat assessment that includes assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with district policies and procedures; and gathering and analyzing data to determine the level of risk and appropriate intervention, including:
 - a. Referring a student for mental health assessment; and
 - b. Implementing an escalation procedure, if appropriate, based on the team's assessment, in accordance with district policy;
2. Provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and

3. Support the district in implementing the district's multihazard emergency operations plan [see CKC].

Use of Sentinel
Assessment
Instrument, Manual,
and Field Guide

Effective August 1, 2025, when conducting a threat assessment, members of a threat assessment team shall utilize the threat assessment instrument, manual, and field guide in Sentinel [see CKA], which are consistent with the model policies published by the TxSSC. *19 TAC 103.1213(e)(1)(A)*

Parental
Participation

Before a team may conduct a threat assessment of a student, the team must notify the parent of or person standing in parental relation to the student regarding the assessment. In conducting the assessment, the team shall provide an opportunity for the parent or person to participate in the assessment, either in person or remotely, and to submit to the team information regarding the student.

After completing a threat assessment of a student, the team shall provide to the parent of or person standing in parental relation to the student the team's findings and conclusions regarding the student.

*Consent for
Mental Health-
Care Service*

A team may not provide a mental health-care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or the person standing in parental relation to the student before providing the mental health-care service. The consent must be submitted on a form developed by the district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

Education Code 37.115(c)-(g)

Determination of
Risk

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. These requirements do not prevent an employee of the school from acting immediately to prevent an imminent threat or respond to an emergency.

A team identifying a student at risk of suicide shall act in accordance with the district's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with the district's suicide prevention program.

A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

Education Code 37.115(h)-(j)

Recordkeeping

Materials and information provided to or produced by a team during a threat assessment of a student under this provision must be maintained in the student's school record until the student's 24th birthday. *Education Code 37.115(j-1)*

[For information regarding the transfer of threat assessment records between school districts, see FD and FDA.]

Reporting to TEA

A team must report to TEA in accordance with TEA-developed guidelines the following information regarding the team's activities and other information for each campus the team serves:

1. The occupation of each person appointed to the team;
2. The number of threats and description of the type of threats reported to the team;
3. The outcome of each assessment made by the team, including:
 - a. Any disciplinary action taken, including a change in school placement;
 - b. Any action taken by law enforcement; or
 - c. A referral to or change in counseling, mental health, special education, or other services;
4. The total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
 - a. Citations issued for Class C misdemeanor offenses;
 - b. Arrests;
 - c. Incidents of uses of restraint;
 - d. Changes in school placement, including placement in a JJAEP or DAEP;
 - e. Referrals to or changes in counseling, mental health, special education, or other services;

- f. Placements in in-school suspension or out-of-school suspension and incidents of expulsion;
 - g. Unexcused absences of 15 or more days during the school year; and
 - h. Referrals to juvenile court for truancy; and
5. The number and percentage of school personnel trained in:
- a. A best-practices program or research-based practice under Education Code 38.351 [see FFEB], including the number and percentage of school personnel trained in suicide prevention or grief and trauma-informed practices;
 - b. Mental health or psychological first aid for schools;
 - c. Training relating to the safe and supportive school program; or
 - d. Any other program relating to safety identified by the commissioner.

Education Code 37.115(k)

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**Removal Under
Student Code of
Conduct**

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

**Mandatory
Placement in DAEP**

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement, subject to the requirements of Education Code 37.009(a) [see Process for Removal and Mitigating Factors, below]. *Education Code 37.006*

[For additional factors that must be considered in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program (JJAEP), see FO and the Student Code of Conduct.]

**School-Related
Misconduct**

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
 - a. A controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq., excluding marijuana, as defined by Health and Safety Code 481.002, or tetrahydrocannabinol, as defined by Department of Public Safety rule;
 - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Possesses, uses, or is under the influence of, or sells, gives, or delivers to another person marijuana or tetrahydrocannabinol, as defined above;

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5. Possesses, uses, sells, gives, or delivers to another person an e-cigarette, as defined by Health and Safety Code 161.081 [see FNCD];
6. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
7. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
8. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
9. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.
10. Engages in conduct that contains the elements of the offense of harassment under Penal Code 42.07(a)(1), (2), (3), or (7) against an employee of the district.

Education Code 37.006(a)

Exception

Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. *Education Code 37.006(m)*

Retaliation

Except where a student engages in retaliatory acts against a district employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation under Penal Code 36.06, against any school employee. *Education Code 37.006(b)*

Conduct Unrelated to School

In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The student receives deferred prosecution under Family Code 53.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;
2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or

3. The superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03.

Education Code 37.006(c)

*Reasonable
Belief*

In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, a superintendent or a superintendent's designee may consider all available information and must consider the information furnished under Code of Criminal Procedure Article 15.27 other than information requested under Code of Criminal Procedure Article 15.27(k-1). *Education Code 37.006(e); Code of Criminal Procedure 15.27(a)* [See GRAA]

Title 5 Felonies

The following are felony offenses listed in Penal Code, Title 5, Offenses Against the Person.

1. Murder. *Penal Code 19.02*
2. Capital Murder. *Penal Code 19.03*
3. Manslaughter. *Penal Code 19.04*
4. Criminally Negligent Homicide. *Penal Code 19.05*
5. Unlawful Restraint, if:
 - a. The person restrained was younger than 17 years of age; or
 - b. The actor recklessly exposes the victim to a substantial risk of serious bodily injury; restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty; or while in custody restrains any other person. *Penal Code 20.02*
6. Kidnapping. *Penal Code 20.03*
7. Aggravated Kidnapping. *Penal Code 20.04*
8. Smuggling of Persons. *Penal Code 20.05*
9. Continuous Smuggling of Persons. *Penal Code 20.06*
10. Trafficking of Persons. *Penal Code 20A.02*
11. Continuous Trafficking of Persons. *Penal Code 20A.03*

12. Continuous Sexual Abuse of Young Child or Disabled Individual. *Penal Code 21.02*
13. Bestiality. *Penal Code 21.09*
14. Indecency with a Child. *Penal Code 21.11*
15. Improper Relationship between Educator and Student. *Penal Code 21.12*
16. Invasive Visual Recording. *Penal Code 21.15*
17. Unlawful Disclosure or Promotion of Intimate Visual Material. *Penal Code 21.16*
18. Voyeurism, if the victim was younger than 14 years of age at the time of the offense. *Penal Code 21.17*
19. Sexual Coercion. *Penal Code 21.18*
20. Assault, if the offense is punishable as a felony. *Penal Code 22.01*
21. Sexual Assault. *Penal Code 22.011*
22. Aggravated Assault. *Penal Code 22.02*
23. Aggravated Sexual Assault. *Penal Code 22.021*
24. Injury to a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.04*
25. Abandoning or Endangering a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.041*
26. Deadly Conduct, if the person knowingly discharges a firearm at or in the direction of one or more individuals, or at or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied. *Penal Code 22.05*
27. Terroristic Threat, if the actor threatens to commit any offense involving violence to any person or property with intent to:
 - a. Place any person in fear of imminent serious bodily injury if the actor knows the person is a peace officer or judge;
 - b. Prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public

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place if the prevention or interruption causes pecuniary loss of \$1,500 or more to the owner;

- c. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
- d. Place the public or a substantial group of the public in fear of serious bodily injury; or
- e. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision. *Penal Code 22.07*

28. Aiding Suicide, if the conduct causes suicide or attempted suicide that results in serious bodily injury. *Penal Code 22.08*

29. Tampering with Consumer Product. *Penal Code 22.09*

30. Harassment by Persons in Certain Facilities or of Public Servant. *Penal Code 22.11*

**Sexual Assault of
Another Student**

A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:

- 1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student who was a young child or disabled individual while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;
- 2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and
- 3. There is only one campus in a district serving the grade level in which the student is enrolled.

Education Code 25.0341, 37.0051(a) [See FDE at Sexual Assault Transfer—Transfer of Assailant]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

**Permissive Removal
Non-Title 5 Felony**

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

- 1. The superintendent or designee has a reasonable belief [see Reasonable Belief, above] that the student has engaged in

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conduct defined as a felony offense other than aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5 [see above at Title 5 Felonies]; and

2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

Education Code 37.006(d)-(e)

Bullying

A student may be removed from class and placed in a DAEP if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;
2. Incites violence against a student through group bullying; or
3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

Bullying

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Intimate Visual
Material

"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052

One Year After
Conduct

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

Certain
Organization and
Gang Membership
and Solicitation

A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

Older Students

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the

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district shall revoke the student's admission. *Education Code 25.001(b-1)*

**Placement of
Younger Students**

A student who is younger than 10 shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f), .007(e)* [See FOD]

Students Younger
Than Six

Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] shall be provided educational services in a DAEP. *Education Code 37.006(l), .007(e)(2)*

**Process for Removal
Conference**

Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the campus behavior coordinator (CBC) or other appropriate administrator shall schedule a conference among the CBC or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.

Mitigating Factors

Before ordering removal, the CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.

Order

Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the CBC, after considering any mitigating factors under Education Code 37.001(a)(4) [see FO], shall order the placement of the student for a period consistent with the Student Code of Conduct.

Appeal

If district policy allows a student to appeal to the board or the board's designee a decision of the CBC or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed.

Education Code 37.009(a) [See Student Code of Conduct]

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**Right to Request a
Special Education
Evaluation**

On the placement of a student in a DAEP, the district shall provide information to the student's parent or person standing in parental relation to the student regarding the process for requesting a full individual and initial evaluation of the student under Education Code 29.004 [see EHBAA]. *Education Code 37.006(p)*

Term of Removal

The period of the placement after removal may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees. *Education Code 37.009(a)*

A board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of placement in a DAEP may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees or extended placement is in the best interest of the student. *Education Code 37.009(d)*

Beyond Grading
Period or 60 Days

If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.

No Appeal

Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.

Education Code 37.009(b)

Beyond End of
School Year

Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:

1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or
2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

Education Code 37.009(c)

Order of Removal

A board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, a board or designee shall deliver a copy of the order placing the student in a DAEP and any information required

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under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

Activities

The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see GRAA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.006(o)

DAEP at Capacity

If a DAEP is at capacity at the time a CBC is deciding placement for a student who engaged in conduct described under Education Code 37.006(a)(2)(C-1) (possession or use of marijuana), (C-2) (possession, use, delivery of an e-cigarette), (D) (delivery of alcohol), or (E) (abuse of volatile chemical), the student shall be placed in in-school suspension; and if a position becomes available in the program before the expiration of the period of the placement, transferred to the program for the remainder of the period.

Placement of
Student Who
Engaged in Violent
Conduct

If a DAEP is at capacity at the time a CBC is deciding placement for a student who engaged in conduct described under Education Code 37.007 that constitutes violent conduct [see below at Determination of Violent Conduct], a student who has been placed in the program for conduct described under Education Code 37.006(a)(2)(C-1), (C-2), (D), or (E) (above) may be removed from the program and placed in in-school suspension to make a position in the program available for the student who engaged in violent conduct. If removed from the program and a position in the program becomes available before the expiration of the period of the placement, the student shall be returned to the program for the remainder of the period.

Determination of
Violent Conduct

Violent conduct means an act by a student against another person that is intended to result in physical harm, bodily injury, or assault or a threat that reasonably places the other person in fear of immi-

nent physical harm, bodily injury, or assault. A CBC may determine whether a specific instance of conduct listed below rises to the level of violent conduct for purposes of determining placement in a DAEP.

1. The student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.
2. While on or within 300 feet of school property, or while attending a school-sponsored or school-related activity on or off school property, the student engages in conduct that contains the elements of the offense of assault under Penal Code 22.01(a)(1), including when committed as an act of retaliation against an employee or volunteer, as described in Education Code 37.007(d).
3. While on or within 300 feet of school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.
4. While within 300 feet of school property, or when committed as an act of retaliation against an employee or volunteer, whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:
 - a. Conduct that contains the elements of the offense of unlawful carrying of weapons under Penal Code 46.02;
 - b. An offense relating to prohibited weapons under Penal Code 46.05;
 - c. Aggravated assault under Penal Code 22.02;
 - d. Sexual assault under Penal Code 22.011;
 - e. Aggravated sexual assault under Penal Code 22.021;
 - f. Arson under Penal Code 28.02;
 - g. Murder under Penal Code 19.02;
 - h. Capital murder under Penal Code 19.03;
 - i. Criminal attempt to commit murder or capital murder under Penal Code 15.01;
 - j. Indecency with a child under Penal Code 21.11;

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- k. Aggravated kidnapping under Penal Code 20.04;
 - l. Aggravated robbery under Penal Code 29.03;
 - m. Manslaughter under Penal Code 19.04;
 - n. Criminally negligent homicide under Penal Code 19.05;
 - o. Continuous sexual abuse of a young child or an individual with disabilities under Penal Code 21.02;
 - p. Selling, giving, delivering to another person, possessing, using, or being under the influence of a controlled substance or dangerous drug, excluding marijuana or tetrahydrocannabinol; or
 - q. Possessing a firearm, as defined by 18 U.S.C. 921.
5. The student engages in conduct against another student, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property, that contains the elements of:
- a. The offense of aggravated assault under Penal Code 22.02;
 - b. Sexual assault under Penal Code 22.011;
 - c. Aggravated sexual assault under Penal Code 22.021;
 - d. Murder under Penal Code 19.02;
 - e. Capital murder under Penal Code 19.03; or
 - f. Criminal attempt to commit murder or capital murder under Penal Code 15.01.
6. While placed in a DAEP and on the program campus, the student engages in documented serious misbehavior despite documented behavioral interventions.

Education Code 37.009(a-1)-(a-2); 19 TAC 103.1205

**Completion of
Proceedings Upon
Withdrawal**

If a student withdraws from a district before an order for placement in a DAEP is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the district the same or subsequent school year, the district may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the stu-

dent enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

**Enrollment in
Another District**

If a student placed in a DAEP enrolls in another district before the expiration of the placement, a board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes without completing the period of placement. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
 - a. The out-of-state district provides a copy of the placement order; and
 - b. The grounds for placement are the same as grounds for placement in the enrolling district.

Education Code 37.008(j)

**Out-of-State
Placement**

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.008(j-1)

**Court-Ordered
Placement**

Unless a board and the juvenile board for the county in which a district's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation

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department's role in supervising and providing other support services for students in DAEP programs:

1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;
2. A court may not order a student to attend a DAEP without a district's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

Education Code 37.010(c)-(d)

School Activities

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(e)*

Placement After
Court Disposition

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

**Not Guilty/
Insufficient
Evidence/Charges
Dropped**

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The superin-

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tendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

Education Code 37.006(h); Code of Criminal Procedure 15.27(g)

Appeal After
Placement Upheld

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the superintendent or designee; and confirm or reverse the superintendent's decision. The board shall make a record of the proceedings.

If a board confirms the decision, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner of education. The student may not be returned to the regular classroom pending the appeal to the commissioner.

Education Code 37.006(i)-(j)

**120-Day Review of
Status**

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by a board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required to provide a course in the DAEP, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.009(e)

**Additional
Proceedings**

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the prin-

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cipal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

Reporting

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)*
[See AIB]

Note: See FOF for provisions concerning students with disabilities.

Students with Disabilities Under Section 504

A district shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 C.F.R. 104.35(a)*

A district may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the district would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*

Note: The provisions below apply only to students eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA).

Students Receiving Special Education Services

ARD Committee
Required

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (ARD) committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations. *Education Code 37.004(a)-(b)*

The methods adopted in the Student Code of Conduct [see FO] for discipline management and for preventing and intervening in student discipline problems must provide that a student who is enrolled in the special education program may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. *Education Code 37.001(b-1)*

DAEP Placement
Not Solely for
Educational
Purposes

A student with a disability who receives special education services may not be placed in a disciplinary alternative education program (DAEP) solely for educational purposes. A teacher in a DAEP who has a special education assignment must hold an appropriate certificate or permit for that assignment. *Education Code 37.004(c)-(d)*

Removal for 10 Days or Less

School personnel may remove a student with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1)*

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Services During Removal	A district is required to provide services during the period of removal if the district provides services to a child without disabilities who is similarly removed. <i>34 C.F.R. 300.530(d)</i>
Subsequent Removals of 10 Days or Less	School personnel may remove the student for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement (see below). <i>34 C.F.R. 300.530(b)(1)</i>
Services During Removal	After a student has been removed from his or her current placement for 10 school days in the same school year, during any subsequent removal of 10 consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program (IEP). <i>20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4)</i>
Notice of Procedural Safeguards	Not later than the date on which the decision to take the disciplinary action is made, a district shall notify the student's parents of the decision and of all procedural safeguards [see EHBAE]. <i>20 U.S.C. 1415(k)(1)(H)</i>
Removals That Are a Change in Placement	<p>Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review.</p> <p>Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of functional behavioral assessments; positive behavioral interventions, strategies, and supports; behavioral intervention plans; and the manifestation determination review [see Manifestation Determination, below].</p> <p><i>Education Code 37.004(b)</i></p>
Behavior Assessment and Intervention	<p>If a district takes a disciplinary action regarding a student with a disability who receives special education services that constitutes a change in placement under federal law, the district shall:</p> <ol style="list-style-type: none">1. Not later than the 10th school day after the change in placement:<ol style="list-style-type: none">a. Seek consent from the student's parent or person standing in parental relation to the student to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted

- on the student or the student's most recent functional behavioral assessment is more than one year old; and
- b. Review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment; and
2. As necessary, develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan or, if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan.

Education Code 37.004(b-1)

Change in
Placement

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than 10 consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
 - c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

The district determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. The district's determination is subject to review through due process and judicial proceedings.

34 C.F.R. 300.536

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct. *20 U.S.C. 1415(k)(1)(A)*

Manifestation
Determination

Within 10 school days of any decision to change the placement of a student because of a violation of a code of student conduct, a district, parents, and relevant members of the ARD committee (as determined by the parent and the district) shall review all relevant information in the student's file, including the student's IEP, any

teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of the district's failure to implement the IEP.

If the district, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

If the district, the parent, and relevant members of the ARD committee determine the conduct was the direct result of the district's failure to implement the IEP, the district must take immediate steps to remedy those deficiencies.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e)

Not a Manifestation

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c)*

Expulsion

In a county with a juvenile justice alternative education program (JJAEP) [see FODA], a district must invite the administrator of the JJAEP or the administrator's designee to an ARD committee meeting convened to discuss the discretionary expulsion under Education Code 37.007 of a student with a disability. The district must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parents. A copy of the student's current IEP must be provided to the JJAEP representative with the notice. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's current IEP in the JJAEP. *19 TAC 89.1052*

*Services During
Removal*

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1)-(2)

For a student with a disability who was expelled under a discretionary expulsion under Education Code 37.007, an ARD committee meeting must be convened to reconsider placement of the student in the JJAEP if the JJAEP provides written notice to the district of specific concerns that the student's education or behavioral needs cannot be met in JJAEP.

The district must invite the JJAEP administrator or the administrator's designee to the meeting and must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parents. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP may participate in the meeting to the extent that the meeting relates to the student's continued placement in JJAEP.

19 TAC 89.1052

Manifestation

If the district, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct a functional behavioral assessment (FBA), unless the district had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan (BIP) for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at Special Circumstances, below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent and the district agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f)

**Special
Circumstances**

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the Texas Education Agency (TEA) or a school district;
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of TEA or a school district; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or the district.

20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g)

The ARD committee shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2)*

**Services During
Removal**

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1)

Appeals

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. A district that believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others may request a hearing. *20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151* [See EHBAE]

**Placement During
Appeals**

When an appeal has been requested by a parent or a district, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever oc-

curs first, unless the parent and district agree otherwise. *20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533*

Reporting Crimes

Federal law does not prohibit a district from reporting a crime committed by a student with a disability to appropriate authorities. If a district reports a crime, the district shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the district reported the crime. A district may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). *20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535* [See FL]

Students Not Yet Identified

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in the IDEA if a district had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a)*

District Knowledge

A district shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student expressed concern in writing to supervisory or administrative personnel of the district, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services; or
3. The student's teacher, or other district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of the district.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b)

Exception

A district shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c)

If a district does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d)

**Behavior
Management
Techniques**

It is the policy of the state to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities. *Education Code 37.0021(a); 19 TAC 89.1053(j)*

[For restrictions on aversive techniques, see FO.]

**Rules on Restraint
and Seclusion**

The commissioner by rule shall adopt procedures for the use of restraint and time-out by a district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services. The procedures must be consistent with Education Code 37.0021(d). *Education Code 37.0021(d)*

**School Peace
Officers**

This provision and any rules or procedures adopted under this provision apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a district; or
2. Provides, as a school resource officer, a regular police presence on a district campus under a memorandum of understanding between the district and a local law enforcement agency.

Education Code 37.0021(h); 19 TAC 89.1053(m)

Exceptions

Education Code 37.0021 (use of confinement, seclusion, restraint, and time-out) does not apply to:

1. A peace officer, while performing law enforcement duties, except as provided above [see School Peace Officers] and by

Education Code 37.0021(i) [see Restraint, Documentation, below];

2. Juvenile probation, detention, or corrections personnel; or
3. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

Law Enforcement Duties

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g); 19 TAC 89.1053(m), (n)

Further, Education Code 37.0021 does not prevent a student’s locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, “weapon” includes any weapon described under Education Code 37.007(a)(1). [See FNCG]

Education Code 37.0021(f)

Peace Officer or Security Personnel Use of Restraint or Taser

A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity must not restrain or use a chemical irritant spray or Taser on a student enrolled in fifth grade or below, unless the student poses a serious risk of harm to the student or another person [see FO defining Taser]. *19 TAC 89.1053(l)*

Confinement

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a)*

Seclusion

A district employee or volunteer or an independent contractor of a district may not place a student in seclusion. *Education Code 37.0021(c)*

“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and

2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2)

Restraint

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. *19 TAC 89.1053(b)(2)*

The following provisions do not apply to the use of physical force or a mechanical device that does not significantly restrict the free movement of all or a portion of the student’s body. Restraint that involves significant restriction as referenced above does not include:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a student to promote safety (e.g., holding a student’s hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the IEP as required by 34 C.F.R. 300.324(a)(2)(i) to promote student learning and reduce and/or prevent the need for ongoing intervention; or
4. Seat belts and other safety equipment used to secure students during transportation.

19 TAC 89.1053(f)

*Limitations on
Use of Restraint*

A school employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c)

<i>Emergency</i>	<p>“Emergency” means a situation in which a student’s behavior poses a threat of:</p> <ol style="list-style-type: none">1. Imminent, serious physical harm to the student or others; or2. Imminent, serious property destruction. <p><i>19 TAC 89.1053(b)(1)</i></p>
<i>Training</i>	<p>Training for school employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 Administrative Code 89.1053(d).</p>
<i>Documentation</i>	<p>In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the documentation and notification requirements set forth at 19 Administrative Code 89.1053(e).</p> <p>A district shall report electronically to TEA, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.</p> <p><i>Education Code 37.0021(i)</i></p>
Time-Out	<p>“Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:</p> <ol style="list-style-type: none">1. That is not locked; and2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object. <p><i>19 TAC 89.1053(b)(3)</i></p>
<i>Limitations on Use of Time-Out</i>	<p>A school employee, volunteer, or independent contractor may use time-out with the following limitations:</p> <ol style="list-style-type: none">1. Physical force or threat of physical force shall not be used to place a student in time-out.2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s IEP and/or behavior improvement plan or behavioral intervention plan if it is utilized

on a recurrent basis to increase or decrease targeted behavior.

3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(g)

Training

Training for school employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 Administrative Code 89.1053(h).

Documentation

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP and/or behavior improvement plan or behavioral intervention plan. If a student has a behavior improvement plan or behavioral intervention plan, the district must document each use of time-out prompted by a behavior of the student specified in the student's behavior improvement plan or behavioral intervention plan, including a description of the behavior that prompted the time-out. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(i)

(LOCAL) Policies Packet

For your convenience, this file contains *only* the local policies from your school district's TASB update packet.

What is in this packet?

- Instruction sheet for recommended (LOCAL) policies
- Explanatory Notes for recommended (LOCAL) policies
- Clean copies of recommended (LOCAL) policies
- Annotated (redlined) copies of recommended (LOCAL) policy changes

This is not the full update packet.

To retrieve your district's full update packet, log in to Policy Online® and visit My Policy Manual > Local Manual Updates > Numbered Updates.

What is in the full update packet?

The full update packet contains:

- A summary of the overall policy update
- (LEGAL) policies and (EXHIBIT) documents that describe the statutory framework in which your local policies must operate
- Instructions and Explanatory Notes for every policy change, not just the (LOCAL) policies
- Guidance on how to:
 - Present recommended policy changes to the board
 - Keep minutes
 - Notify TASB of board action
 - Maintain your historical record
 - Update your administrative regulations

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This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

Instruction Sheet
TASB Localized Policy Manual Update 125

Wimberley ISD

Code	Type	Action To Be Taken	Note
BDAA	(LOCAL)	Replace policy	Revised policy
BDB	(LOCAL)	Replace policy	Revised policy
BDF	(LOCAL)	ADD policy	See explanatory note
EI	(LOCAL)	Replace policy	Revised policy
FDE	(LOCAL)	Replace policy	Revised policy
FEC	(LOCAL)	Replace policy	Revised policy
FFAC	(LOCAL)	Replace policy	Revised policy

Explanatory Notes

TASB Localized Policy Manual Update 125

Wimberley ISD

BDAA(LOCAL) OFFICERS AND OFFICIALS: DUTIES AND REQUIREMENTS OF BOARD OFFICERS

Revisions are recommended to this local policy on board officer duties and requirements. At Board Officers, the sentence indicating that the board may assign a district employee to provide clerical assistance is recommended for deletion since the superintendent, rather than the board, manages staff assignments, including providing support to the board.

BDB(LOCAL) BOARD INTERNAL ORGANIZATION: BOARD COMMITTEES

This policy has been revised in coordination with BDF(LOCAL) to clarify the difference between board committees and advisory committees. Accordingly, the subtopic of this code has been changed from Internal Committees to Board Committees, and new provisions are recommended to establish how board committees are formed and outline their purpose. Text addressing Dissolution of board committees is also recommended for inclusion. The language previously at Special Committees has been moved to BDF(LOCAL).

BDF(LOCAL) BOARD INTERNAL ORGANIZATION: ADVISORY COMMITTEES

This new local policy is recommended for inclusion to coordinate with the changes at BDB. The subtopic of this code has been changed from Citizen Advisory Committees to Advisory Committees. Language has been moved here from BDB(LOCAL) and updated to clarify how advisory committees are formed and the parameters of their responsibilities. A section on Dissolution of the committees is also recommended for inclusion.

EI(LOCAL) ACADEMIC ACHIEVEMENT

At Partial Credit, recommended revisions replace the phrase "combined grade for" with "average of" to more accurately reflect the determination of awarding credit when a student earns a passing grade in only half of a course.

FDE(LOCAL) ADMISSIONS: SCHOOL SAFETY TRANSFERS

At Safe Schools Data, "bullying" is recommended for inclusion as an offense for which the district must collect and maintain data. The revision aligns with the Unsafe School Choice Option Guidance Handbook.

FEC(LOCAL) ATTENDANCE: ATTENDANCE FOR CREDIT

Revisions throughout this policy are recommended for clarity.

The information in the first sentence of the policy has been incorporated at Absences Considered for improved readability. Rather than directing the board to establish attendance committees, the policy now authorizes the establishment of those committees by the administration. At Methods for Regaining Credit or Awarding a Final Grade, specifics regarding petitions for credit are recommended for deletion in favor of a reference to administrative regulations.

Revisions at Imposing Conditions for Awarding Credit or a Final Grade are recommended to clarify requirements regarding "seat time." For more information, see the TASB.org article [TEKS Mastery, Not Seat Time, Required for Attendance for Credit](#).

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library (TASB login required), describe common legal concerns and best practices specific to this policy's topic.

Explanatory Notes

TASB Localized Policy Manual Update 125

Wimberley ISD

FFAC(LOCAL)

WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Revisions to 25 Administrative Code 40.44, including a requirement for written notification to parents after administration of unassigned respiratory distress medication, prompted recommended revisions to this code.

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library (TASB login required), describe common legal concerns and best practices specific to this policy's topic.

OFFICERS AND OFFICIALS
DUTIES AND REQUIREMENTS OF BOARD OFFICERS

BDAA
(LOCAL)

Board Officers	The Board shall elect a President, a Vice President, and a Secretary who shall be members of the Board. Officers shall be elected by majority vote of the members present and voting.
Vacancy	A vacancy among officers of the Board shall be filled by majority action of the Board.
Term and Duties	Board officers shall serve for a term of one year or until a successor is elected. Officers may succeed themselves in office. Each officer shall perform any legal duties of the office and other duties as required by action of the Board.
President	In addition to the duties required by law, the President of the Board shall: <ol style="list-style-type: none">1. Preside at all Board meetings unless unable to attend.2. Have the right to discuss, make motions, propose resolutions, and vote on all matters coming before the Board.
Vice President	The Vice President of the Board shall: <ol style="list-style-type: none">1. Act in the capacity and perform the duties of the President of the Board in the event of the absence or incapacity of the President.2. Become President only upon being elected to the position.
Secretary	The Secretary of the Board shall: <ol style="list-style-type: none">1. Ensure that an accurate record is kept of the proceedings of each Board meeting.2. Ensure that notices of Board meetings are posted and sent as required by law.3. In the absence of the President and Vice President, call the meeting to order and act as presiding officer.4. Sign or countersign documents as directed by action of the Board.

Note: For advisory committees that include staff, parents, community members, or students, see BDF.

Board Committees

For purposes of this policy, a Board committee is a committee composed only of current Board members.

Formation of a Board committee shall be by Board action. When establishing a Board committee, the Board action shall, at a minimum, specify the:

- Number of Board members on the committee;
- Process to appoint Board members to the committee;
- Term of committee membership; and
- Responsibilities of the committee.

A Board committee shall be fact-finding, deliberative, and advisory, and shall make recommendations in the areas of their responsibility. Board committees shall report their findings and recommendations to the Board and shall not assume administrative duties or responsibilities.

Transacting
Business

Unless specified by the Board, a Board committee shall not have final decision-making authority. Board committee recommendations must be reported to the Board at a regular or special meeting. The Board shall not accept a Board committee's recommendation without due consideration of the matter.

Dissolution

A Board committee shall be dissolved upon Board action.

Note: For committees composed only of current Board members, see BDB.

**Advisory
Committees**

For purposes of this policy, an advisory committee is a committee composed primarily of District staff, parents, other community members, and/or students. An advisory committee may also include Board members in numbers less than a quorum of the Board.

Formation of an advisory committee shall be by Board action. When establishing an advisory committee, the Board action shall, at a minimum, specify the:

- Number of members on the committee;
- Process to appoint members to the committee;
- Term of committee membership; and
- Responsibilities of the committee.

An advisory committee shall be fact-finding, deliberative, and advisory and shall not assume administrative duties or responsibilities. Advisory committees shall report their findings and recommendations to the Board.

Transacting
Business

An advisory committee may transact business only within the specific authority granted by the Board. To be binding, all such committee recommendations must be reported to the Board at a regular or special meeting for approval and entry into the minutes as a public record.

Dissolution

An advisory committee shall be dissolved upon completion of the assigned task or Board action.

ACADEMIC ACHIEVEMENT

EI
(LOCAL)

**Certificate of
Coursework
Completion**

The District shall issue a certificate of coursework completion to a student who has successfully completed state and local credit requirements for graduation but has failed to meet all applicable state testing requirements. [See EIF, FMH]

Partial Credit

When a student earns a passing grade in only half of a course and the average of both halves is lower than 70, the District shall award the student credit for the half with the passing grade.

Safe Schools Data

The Superintendent shall ensure that the District complies with Texas Education Agency (TEA) guidelines for the collection and maintenance of data regarding:

1. Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD]; and
2. Any student who becomes a victim of one of the following violent criminal offenses while on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property:
 - a. Attempted murder;
 - b. Indecency with a child;
 - c. Aggravated kidnapping;
 - d. Aggravated assault on someone other than a District employee or volunteer;
 - e. Sexual assault or aggravated sexual assault against someone other than a District employee or volunteer;
 - f. Aggravated robbery;
 - g. Continuous sexual abuse of a young child or disabled individual; or
 - h. Bullying.

School Safety Transfers

The parent of a student who becomes a victim of a violent criminal offense as described in the state guidance for unsafe school choice options or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

From a Persistently Dangerous School

The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent an application for transfer. The Superintendent shall complete the transfer prior to the beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

For a Victim of a
Violent Criminal
Offense

Within 14 calendar days after a violent criminal offense described above occurs in or on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent an application for transfer. The Superintendent shall approve or disapprove the request within 14 calendar days of its submission.

Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.

For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.

**Additional Transfer
Options**

In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus.

[For other transfer provisions, see also FDA and FDB.]

**Absences
Considered**

Except as otherwise provided by law, all absences incurred while enrolled in the District shall be considered in determining whether a student has been in attendance for 90 percent of the days the class is offered.

**Attendance
Committees**

The Board authorizes the establishment of an attendance committee or as many attendance committees as necessary for efficient implementation of state law.

The Superintendent is authorized to make the specific appointments in accordance with legal requirements.

**Parental Notice of
Excessive Absences**

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

**Methods for
Regaining Credit or
Awarding a Final
Grade**

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

A petition for credit or a final grade may be filed in accordance with administrative regulations. The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit or a final grade. [See Imposing Conditions for Awarding Credit or a Final Grade, below]

Regardless of whether a petition is filed, the attendance committee may also review the records of all students whose attendance drops below 90 percent of the days the class is offered.

A student who has lost credit or has not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

Personal Illness

The principal or attendance committee may require verification from a health-care provider in accordance with administrative regulations as a condition of classifying an absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding a student's absences and how the student can be awarded credit or a final grade, the attendance committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent shall develop administrative regulations to document the attendance committee's decision.

Guidelines on Extenuating Circumstances

The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject.

When makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences as days of attendance for award of credit or a final grade. [See FEA]

The attendance committee shall consider whether the reasons for the absences were out of the parent's or student's control and whether documentation for the absence is acceptable.

The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

Imposing Conditions for Awarding Credit or a Final Grade

The attendance committee or principal, as applicable, is not required to assign a student to attend a specified program for an amount of time equivalent to the student's absences (i.e., "seat time").

The attendance committee or principal, as applicable, shall consider the student's unique circumstances and, if necessary, shall impose other conditions for awarding credit or a final grade that permit the student to meet the instructional requirements of the class. Conditions may include:

1. Maintaining attendance standards for the rest of the semester.
2. Completing additional assignments, as specified by the committee or teacher.
3. Attending tutorial sessions as scheduled.
4. Completing other instructional programs, as specified by the committee.
5. Taking an examination to earn credit. [See EHDB]

In all cases, the student must earn a passing grade in order to receive credit.

Appeal Process

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).

No employee shall give any student prescription medication, non-prescription medication, herbal substances, anabolic steroids, or dietary supplements of any type, except as authorized by this or other District policy.

**Medication Provided
by Parent**

The Superintendent shall designate the employees who are authorized to administer medication that has been provided by a student's parent. An authorized employee is permitted to administer the following medication in accordance with administrative regulations:

1. Prescription medication in accordance with legal requirements.
2. Nonprescription medication, upon a parent's written request, when properly labeled and in the original container.
3. Herbal substances or dietary supplements provided by the parent and only if required by the individualized education program or Section 504 plan for a student with disabilities.

**Medication Provided
by District**

Except as required by law and provided by this policy, the District shall not purchase medication to administer to a student.

As-Needed Basis

The District shall purchase certain nonprescription medications to administer to students only on an as-needed basis and in accordance with:

1. Protocols established by the District's medical adviser who must be licensed to practice medicine in the state of Texas; and
2. Parental consent given on the emergency treatment form.

The Superintendent shall designate the employees who are authorized to administer nonprescription medication under these protocols and permissions.

Athletic Program

The District shall purchase nonprescription medication that may be used to prevent or treat illness or injury in the District's athletic program. Only a licensed athletic trainer or a physician licensed to practice medicine in the state of Texas may administer this medication and may do so only if:

1. The District has prior written consent for medication to be administered [see Medical Treatment, below]; and
2. The administration of a medication by an athletic trainer is in accordance with a standing order or procedures approved by a physician licensed to practice medicine in the state of Texas.

WELLNESS AND HEALTH SERVICES
MEDICAL TREATMENT

FFAC
(LOCAL)

Epinephrine	<p>The District authorizes school personnel who have agreed in writing and been adequately trained to administer an unassigned epinephrine auto-injector in accordance with law and this policy. Administration of epinephrine shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing anaphylaxis.</p>
<i>On Campus</i>	<p>Authorized and trained individuals may administer an unassigned epinephrine auto-injector at any time to a person experiencing anaphylaxis on a school campus.</p> <p>The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer epinephrine so that at least one trained individual is present on campus during all hours the campus is open. In accordance with state rules, the campus shall be considered open for this purpose during regular on-campus school hours and whenever school personnel are physically on site for school-sponsored activities.</p>
<i>Maintenance, Availability, and Training</i>	<p>The Superintendent shall develop administrative regulations designating a coordinator to manage policy implementation and addressing annual training of authorized individuals in accordance with law; procedures for auto-injector use; and acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned epinephrine auto-injectors at each campus.</p>
<i>Notice to Parents</i>	<p>In accordance with law, the District shall provide notice of the policy to parents regarding the epinephrine program, including notice of any change to or discontinuation of this program.</p>
Opioid Antagonist	<p>This provision shall be applicable to every campus.</p>
<i>On Campus</i>	<p>The District authorizes school personnel who have been adequately trained to administer an opioid antagonist in accordance with law and this policy. Administration of an opioid antagonist shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing an opioid-related overdose.</p> <p>Each applicable campus shall have at least one individual who is authorized and trained to administer an opioid antagonist present during regular school hours.</p>
<i>Maintenance, Availability, Training, and Reporting</i>	<p>Each applicable campus shall have at least two unused, unexpired opioid antagonist doses available.</p> <p>All opioid antagonists shall be stored in a secure location and shall be easily accessible by individuals who are authorized and trained to administer an opioid antagonist.</p>

	<p>The Superintendent shall develop administrative regulations addressing acquisition, maintenance, expiration, and disposal of opioid antagonists in the District, as well as reporting, employee training, and emergency notification requirements.</p>
<p>Medication for Respiratory Distress</p>	<p>The District authorizes school personnel who have been adequately trained to administer unassigned medication for respiratory distress in accordance with law and this policy. Administration of this type of medication shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing respiratory distress.</p>
<p><i>On-Campus</i></p>	<p>Authorized and trained individuals may administer unassigned medication for respiratory distress at any time a person is experiencing this type of distress on a school campus.</p> <p>The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer this medication so that at least one trained individual is present on campus during regular school hours as defined in state rules.</p>
<p><i>Maintenance, Availability, and Training</i></p>	<p>The Superintendent shall develop administrative regulations:</p> <ol style="list-style-type: none">1. Designating a coordinator to manage policy implementation;2. Addressing annual training of authorized individuals in accordance with law;3. Listing the trained individuals authorized to administer unassigned medication for respiratory distress;4. Addressing procedures for use; and5. Addressing acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned medication for respiratory distress at each campus.
<p><i>Notice to Parents</i></p>	<p>In accordance with law, the District shall provide notice of the policy to parents regarding the administration of unassigned medication to a person experiencing respiratory distress, including notice of any change to or discontinuation of these provisions.</p>
<p><i>After Administration of Medication</i></p>	<p>After the administration of unassigned medication to a student experiencing respiratory distress, the coordinator shall provide written notice to the student's parent, the health-care provider authorizing the unassigned medication for respiratory distress, and the student's primary health-care provider.</p>
<p>Psychotropics</p>	<p>Except as permitted by law, an employee shall not:</p> <ol style="list-style-type: none">1. Recommend to a student or a parent that the student use a psychotropic drug;

2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Medical Treatment

A student's parent, legal guardian, or other person having lawful control shall annually complete and sign a form that provides emergency information and addresses authorization regarding medical treatment. A student who has reached age 18 shall be permitted to complete this form.

The District shall seek appropriate emergency care for a student as required or deemed necessary.



(LOCAL) Policy Comparisons

These documents are generated by an automated process that compares the updated policy to the current policy as found in TASB records.

In this packet, you will find:

- Policies being recommended for revision (annotated)
- New policies (not annotated)
- Policies recommended for deletion (annotated in PDF; not shown in Word)

Annotations are shown as follows:

- Deletions are in a red strike-through font: ~~deleted text~~.
- Additions are in a blue font: **new text**.
- Blocks of text that were moved without changes are shown in green, with double underline and double strike-through formatting to distinguish the text's new placement from its original location: ~~moved text~~ becomes **moved text**.
- Revision bars appear in the right margin to show sections with changes.

Note: While the annotation software competently identifies simple changes, large or complicated changes — as in an extensive rewrite — may be more difficult to follow. In addition, TASB's recent changes to the policy templates to facilitate accessibility sometimes make formatting changes appear tracked, even though the text remains the same.

For further assistance in understanding policy changes, please refer to the explanatory notes in your Localized Policy Manual update packet or contact your policy consultant.

Contact us:

School Districts and Education Service Centers, call 800-580-7529 or email policy.service@tasb.org.

Community Colleges, call 800-580-1488 or email colleges@tasb.org.

OFFICERS AND OFFICIALS
DUTIES AND REQUIREMENTS OF BOARD OFFICERS

BDAA
(LOCAL)

Board Officers	The Board shall elect a President, a Vice President, and a Secretary who shall be members of the Board. The Board may assign a District employee to provide clerical assistance to the Board. Officers shall be elected by majority vote of the members present and voting.
Vacancy	A vacancy among officers of the Board shall be filled by majority action of the Board.
Term and Duties	Board officers shall serve for a term of one year one year or until a successor is elected. Officers may succeed themselves in office. Each officer shall perform any legal duties of the office and other duties as required by action of the Board.
President	In addition to the duties required by law, the President of the Board shall: <ol style="list-style-type: none">1. Preside at all Board meetings unless unable to attend.2. Have the right to discuss, make motions and, propose resolutions, and vote on all matters coming before the Board.
Vice President	The Vice President of the Board shall: <ol style="list-style-type: none">1. Act in the capacity and perform the duties of the President of the Board in the event of the absence or incapacity of the President.2. Become President only upon being elected to the position.
Secretary	The Secretary of the Board shall: <ol style="list-style-type: none">1. Ensure that an accurate record is kept of the proceedings of each Board meeting.2. Ensure that notices of Board meetings are posted and sent as required by law.3. In the absence of the President and Vice President, call the meeting to order and act as presiding officer.4. Sign or countersign documents as directed by action of the Board.

Special Committees

~~The President shall appoint members to special~~**Note:** For ad-
visory committees ~~created by the Board to fulfill specific~~
~~assignments, unless otherwise provided that include~~
staff, parents, community members, or students, see
BDF.

Board Committees

For purposes of this policy, a Board committee is a committee com-
posed only of current Board members.

Formation of a Board committee shall be by Board action. ~~These~~
~~committees may include District personnel~~When establishing a
Board committee, the Board action shall, at a minimum, specify
the:

- Number of Board members on the committee;
- Process to appoint Board members to the committee;
- Term of committee membership; and ~~citizens. The function of~~
~~committees~~
- Responsibilities of the committee.

A Board committee shall be fact-finding, deliberative, and advisory,
~~but not administrative. Special~~and shall make recommendations in
the areas of their responsibility. Board committees shall report their
findings and recommendations to the Board and shall ~~be dissolved~~
~~upon completion of the assigned task or vote of the Board~~not as-
sume administrative duties or responsibilities.

~~The President of the Board and the Superintendent shall be ex offi-~~
~~cio members of all Board committees, unless otherwise provided~~
~~by Board action.~~

Transacting
Business

~~Committees may transact business only within the specific author-~~
~~ity granted~~Unless specified by the Board. ~~To be binding, all such~~
~~business~~, a Board committee shall not have final decision-making
authority. Board committee recommendations must be reported to
the Board at ~~the next~~a regular or special meeting ~~for approval and~~
~~entry into the minutes as a public record.~~ The Board shall not ac-
cept a Board committee's recommendation without due considera-
tion of the matter.

Dissolution

A Board committee shall be dissolved upon Board action.

Note: For committees composed only of current Board members, see BDB.

**Advisory
Committees**

For purposes of this policy, an advisory committee is a committee composed primarily of District staff, parents, other community members, and/or students. An advisory committee may also include Board members in numbers less than a quorum of the Board.

Formation of an advisory committee shall be by Board action. When establishing an advisory committee, the Board action shall, at a minimum, specify the:

- Number of members on the committee;
- Process to appoint members to the committee;
- Term of committee membership; and
- Responsibilities of the committee.

An advisory committee shall be fact-finding, deliberative, and advisory and shall not assume administrative duties or responsibilities. Advisory committees shall report their findings and recommendations to the Board.

Transacting
Business

An advisory committee may transact business only within the specific authority granted by the Board. To be binding, all such committee recommendations must be reported to the Board at a regular or special meeting for approval and entry into the minutes as a public record.

Dissolution

An advisory committee shall be dissolved upon completion of the assigned task or Board action.

ACADEMIC ACHIEVEMENT

EI
(LOCAL)

Certificate of Coursework Completion

The District shall issue a certificate of coursework completion to a student who has successfully completed state and local credit requirements for graduation but has failed to meet all applicable state testing requirements. [See EIF, FMH]

Partial Credit

When a student earns a passing grade in only half of a course and the ~~combined grade for~~ **average of** both halves is lower than 70, the District shall award the student credit for the half with the passing grade.

Safe Schools Data

The Superintendent shall ensure that the District complies with Texas Education Agency (TEA) guidelines for the collection and maintenance of data regarding:

1. Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD]; and
2. Any student who becomes a victim of one of the following violent criminal offenses, ~~as defined by the Penal Code~~, while on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property:
 - a. Attempted murder;
 - b. Indecency with a child;
 - c. Aggravated kidnapping;
 - d. Aggravated assault on someone other than a District employee or volunteer;
 - e. Sexual assault or aggravated sexual assault against someone other than a District employee or volunteer;
 - f. Aggravated robbery; ~~or~~
 - g. Continuous sexual abuse of a young child or disabled individual; ~~or~~
 - ~~g-h.~~ **Bullying.**

School Safety Transfers

The parent of a student who becomes a victim of a violent criminal offense as described in the state guidance for unsafe school choice options or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

From a Persistently Dangerous School

The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent an application for transfer. The Superintendent shall complete the transfer prior to the

beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

For a Victim of a
Violent Criminal
Offense

Within 14 calendar days after a violent criminal offense described above occurs in or on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent an application for transfer. The Superintendent shall approve or disapprove the request within 14 calendar days of its submission.

Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.

For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.

**Additional Transfer
Options**

In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus.

[For other transfer provisions, see also FDA and FDB.]

~~This policy shall apply to a student who has not been in attendance for 90 percent of the days the class is offered.~~

**Absences
Considered**

Except as otherwise provided by law, all absences incurred while enrolled in the District shall be considered in determining whether a student has ~~attended~~ **been in attendance for 90 percent of the re-** ~~quired percentage of days under this policy~~ **the class is offered.**

**Attendance
Committees**

The Board ~~shall establish~~ **authorizes the establishment of** an attendance committee or as many **attendance** committees as necessary for efficient implementation of ~~Education Code 25.092~~ **state law.**

The Superintendent ~~shall~~ **is authorized to** make the specific appointments in accordance with legal requirements.

**Parental Notice of
Excessive Absences**

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

**Methods for
Regaining Credit or
Awarding a Final
Grade**

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

~~Petitions~~ **A petition** for credit or a final grade may be filed ~~at any time the student receives notice but, in any event, no later than the last day of classes.~~

in accordance with administrative regulations. The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit or a final grade. ~~The~~ **[See Imposing Conditions for Awarding Credit or a Final Grade, below]**

Regardless of whether a petition is filed, the attendance committee may also, ~~whether a petition is filed or not,~~ review the records of all students whose attendance drops below 90 percent of the days the class is offered.

A student who has lost credit or has not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

Personal Illness

The principal or attendance committee may require verification from a health-care provider in accordance with administrative regulations as a condition of classifying an absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding a student's absences and how the student can be awarded credit or a final grade, the attendance committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent shall develop administrative regulations to document the attendance committee's decision.

Guidelines on Extenuating Circumstances

The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject.

When makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences as days of attendance for award of credit or a final grade. [See FEA]

The attendance committee shall consider whether the reasons for the absences were out of the parent's or student's control and whether documentation for the absence is acceptable.

The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

Imposing Conditions for Awarding Credit or a Final Grade

The attendance committee or principal, as applicable, is not required to assign a student to attend a specified program for an amount of time equivalent to the student's absences (i.e., "seat time").

The attendance committee or principal, as applicable, shall consider the student's unique circumstances and, if necessary, shall impose other conditions for awarding credit or a final grade that permit the student to meet the instructional requirements of the class ~~rather than assigning a student to attend a specified program for an amount of time equivalent to the student's absences.~~ Conditions may include:

1. Maintaining attendance standards for the rest of the semester.
2. Completing additional assignments, as specified by the committee or teacher.

3. Attending tutorial sessions as scheduled.
4. Completing other instructional programs, as specified by the committee.
5. Taking an examination to earn credit. [See EHDB]

In all cases, the student must earn a passing grade in order to receive credit.

Appeal Process

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).

No employee shall give any student prescription medication, non-prescription medication, herbal substances, anabolic steroids, or dietary supplements of any type, except as authorized by this or other District policy.

Medication Provided by Parent

The Superintendent shall designate the employees who are authorized to administer medication that has been provided by a student's parent. An authorized employee is permitted to administer the following medication in accordance with administrative regulations:

1. Prescription medication in accordance with legal requirements.
2. Nonprescription medication, upon a parent's written request, when properly labeled and in the original container.
3. Herbal substances or dietary supplements provided by the parent and only if required by the individualized education program or Section 504 plan for a student with disabilities.

Medication Provided by District

Except as required by law and provided by this policy, the District shall not purchase medication to administer to a student.

As-Needed Basis

The District shall purchase certain nonprescription medications to administer to students only on an as-needed basis and in accordance with:

1. Protocols established by the District's medical adviser who must be licensed to practice medicine in the state of Texas; and
2. Parental consent given on the emergency treatment form.

The Superintendent shall designate the employees who are authorized to administer nonprescription medication under these protocols and permissions.

Athletic Program

The District shall purchase nonprescription medication that may be used to prevent or treat illness or injury in the District's athletic program. Only a licensed athletic trainer or a physician licensed to practice medicine in the state of Texas may administer this medication and may do so only if:

1. The District has prior written consent for medication to be administered [see Medical Treatment, below]; and
2. The administration of a medication by an athletic trainer is in accordance with a standing order or procedures approved by a physician licensed to practice medicine in the state of Texas.

WELLNESS AND HEALTH SERVICES
MEDICAL TREATMENT

FFAC
(LOCAL)

Epinephrine	The District authorizes school personnel who have agreed in writing and been adequately trained to administer an unassigned epinephrine auto-injector in accordance with law and this policy. Administration of epinephrine shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing anaphylaxis.
<i>On Campus</i>	<p>Authorized and trained individuals may administer an unassigned epinephrine auto-injector at any time to a person experiencing anaphylaxis on a school campus.</p> <p>The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer epinephrine so that at least one trained individual is present on campus during all hours the campus is open. In accordance with state rules, the campus shall be considered open for this purpose during regular on-campus school hours and whenever school personnel are physically on site for school-sponsored activities.</p>
<i>Maintenance, Availability, and Training</i>	The Superintendent shall develop administrative regulations designating a coordinator to manage policy implementation and addressing annual training of authorized individuals in accordance with law; procedures for auto-injector use; and acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned epinephrine auto-injectors at each campus.
<i>Notice to Parents</i>	In accordance with law, the District shall provide notice of the policy to parents regarding the epinephrine program, including notice of any change to or discontinuation of this program.
Opioid Antagonist	This provision shall be applicable to every campus.
<i>On Campus</i>	<p>The District authorizes school personnel who have been adequately trained to administer an opioid antagonist in accordance with law and this policy. Administration of an opioid antagonist shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing an opioid-related overdose.</p> <p>Each applicable campus shall have at least one individual who is authorized and trained to administer an opioid antagonist present during regular school hours.</p>
<i>Maintenance, Availability, Training, and Reporting</i>	<p>Each applicable campus shall have at least two unused, unexpired opioid antagonist doses available.</p> <p>All opioid antagonists shall be stored in a secure location and shall be easily accessible by individuals who are authorized and trained to administer an opioid antagonist.</p>

	<p>The Superintendent shall develop administrative regulations addressing acquisition, maintenance, expiration, and disposal of opioid antagonists in the District, as well as reporting, employee training, and emergency notification requirements.</p>
<p>Medication for Respiratory Distress</p>	<p>The District authorizes school personnel who have been adequately trained to administer unassigned medication for respiratory distress in accordance with law and this policy. Administration of this type of medication shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing respiratory distress.</p>
<p><i>On-Campus</i></p>	<p>Authorized and trained individuals may administer unassigned medication for respiratory distress at any time a person is experiencing this type of distress on a school campus.</p> <p>The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer this medication so that at least one trained individual is present on campus during regular school hours as defined in state rules.</p>
<p><i>Maintenance, Availability, and Training</i></p>	<p>The Superintendent shall develop administrative regulations designating and addressing:</p> <ol style="list-style-type: none">1. Designating a coordinator to manage policy implementation and addressing;2. Addressing annual training of authorized individuals in accordance with law;3. Listing the trained individuals authorized to administer unassigned medication for respiratory distress;4. Addressing procedures for use; and5. Addressing acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned medication for respiratory distress at each campus.
<p><i>Notice to Parents</i></p>	<p>In accordance with law, the District shall provide notice of the policy to parents regarding the administration of unassigned medication to a person experiencing respiratory distress, including notice of any change to or discontinuation of these provisions.</p>
<p><i>After Administration of Medication</i></p>	<p>After the administration of unassigned medication to a student experiencing respiratory distress, the coordinator shall provide written notice to the student's parent, the health-care provider authorizing the unassigned medication for respiratory distress, and the student's primary health-care provider.</p>

Psychotropics

Except as permitted by law, an employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Medical Treatment

A student's parent, legal guardian, or other person having lawful control shall annually complete and sign a form that provides emergency information and addresses authorization regarding medical treatment. A student who has reached age 18 shall be permitted to complete this form.

The District shall seek appropriate emergency care for a student as required or deemed necessary.

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Consider and possible action regarding Owner’s Third-Party Representative Agreement for Project/Program Management Services with AGCM, Inc. for the District’s 2025 Bond Construction Projects.

Date: July 21, 2025

Presented by: Mike Doyle

Action

1. BACKGROUND INFORMATION

At the May 2025 Board Meeting, the Wimberley ISD Board of Trustees approved AGCM as the top-ranked project management firm. In conjunction with this action, the Board delegated authority to the Superintendent, or designee, to negotiate a contract with the selected firm. District administration has successfully completed contract negotiations, and the finalized agreement is now presented to the Board for consideration.

2. ADMINISTRATIVE RECOMMENDATION

It is administration’s recommendation that the Board approve the Owner’s Third-Party Representative Agreement for Project/Program Management Services with AGCM, Inc. for the District’s 2025 Bond Construction Projects as presented by Administration and authorize the Superintendent or his designee to execute the agreement.

3. BOARD ACTION REQUIRED

“I move that the Board approve the Owner’s Third-Party Representative Agreement for Project/Program Management Services with AGCM, Inc. for the District’s 2025 Bond Construction Projects as presented by Administration and authorize the Superintendent or his designee to execute the agreement.”

OWNER'S THIRD-PARTY REPRESENTATIVE AGREEMENT FOR PROJECT MANAGEMENT SERVICES FOR WIMBERLEY ISD 2025 BOND PROJECTS

THIS OWNER'S THIRD-PARTY REPRESENTATIVE AGREEMENT FOR PROJECT/PROGRAM MANAGEMENT SERVICES ("Agreement") is effective as of the date of the last signature by an authorized representative for both parties, (the "Effective Date") by and between the **WIMBERLEY INDEPENDENT SCHOOL DISTRICT**, an public school district and political subdivision of the State of Texas with administrative offices located at 951 FM 2325, Wimberley, TX 78676, ("Owner" or "District"), and **AGCM, Inc.**, a corporation of the State of Texas with corporate offices at 1101 Ocean Dr, Corpus Christi, TX 78404 ("Owner's Representative").

BACKGROUND

A. The Owner intends to pass a bond, which covers multiple projects within the May 2025 Bond (the "Projects"). The Projects (also referred to as Project, which consists of various projects) for Project Management Services may include, but are not limited to the planning, designing, coordination, budgeting, procurement, implementation, district contracting, oversight, advise, and protection of the District's interests in all manners in relation to the Projects.

B. The Owner desires the services of the Owner's Representative, which has special expertise and experience in design consultation, value engineering, construction scheduling, budget development and oversight, scope development, cost estimating, value engineering, cost control, quality control, construction phasing and logistics; administration of construction manager-at-risk projects and general contractor led construction projects; performance monitoring; oversight of commissioning process, initial start-up and testing of systems; closeout of construction projects and oversight of warranty work.

C. The Owner desires to retain the Owner's Representative to provide comprehensive services in the organization, coordination, management and administration required for all aspects of the development Projects as described herein and in **Exhibit B** in greater detail.

In consideration of the foregoing and the mutual covenants contained in this Agreement, the Owner and the Owner's Representative agree as follows:

AGREEMENT

1. **Term of Agreement.** This Agreement is effective on the Effective Date and shall remain in effect until all bond projects that are part of the Program Manager's scope of work are completed, which is anticipated to be at least forty-one (41) months from the Effective Date of this Agreement (the "Term"). Owner's Representative shall have a continuing obligation, after the Term, to comply with any provision of this Agreement intended for Owner's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Agreement. OWNER'S REPRESENTATIVE UNDERSTANDS THAT NO WORK SHOULD BEGIN UNDER THIS AGREEMENT UNTIL ALL REQUIRED SIGNATURES ON THIS AGREEMENT HAVE BEEN OBTAINED. ANY WORK PERFORMED BY OWNER'S REPRESENTATIVE PRIOR TO SUCH TIME SHALL BE CONSIDERED AS HAVING BEEN PERFORMED AT OWNER'S REPRESENTATIVE'S OWN RISK AND AS A VOLUNTEER.

2. **Scope of Services.**

2.1. Owner retains the Owner's Representative to provide sufficient organization, personnel and management to perform the services specified in **Exhibit B** of this Agreement (the "Scope of Services") in an expeditious and economical manner at the highest standards of Owner's Representative's profession or business to further the Owner's interests and to act solely in the District's interest in performing all its services including providing independent consultation, explanation, evaluation and feedback to the Board regarding construction industry trends, impact of outside forces on local pricing, products specified in the design, etc. while working in full cooperation with the District's various architects who are providing design services on multiple Bond Projects. The Owner's Representative shall furnish all labor, services, supplies, materials and equipment required

to complete the Scope of Work using Owner's Representatives best efforts, skill, judgment, and abilities in accordance with this Agreement or if any member of the Owner Representative's Team assigned to any Project task, holds a professional license, it shall be bound to performed within the standard of care for the professional category in which it is licensed. The Owner's Representative accepts a fiduciary standard of established between it and the Owner by this Agreement.

2.2. Owner's Representative shall provide a project team at all times that shall have sufficient capacity, skill and experience to perform the Work ("Owner Representative's Team"). Owner's Representative may not, without the written consent of Owner, reassign or replace any member of the Owner's Representative Team. If a member of Owner's Representative's Team resigns, any replacement shall be subject to Owner's approval. The initial Owner's Representative Project Team identified in Exhibit C, is approved by Owner. Unless otherwise exempt from providing such information by any provision in Texas Education Code, Section 22.08341, the Owner's Representative agrees, that prior to commencement of work under this Agreement, using the form promulgated by the District or such other form approved by the District, Owner's Representative's will arrange with the District to obtain any national criminal history record information ("CHRI") required pursuant to Texas Education Code, Section 22.08341 (the "Statute") on all of Owner's Representative's project team, employees, independent contractors, agents, or Subcontractors, Owner's Representative's Subcontractors of every tier ("Subcontractors"), Subcontractors' employees, independent contractors, agents, or sub-subcontractors, if any of these persons is a "Covered Employee" as defined by the Statute, i.e. the person has or will have continuing duties related to the contracted for services, and said person has or will have the opportunity for direct contact with students in connection with those continuing duties and shall reimburse the District for the costs and expenses associated with obtaining the criminal history information.

Any Covered Employee that has during the preceding thirty (30) years, been convicted of one of the following offenses, if at the time of the offense the victim was under eighteen (18) or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense to (a) or (b) under federal law or the laws of another state ("Disqualifying Criminal History") shall be disqualified and prohibited from performing any contract duties or services and neither the Owner's Representative nor its Subcontractor may permit such person to provide services at an instructional facility. If a Covered Employee is determined by the Owner's review of the CHRI to have a Disqualifying Criminal History, Owner's Representative will exclude that person from assignment to District facilities. Owner's Representative understands that it will not have access to the results of such criminal history records check, based on statewide regulations beyond the control of the Owner, and agrees to rely solely on the judgment of the District as to whether the Covered Employee must be excluded from the Project. If any member of the Project Team is excluded based on their Disqualifying Criminal History, then they may not serve as a member of the Project Team.

2.3. Owner's Representative shall perform the Work in compliance with all applicable federal, state and local laws, regulations, and codes, including without limitation the Owner's policies, procedures and Owner's other applicable standards as provided by Owner ("Laws"). Owner's Representative shall maintain and shall require that its subcontractors, if any, maintain any and all required governmental licenses, certificates, approvals, and permits that are required of the Owner's Representative for the performance of the Work. The Owner's Representative agrees to maintain in full force and effect such required licenses, certificates, approvals, and permits throughout the Term.

2.4. Owner's Representative has or will perform the Scope of Services in cooperation with the Owner and the "Project Team". The Project Team includes the "Architect", which means (as appropriate to the context) the design architect, the architect or engineer who prepares the plans and specifications, the inspecting architect, or such other design and design-related consultants as may be appropriate; the "Contractor", which means the General Contractor or Construction Manager-At-Risk ("CMAR) with whom the Owner has contracted to construct any portion of the Projects and the General Contractor's or CMAR's subcontractors, suppliers, and materialmen; and "Consultants", which means such other consultants and professionals that perform consulting services for the Project, including without limitation, testing laboratories and surveyors. Nothing contained in this Agreement shall create any obligation or contractual relationship between the Owner's Representative and any third party, including without limitation any other member of the Project Team.

2.5. Owner may modify the Scope of Services without invalidating this Agreement. To avoid delay in the Project, upon receipt of an Owner-requested change in the Scope of Services, the Owner's Representative

shall promptly proceed with the change in Scope of Services. If the Owner's Representative believes it is entitled to additional compensation for the change in Work, the Owner's Representative shall promptly notify the Owner in writing. Any change in Owner's Representative's compensation shall be made by a written agreement signed by both Parties.

3. Owner's Responsibilities.

3.1. The Owner shall provide information regarding its design and construction requirements for the Project to the Owner's Representative, with reasonable promptness.

3.2. The Owner shall designate an individual who shall have the authority to render decisions on Owner's behalf ("Owner's Contact"). The Owner may change Owner's Contact from time to time by written notice to the Owner's Representative. The initial Owner's Contact shall be:

4. Compensation and Terms of Payment.

4.1. The consideration for all Work performed or supplied by Owner's Representative under this Agreement shall be paid by Owner is as follows: see **Exhibit A**, attached hereto and incorporated herein.

4.2. **Subcontractor's Payment.** If Owner's Representative engages any subcontractors or subconsultants to perform any of the Scope of Services. Owners Representative shall bill for any sub-contractor utilized at the rates included in the approved agreement. Owner's Representative shall pay any such subcontractor or subconsultant within ten days (or such shorter period as required by law) of the Owner's Representative's receipt of payment from the Owner for undisputed services provided by the subcontractor or subconsultant. Owner's Representative shall pay interest of at the rate provided in the Texas Prompt Payment Act, Local Government Code Chapter 2251, to the subcontractor or subconsultant on undisputed amounts not paid on time to the subcontractor or subconsultant.

4.3. Reimbursable Expenses.

4.3.1 Reimbursable expenses include the following ordinary, necessary, and reasonable expenses incurred by the Owner's Representative and its subcontractors and/or subconsultants related to the Work:

- .1 Owner-authorized out-of-town travel and subsistence cost (if travel time is not also billed as professional services time) payable in accordance with the travel reimbursement policies applicable to employees of the Owner.
- .2 Dedicated data and communication services, Project Web sites, and extranets; and,
- .3 Owner-requested printing, reproductions, plots and standard form documents;
and,
- .4 Postage, handling and delivery of Instruments of Service as requested by the Owner; and
- .5 Renderings, models, mockups, professional photography if requested by the Owner.

4.3.2. All reimbursement expenses shall be at the actual expense incurred by the Owner's Representative and its subcontractors and/or subconsultants without markup.

4.3.3. If expenses are reimbursable, each request for reimbursement must be itemized and accompanied by receipts.

4.3.4. No reimbursable expenses shall be allowed without Owner's prior written consent during the Term.

4.4. Frequency of Invoicing and Terms of Payment.

4.4.1 Owner's Representative shall submit invoices monthly, describing in reasonable detail the services (and goods, if any) provided in the preceding month including time spent on various tasks. Services (and goods, if any) shall be separately billed by Project. Payment of undisputed amounts due shall be made by Owner not later than 31 days after Owner's receipt of an invoice and acceptance of services rendered under this Agreement. 370

payment to the Owner's Representative hereunder if and for so long as the Owner finds any of the Owner's Representative's services to be defective, untimely, unsatisfactory or Owner's Representative otherwise fails to perform any of its obligations or otherwise is in default; provided, however, that any such holdback shall be limited to an amount sufficient in Owner's reasonable opinion to cure any such default or failure of performance by Owner's Representative.

4.5. **Final Payment.** Final payment shall not be due to Owner's Representative until Owner's Representative submits to Owner the following in such form as may be required by Owner: (a) a statement identifying all subcontractors and/or subconsultants who have performed all or a portion of the Scope of Services, whether the subcontractors and/or subconsultants have been paid for their services, and if not, what the unpaid amount owed or allegedly owed to each subcontractor; and (b) data or other documentation establishing payment or satisfaction of Owner's Representative's obligations arising out of this Agreement, such as receipts or releases and waivers of liens, claims, security interests or encumbrances. If a subcontractor refuses to furnish a release or waiver required by the Owner, Owner's Representative may furnish a bond satisfactory to Owner to indemnify Owner against such lien. If such lien remains unsatisfied after final payment is made, Owner's Representative shall refund to Owner all money that Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees. Owner's Representative warrants that upon submittal of an invoice, to the best of Owner's Representative's knowledge, information and belief, all work included in the Work shall be free and clear of liens, claims, security interests or encumbrances in favor of the Owner's Representative, subcontractors and/or subconsultants, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Scope of Services.

5. **General Terms and Conditions.**

5.1. **Termination, Suspension.**

5.1.1. **Termination for Convenience by Owner.** Owner may terminate this Agreement in whole or in part upon thirty (30) days written notice to Owner's Representative for Owner's convenience. In the event of a termination for Owner's convenience, Owner's Representative shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by Owner in its sole discretion, for services satisfactorily performed prior to the date of notice of termination, together with properly documented reimbursable expenses then due. In no event shall Owner's Representative be paid for work performed or costs incurred after receipt of notice of termination, or for costs incurred by suppliers, subcontractors and/or subconsultants, which could have been avoided. Owner will not pay the Owner's Representative for loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination. Upon receipt of notice of termination, unless the notice directs otherwise, the Owner's Representative shall do the following: discontinue all Work, cause its subcontractors and/or subconsultants to cease their work in connection with this Agreement, and shall promptly cancel all existing orders and contracts that are chargeable to this Agreement; and furnish the Owner with copies of all Project materials within seven (7) days of receipt of notice of termination.

5.1.2. **Termination for Cause.**

5.1.2.1 Either party may terminate this Agreement upon not less than 30 days' written notice to the other party should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination; provided, however, if in the reasonable determination of the non-defaulting party the event(s) giving rise to the termination is/are reasonably susceptible to cure, the termination shall not be effective if the defaulting party cures the basis of the termination within the 30 day period to the non-defaulting party's reasonable satisfaction. When the Owner terminates this Agreement for cause, Owner's Representative shall not be entitled to receive further payment until the Work is finished. Owner's Representative shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by Owner in its sole discretion, for work or services satisfactorily performed minus all damages incurred by Owner connected with Owner's Representative's failure to perform. In no event shall Owner's Representative be paid for unperformed Services, unsatisfactorily performed Services or costs incurred after receipt of notice of termination, or for costs incurred by subcontractors which could have been avoided. Owner will not pay the Owner's Representative.

5.1.2.2 Representative for loss of anticipated profits or revenue or other economic

loss arising out of or resulting from such termination. Upon receipt of notice of termination, unless the notice directs otherwise, the Owner's Representative shall do the following: discontinue all Work, cause its subcontractors and/or subconsultants to cease their work in connection with this Agreement, and shall promptly cancel all existing orders and contracts that are chargeable to this Agreement; and furnish the Owner with copies of all Project materials within seven (7) days of receipt of notice of termination.

5.1.3. **Suspension by Owner.** Owner may, without cause, order the Owner's Representative in writing to suspend its services in whole or in part for such period of time as the Owner may determine. If the Owner suspends the Project, without cause, for more than 60 consecutive days, the Owner's Representative shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Owner's Representative shall be compensated for reasonable expenses incurred as a direct result of the interruption and resumption of the Owner's Representative's services. If appropriate, the Owner's Representative's fees for the remaining services and the time schedules shall be equitably adjusted. If the Owner suspends the Project for more than 90 consecutive days for reasons other than the fault of the Owner's Representative, the Owner's Representative may terminate this Agreement by giving not less than 30 days' written notice.

5.1.4. **Suspension by Owner's Representative.** If the Owner fails to make payments to Owner's Representative in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at Owner's Representative's option, cause for suspension of performance of services under this Agreement. If the Owner's Representative elects to suspend services, Owner's Representative shall give 30 days' written notice to the Owner due to the Owner's failure to make payment before suspending services. If Owner's Representative suspends services, Owner's Representative shall have no liability to Owner to the extent of any delay or damage caused the Owner because of such suspension of services, except to the extent the Owner withheld payment for causes permitted by this Agreement, or the suspension by Owner's Representative was otherwise not warranted. Before resuming services, Owner's Representative shall be paid all sums due prior to suspension and any properly documented reasonable expenses incurred as a direct result of the interruption and resumption of the Owner's Representative's services (if such suspension was warranted) and if appropriate, the Owner's Representative's compensation for the remaining services shall be equitably adjusted.

5.2. **Disputes.**

5.2.1. Owner and Owner's Representative shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement within the time period specified by applicable law.

5.2.2. Owner and Owner's Representative shall endeavor to resolve claims, disputes and other matters in question ("Dispute") between them by negotiation in good faith.

5.2.3. If negotiation fails to resolve a Dispute within 30 days after receipt of notice of the Dispute, then the parties agree that any Dispute arising out of or related to this Agreement shall be subject to mediation as a condition precedent to litigation. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator qualified as an impartial third party for purposes of Section 154.052 of the Texas Civil Practice & Remedies Code. Request for mediation shall be in writing and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.

5.2.4. In the event the Owner and the Owner's Representative are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.

5.2.5. Nothing herein shall preclude the Owner or the Owner's Representative from requesting that the Architect or the General Contractor/CMAR or one or more subcontractors be joined as parties to the mediation, to the extent allowed by their respective contracts.

5.2.6. The parties shall share the mediator's fee and any filing fees equally. The mediation

shall be held in the county where the Owner’s administrative offices are located. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

5.2.7. If the parties do not resolve a Dispute through mediation pursuant to this Section, the method of binding dispute resolution shall be litigation.

5.2.8. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Owner’s Representative, in whole or in part.

5.3. **Choice of Law, Forum Selection, Entire Agreement, and Amendment.** This Agreement shall be construed under Texas law (without regard for choice of law considerations) and the policies and procedures of Owner, as amended from time to time. Any action arising out of this Agreement shall be heard by a state court or Federal District Court in the county where the Owner’s administrative offices are located. For this purpose, Owner’s Representative specifically consents to jurisdiction to the courts with jurisdiction over the county where the Owner’s administrative offices are located. This Agreement constitutes the entire agreement and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Owner shall not be bound by any amendment to this Agreement unless such amendment has been signed by Owner.

5.4. **Owner’s Representative’s Insurance.**

5.4.1 Prior to performing work under this Agreement, Owner’s Representative shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the amounts shown in the table contained within this Section 5.4.1 and with indemnification limits not less than the amounts indicated therein, to protect Owner’s Representative and Owner from claims arising out of the performance of the Owner’s Representative’s services under this Agreement and/or caused by any error, omission, negligent act or omission. The required coverage shall be maintained without interruption from the date of commencement of the Work until the date of final payment, and termination of any coverage required to be maintained after final payment.

Worker’s Compensation: (Including Waiver of Subrogation Endorsement)	All liability arising out of Owner’s Representative’s employment of workers and anyone for whom Owner’s Representative shall be liable for Worker’s Compensation claims. Worker’s Compensation is required and no “alternative” form of insurance shall be permitted.
Employers Liability	\$1,000,000.00 per accident \$1,000,000.00 per disease policy limit \$1,000,000.00 per disease per employee
Professional Liability: Owner’s Representative	\$1,000,000.00 per claim and \$2,000,000.00 in the aggregate
Owner’s Representative’s Consultants	\$2,000,000.00 in the aggregate.

<p>Commercial General Liability:</p> <ul style="list-style-type: none"> • Each Occurrence • General Aggregate • <u>Products - Completed Operations</u> hazard, providing coverage for claims including: <ol style="list-style-type: none"> 1. damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person; 2. personal and advertising injury; 3. damages because of physical damage to or destruction of tangible property, including the loss of use of such property; 4. bodily injury or property damage arising out of completed operations; and 5. the Owner's Representative's indemnity obligations provided for in this Contract 	<p>\$1,000,000.00 \$2,000,000.00 \$1,000,000.00 aggregate</p>
<p>Automobile Liability</p>	<p>\$1,000,000.00 combined single limit Coverage shall be for all owned, non-owned and hired motor vehicles, and any other statutorily required automobile coverage.</p>
<p>Excess Umbrella Liability</p>	<p>\$5,000,000.00</p>

5.4.2 The required insurance such insurance shall be in a form approved by the Owner, with an effective date prior to the beginning date of design. All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than A-X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, [www.ambest.com], and that permits waivers of subrogation. Any deviation from the requirements of Section 5.4 (including all subsections) can only be approved by Owner's Board of Trustees.

5.4.3 Satisfactory evidence of insurance required by this Article shall be provided to Owner not later than five (5) business days after execution of the Contract by Owner. Satisfactory evidence shall include a duly-executed ACORD Form 25 Certificate of Liability evidencing the endorsements required and notations required by this Contract, copies of all required insurance policies, declarations and endorsements themselves. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations and additional endorsements, as they are provided to Owner's Representative. Each certificate shall contain a statement that no insurance will be canceled or materially changed while the Work is in progress without thirty (30) calendar days prior written notice to Owner.

5.4.4 Notice of Cancellation, Expiration and Continuation

5.4.4.1 Within three (3) business days of the date the Owner's Representative becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Owner's Representative shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Owner's Representative, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Owner's Representative. The furnishing of notice by the Contractor shall not relieve the Owner's Representative of any contractual obligation to provide any required coverage.

5.4.4.2 The certificates and the insurance policies required by this Section 5.4.1 shall contain a provision stating that coverages afforded under the policies will not be canceled for any reason, other than nonpayment of premium, or reduced or restricted due to a material

change in coverage, until at least 30 days' prior written notice of such cancellation or material change has been given to the Owner.

5.4.4.3 An additional certificate, policy and endorsement evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the Owner's Representative's final Invoice, and thereafter upon renewal or replacement of such coverage until the expiration of the time period(s) required by the terms of this Agreement. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Owner's Representative with reasonable promptness.

5.4.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives or agents and shall seek no contribution from any insurance available to Owner. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, or did not pay the insurance premium directly or indirectly; and whether or not the person or entity had an insurable interest in the property damaged. A copy of such endorsement or endorsements shall be provided to the Owner at the same time as the Insurance Certificates required above.

5.4.6 **Additional Insured Obligations.** The Owner's Representative shall cause naming Owner, its officers, employees, representatives and agents, to be named as an additional insured on the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability. Evidence of additional insured status will be provided to Owner by providing a copy of the endorsement being utilized to effect the additional coverage and shall be subject to the Owner's reasonable approval.

5.4.7 Owner's Representative shall furnish to Owner insurance certificates and endorsements upon request at any time during the applicable statute of limitations. If Owner's Representative neglects or refuses to provide any insurance required herein, or if any insurance is canceled, and not replaced, Owner may, but shall not be obligated to, procure such insurance at Owner's Representative's expense or may treat such failure as a default under this Contract.

5.4.8 Insurance provided pursuant to this Section shall be considered a part of the Owner's Representative's basic services and shall not be a Reimbursable Expense under this Agreement.

5.4.9 By signing this contract or providing or causing to be provided a certificate of coverage, the Owner's Representative is representing to the Owner that all employees of the Owner's Representative who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Owner's Representative to administrative penalties, criminal penalties, civil penalties, or other civil actions.

5.4.10 The Owner's Representative failure to comply with any of these provisions is a breach of contract by the Owner's Representative that entitles the Owner to declare the contract void if the Owner's Representative does not remedy the breach within ten days after receipt of notice of breach from the Owner.

5.4.11 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996.

5.4.12 The Owner's Representative Commercial General Liability policy under this Section 5.4 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.

.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.

.3 Claims for bodily injury other than to employees of the insured.

.4 Claims for indemnity provided in this Contract, arising out of injury to employees of the insured.

.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

.7 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

5.4.13 **Disclosure of Deductibles.** The Owner's Representative shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Owner's Representative. If the insurance is written with stipulated amounts deductible under the terms of the policy, the Owner's Representative shall pay the difference attributable to deductions in any payment made by the insurance carrier on claims paid by this insurance. If the Owner is damaged by the failure of the Owner's Representative to maintain such insurance and to so notify the Owner, then the Owner's Representative shall bear all reasonable costs properly attributable thereto.

5.5. **Indemnification.**

5.5.1. TO THE FULLEST EXTENT PERMITTED BY LAW, THE OWNER'S REPRESENTATIVES SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, THE OWNER'S TRUSTEES, AND EMPLOYEES FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING ATTORNEYS' FEES WHERE RECOVERABLE BY LAW, ARISING OUT OF THIRD PARTY CLAIMS, FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING THE LOSS OF USE RESULTING THEREFROM, TO THE EXTENT CAUSED BY INTENTIONAL AND/OR NEGLIGENT ACTS OR OMISSIONS OF THE OWNER'S REPRESENTATIVE, A SUBCONTRACTOR, SUBCONSULTANT ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE legally LIABLE.,

5.5.2. IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION 5.5 BY AN EMPLOYEE OF THE OWNER'S REPRESENTATIVE, A SUBCONTRACTOR, SUBCONSULTANT, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER SECTION 3.18.1 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE OWNER'S REPRESENTATIVE OR A SUBCONTRACTOR OR SUBCONSULTANT UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

5.5.3 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 5.5, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

or expiration of this Agreement.

5.5.5 Owner shall endeavor to cause each contractor engaged directly by Owner for construction of any Project, to agree to defend, indemnify and exonerate the Owner's Representative (and its agents and employees) as to and from all liability, claims, action, causes of action, lawsuits and demands (including all judgments and settlements made at arm's length and all attorney's fees and litigation expense connected therewith) for personal injury, death, (including personal injury or death of the contractor's own employees) and/or property damage arising out of any act or omissions, work or operation performed by, for, and on behalf of the contractors. The foregoing covenant and agreement shall include all such liabilities, claims, lawsuits and demands where it is charged, alleged or proven that the contractor (or its agents or employees) was in any way at fault in causing or contributing to such injury, death or property damage. The liability insurance policies of the contractors shall each contain contractual insurance coverage so as to protect the contractors and in turn the Owner's Representative as to the covenant contained in this Section 5.5.7. The Owner's Representative shall be named as an additional insured in the general liability, automobile and excess liability insurance policies provided by the contractors in connection with the Project.

5.6. Audit and Retention of Books and Records.

5.6.1. Owner's Representative shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement; the accounting and control systems shall be satisfactory to the Owner.

5.6.2. Owner and/or its accountants, auditors, and agents shall, upon reasonable prior notice and during customary business hours, be entitled to audit, inspect, examine, and reproduce ("Audit") all of the Owner's Representative's information, materials, records or data relating to this Project, including but not limited to, accounting records, estimating Work sheets, correspondence, change order files (including documentation covering negotiated settlements), back charge logs and supporting documentation, drawings, receipts, purchase orders, vouchers, memoranda, subscriptions recordings, computerized information, drawings, agreements, and other information, materials, records or data relating to this Project ("Records").

5.6.3. Owner's Representative shall preserve the Records for a period of 12 years after final payment or for such longer period as required by law, provided, however, that if a Dispute is asserted during said 12-year period, the Owner's Representative shall retain all such Records until the Dispute has been resolved.

5.6.4. Owner's Representative shall require all payees to comply with the provisions of this Article by insertion of the requirements hereof in a written agreement between the Owner's Representative and the payee.

5.6.5. Owner and its accountants, auditors and agents shall be provided adequate and appropriate work space in order to conduct audits in compliance with this Article, and Owner and its accountants, auditors and agents agree to perform all of their work in that space and not elsewhere in the Owner's Representative's offices, to not interact with the Owner's Representative's employees, and to not otherwise unreasonably interfere or disrupt the work of the Owner's Representative's employees.

5.7. Proprietary Interests and Confidential Information

5.7.1. Owner's Representative shall not use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Owner's Representative shall not have any authority to advertise or claim that Owner endorses Owner's Representative's services, without Owner's prior written consent.

5.7.2. Owner's Representative acknowledges and agrees that any Confidential Information disclosed to it, its subcontractors or other representatives pursuant to this Agreement shall be used only for the purposes contemplated in this Agreement, shall be kept confidential and in conformance with all state and federal laws relating to data privacy, and shall remain the Owner's property. The term "Confidential Information" means all Owner knowledge, information, data, materials and trade secrets gained, obtained, derived, produced, generated ~~or~~ otherwise acquired by the Owner's Representative and its agents, employees, contractors and consultants with respect to the Project. "Confidential

Information" shall not include any information: (1) that is or becomes publicly available without a breach of this Agreement, or (2) that Owner's Representative can show (by contemporaneous written records) that Owner's Representative had it in its possession before beginning the Project and before disclosure by Owner. Owner's Representative agrees that the Confidential Information constitutes valuable trade secrets of the Owner and that money damages cannot fully remedy any breach of this Section. Owner's Representative agrees that the Owner may obtain an injunction to prevent or enjoin any breach of the obligations of this Section. Owner's Representative and its employees, agents, contractors and consultants shall not make or otherwise disseminate any public announcement or press release with respect to the Project without the Owner's prior written approval.

5.7.3. The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, *et seq.*, and the Texas Open Meetings Act, Texas Government Code, Section 551.001, *et seq.*

5.7.4 Within fifteen (15) days of the completion or earlier termination of this Agreement, or upon earlier Owner's Representative, upon the request of Owner, shall destroy all copies of such Owner provided data, documents, or information in Owner's Representative's possession or control, and provide Owner with proof of such destruction.

5.8. **Ownership of Works, Intellectual Property Rights.**

5.8.1. The term "Works" includes creative writings, research data and reports, writings, sound recordings, pictorial reproductions, drawings, film and video recordings, and other graphical representations, software, business methods, inventions, improvements, and discoveries, and works of any similar nature (whether or not eligible for copyright, trademark, patent or other proprietary rights), which are to be prepared for Owner and delivered under this Agreement. Ownership of the Works and all copyrights, trademarks, patents and other proprietary rights in the Works shall be owned exclusively by Owner. Owner's Representative agrees that all copyrightable Works shall be considered a "work made for hire" and that Owner is the author of and owns all rights in and to the Works, and agrees that if the Works may not be considered a work made for hire under 17 U.S.C., Sections 101 and 201(b), Owner's Representative shall without further compensation, assign all rights Owner's Representative may have in the Works to Owner. Owner's Representative waives any and all statutory moral rights in the Works which Owner's Representative may have arising under 17 U.S.C. 1006(a), as well as any rights arising under any other federal, state, or foreign law that conveys any other type of moral right. Owner's Representative shall, without further compensation, disclose information to Owner and execute such documents as may be reasonably necessary to assist Owner in securing and enforcing rights in the Works and related proprietary rights.

5.8.2. Owner shall be the owner of and have all common law, statutory, and other reserved rights in all representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Owner's Representative and the Owner's Representative's consultants under their respective professional services agreements, including, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials (the "Instruments of Service"). Owner's Representative shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's reserved rights. Owner's Representative is authorized to use and reproduce the Instruments of Service provided to it solely and exclusively for execution of the work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. Owner's Representative may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the work without the specific written consent of the Owner, which the Owner may withhold in its sole discretion.

5.9. **Conflict of Interest.** Owner's Representative affirms that, to the best of its knowledge, no actual or potential conflict exists between Owner's Representative's family, business or financial interests and its services under this Agreement, and that it shall raise with Owner any questions regarding possible conflict of interest that may arise. Owner's Representative further affirms that it shall not hire any officer or employee of Owner to perform any service covered by this Agreement. If the Work is to be performed in connection with a federal contract or grant, Owner's Representative shall not hire any employee of the United States Government to perform any service set forth herein.

5.10. **Taxes.**

5.10.1 The Owner's Representative shall not include in the in its pricing or invoicing, any amount for sales, use, or similar taxes for which (1) a Texas independent school district is exempt, and (2) the Owner has provided the Contractor with a tax exemption certificate or other documentation necessary to establish the Owner's exemption from such taxes. **OWNER'S REPRESENTATIVE HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF OWNER'S REPRESENTATIVE OR ANY SUBCONTRACTOR OR SUBCONSULTANT TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.**

5.10.2 Upon execution of this Agreement, Owner's Representative will provide to Owner a signed IRS Form W-9.

5.11. **Use of Owner Name or Logo.** Owner's Representative agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with Owner or the name of any representative of Owner in any sales promotion work or advertising, or any form of publicity, without Owner's written permission in each instance.

5.12. **Independent Contractor.** OWNER'S REPRESENTATIVE SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE OF OWNER. NEITHER OWNER'S REPRESENTATIVE NOR ANY AGENT OR EMPLOYEE OF OWNER'S REPRESENTATIVE SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF OWNER. OWNER'S REPRESENTATIVE SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING, INCLUDING ALL FEDERAL AND STATE INCOME TAX ON ANY MONIES PAID PURSUANT TO THIS AGREEMENT. OWNER'S REPRESENTATIVE ACKNOWLEDGES THAT OWNER'S REPRESENTATIVE AND ITS EMPLOYEES ARE NOT ENTITLED TO TAX WITHHOLDING, WORKER'S COMPENSATION, UNEMPLOYMENT COMPENSATION, OR ANY EMPLOYEE BENEFITS, STATUTORY OR OTHERWISE. OWNER'S REPRESENTATIVE SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND OWNER TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. OWNER'S REPRESENTATIVE SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF OWNER'S REPRESENTATIVE, ITS EMPLOYEES, AND AGENTS.

5.13. **Notices.** Any notice provided for in or permitted under this Agreement shall be made in writing, and may be given or served by (i) delivering the same in person or by e-mail or facsimile transmission to the party to be notified, or (ii) depositing the same in the United States mail, postage prepaid, registered or certified with return receipt requested, and addressed to the party to be notified at the address herein specified, or (iii) by depositing same with a reputable overnight courier service. If notice is deposited in the United States mail pursuant to clause (ii) of this Section, it will be effective from and after the day it is received by the addressee or receipt thereof is refused by the addressee, unless such day is not a business day, and then it shall be deemed received on the next business day. Notice given in any other manner shall be effective only if and when received by the party to be notified unless the day it is received is not a business day, and then it shall be deemed received on the next business day. For the purpose of notice, the address of the party shall be, until changed as hereinafter provided for, as follows:

If to Owner:

WIMBERLEY INDEPENDENT SCHOOL DISTRICT
Attn: Superintendent, Greg Bonewald
951 FM 2325, Wimberley, TX 786376
Phone: (512) 847-2414
Email: greg.bonewald@wimberleyisd.net

with copy to :

Kelley Kalchthaler, Attorney
Walsh Gallegos Kyle Robinson & Roalson, P.C.
505 E. Huntland Drive, Suite 600

Austin, Texas 78752
Email: kkalchthaler@wabsa.com

If to Owner's Representative:

AGCM, Inc.
Attn: Derek Bird
85 NE Loop 410, Suite 600
Phone: 210-592-3110
E-Mail: dbird@agcm.com

or to such other address as the Owner may specify in a written notice to the Owner's Representative or the Owner's Representative may specify in a written notice to the Owner in accordance with this Section. Each party shall have the right from time to time and at any time to change its respective address and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other party. Each party shall have the right from time to time to specify additional parties to whom notice hereunder must be given by delivering to the other party fifteen (15) days' written notice thereof setting forth the address of such additional party or parties; provided, however, that no party shall have the right to designate more than three (3) such additional parties.

5.14. **Non-Waiver.** No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

5.15. **Assignment.**

5.15.1 Owner's Representative may not sell, assign, pledge, transfer or convey any interest in this Agreement nor delegate the performance of any duties hereunder, by transfer or any other means, without the prior written consent of Owner. Architectural and Engineering services required by law to be performed by a licensed engineer or architect, or services which, by law, require the supervision and approval of a licensed engineer, may only be subcontracted upon the prior written approval of the District. Any other services to be performed under this Agreement may be subcontracted upon the written approval of District's representative. As a condition of consent, if same is given, Owner's Representative shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Owner's Representative, assignee, transferee or subcontractor. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by District in accordance with this Article. The following individuals or entities have been approved by the Owner for subcontracting by the Owner's Representative at the time of execution of this Agreement:

5.16.2. Any attempt to assign, transfer, pledge, convey or otherwise dispose of any part of, or all of its right, title, interest or duties to or under this Agreement, without said written approval, shall be void, and shall confer no rights upon any third person. Should Owner's Representative assign, transfer, convey or otherwise dispose of any part of, or all of its right, title or interest or duties to or under this Agreement, Owner may, at its option, terminate this Agreement as provided herein, and all rights, titles and interest of Owner's Representative shall thereupon cease and terminate, notwithstanding any other remedy available to Owner under this Agreement. The violation of this provision by Owner's Representative shall in no event release Owner's Representative from any obligation under the terms of this Agreement, nor shall it relieve or release Owner's Representative from the payment of any damages to District, which District sustains as a result of such violation.

5.16.3. Owner's Representative agrees to notify Owner's representative of any changes in ownership interest greater than thirty percent (30%), or control of its business entity not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to Owner under this Agreement, any such change of ownership interest or control of its business entity may be grounds for termination of this Agreement agrees to notify Owner's representative of any changes in ownership interest greater than thirty percent (30%), or control of its business entity not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to Owner under this Agreement, any such change of ownership interest or control of its business entity may be grounds for termination of this Agreement.

5.16. **Severability.** If any provision of this Agreement shall be invalid or unenforceable with respect to any party, the remainder of the Agreement, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Agreement shall be valid and be enforceable to the fullest extent permitted by law.

5.17. **Survivability.** The terms, provisions, representations, and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Agreement, including the making of any and all payments hereunder.

5.18. **Force Majeure.** In the event that performance by either party of any of its' obligations or undertakings hereunder shall be interrupted or delayed by a Force Majeure Event, then such party shall be excused from performance for a period of time as is reasonably necessary after such occurrence to remedy the effects thereof, and each party shall bear the cost of any expense it may incur due to the occurrence. For purposes of this agreement, a Force Majeure event is an event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent; provided that such event or circumstance is limited to the following: (a) complete inaccessibility to the location at which services were to be performed; (b) governmental act (including but not limited to state, federal, and /or local authority related to the COVID-19 pandemic or other pandemic or epidemic); (c) earthquakes, flood, fire, tornado, fire or other physical natural disaster; (d) act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works or requisition; (e) plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, including but not limited to the COVID-19 pandemic; (f) the event is made impracticable if act(s)/circumstance(s) cause performance to become substantially more difficult, complex or challenging, such as an excessive or unreasonable increase in performance costs or if increased costs make performance commercially senseless. ("Force Majeure Event"). The party effected by the Force Majeure Event shall provide notice of such party's failure or delay in performance due to a Force Majeure Event to the unaffected party promptly, but no later than five (5) business days after the occurrence of a Force Majeure Event. Such notice shall describe the Force Majeure Event and the actions taken to minimize the impact thereof.

5.20 **No Third-Party Beneficiaries.** For purposes of this Agreement, including its intended operation and effect, the Parties specifically agree and contract that: (1) this Agreement only affects matters/disputes between the Parties to this Agreement, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with Owner or Owner's Representative or both, or that such third parties may benefit incidentally by this Agreement; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either Owner or Owner's Representative.

5.21. **Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original. A facsimile signature will constitute an original and binding signature of a party.

5.22. **Limitation of Liability.** Notwithstanding anything else in this Agreement to the contrary, including all attachments, the liability of Owner's Representative on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the Agreement or the Scope of Services performed shall be limited to the lump sum compensation amount specified above in this Agreement. The provisions of this limitation of liability shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, rule, regulation or tort (including but not limited to negligence) or otherwise and shall survive termination or expiration of the Agreement.

This Agreement is entered into as of the Effective Date, which is the date of the last signature below.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.]

OWNER: Wimberley Independent School District

DRAFT FOR BOARD PACKET/REVIEW ONLY – NOT FOR SIGNATURE AT THIS TIME

By: _____

Date: _____

Dr. Greg Bonewald, Superintendent
Email: greg.bonewald@wimberleyisd.net

OWNER'S REPRESENTATIVE: AGCM, Inc.

DRAFT FOR BOARD PACKET/REVIEW ONLY – NOT FOR SIGNATURE AT THIS TIME

By: _____

Date: _____

Chris Majors, Chief Operations Officer
Email: cmajors@agcm.com

EXHIBIT A
TO AGREEMENT BETWEEN OWNER AND OWNER'S REPRESENTATIVE

AGCM will provide program management services for a fee of Three Million Ninety-Seven Thousand Dollars and No Cents (\$3,097,000.00), which will be billed as a lump sum amount per phase as shown below.

<u>Phase</u>	<u>Duration</u>	<u>Cost Per Month</u>	<u>Total Cost Per Phase</u>
Pre-Construction/Permitting	12 Months	\$43,000	\$516,000
Construction/Closeout	29 Months	\$89,000	\$2,581,000
Contingency Allowance			\$200,000
TOTAL	41 Months		\$3,297,000

Hourly rates are as follows for work that is requested by Owner beyond the scope set out herein:

<u>Position</u>	<u>2025 Rate</u>	<u>2026 Rate</u>	<u>2027 Rate</u>	<u>2028 Rate</u>
Project Executive	\$255	\$265	\$280	\$295
Project Advisor	\$220	\$230	\$245	\$255
Sr. Project Manager	\$240	\$250	\$265	\$275
Project Manager	\$200	\$210	\$220	\$230
Asst. Project Manager	\$165	\$170	\$180	\$190
Chief Estimator	\$200	\$210	\$220	\$230
Estimator	\$140	\$145	\$155	\$165

The total program fee, including contingencies, shall not exceed \$3,297,000.

EXHIBIT B
TO AGREEMENT BETWEEN OWNER AND OWNER'S REPRESENTATIVE

SCOPE OF WORK

Owner's Representative will provide services on the following construction projects: all projects related to construction within the District's 2025 Bond.

During the Term of this Agreement Owner's Representative shall provide the following services for the Projects:

1. GENERAL

1.1 Maintain an organized filing system for all Project documents and records. At Project completion, Owner's Representative shall certify that all Project documents and records have been delivered, either electronically or in hard copy.

1.2 Attend all Project meetings (including without limitation meetings with the Architect, Contractor, Consultants, or Owner. In the absence of meeting minutes prepared by others, Owner's Representative will provide Owner with minutes from such meetings prepared by Owner's Representative. Owner's Representative shall review for accuracy the minutes of such meetings prepared by either the Architect, Contractor, or others. Owner's Representative shall clarify, amend and report any discrepancies affecting the Project.

1.3 Upon receipt and review of project documents furnish to the Owner reports on any review comments, discrepancies, or other information required to be reported to the Owner regarding (a) the status of the Project; (b) a comparison of the Project budget to costs incurred through the date of the report; (c) a report of potential savings on CMAR Projects; (d) a comparison of the Project schedule to the work actually completed through the date of the report; (e) any revision to the Project schedule or Project budget made during the period covered by the report; (f) a summary of change orders made during the period covered by the report; (g) a list of all pending change orders and all outstanding issues requiring action or approval by Owner; (h) the status of any governmental requirements and activities required to facilitate approval of the Project; and (i) any other reports concerning the Project as Owner may reasonably request.

1.4 Provide Project accounting services related to reviewing, and forwarding to Owner for payment the invoices from the Architect, Contractor/CMAR and/or other consultants, including review and critical evaluation of applications for payment by the Contractor and/or CMAR for each Project (including back-up documentation provided by Contractor/CMAR); review certificates for payment issued by Architect and make written recommendations to Owner concerning payment. Owner's Representative's recommendation for payment shall constitute a representation to the Owner that, based upon the Owner's Representative's evaluation of the Work covered by the Application, and in the case of the Contractor/CMAR the documentation of costs provided, the work has progressed to the point indicated, the quality of the work is in accordance with the Contract Documents and in the case of the Contractor/CMAR, the Payment Application correctly calculates the amounts due based on the Contract terms. Owner's Representative and Owner shall cooperate with one another to develop an orderly procedure for review and payment of Project costs and expenses, including fees for the Architect and Consultants.

1.5 Be available for questions and follow up by telephone or site meetings with Owner.

1.6 Become familiar with, and provide its services are consistent with all applicable Laws, Regulations, Ordinances and the requirements of easements, licenses, and other pertinent agreements to the extent the foregoing are made know to Owner's Representative.

1.7 Provide leadership to the Project Team on all matters relating to the planning, design, governmental approvals, construction, and other activities necessary to complete the Project. Owner shall select, hire and pay the Project Team with the consultation and advice of the Owner's Representative.

2. PRE-DEVELOPMENT PHASE SERVICES

2.1 To the extent items below are not already completed on the Effective Date of this Agreement, Owner's Representative shall (1) coordinate the preparation by the Architect of a description of the program for each Project within the Scope, in accordance with Owner's goals and objectives (the "Project Program"); (3) assist Owner in establishing a Project budget for each Project based on a preliminary estimate of Project

costs, including without limitation Owner's internal soft costs and construction costs, which Owner's Representative shall update from time to time with increased detail as the design of the Project progresses (the "Project Budget"); and (4) assist Owner in managing the Project Schedule and Project Budget to maximize value, keep the work progressing in a logical manner, and avoid or mitigate interruptions of design and construction. (5) review Contractor/CMAR and Architect's Schedules and Cost Estimates (including updates) and critically evaluate the accuracy and advise Owner on any discrepancies found thereof.

2.2 Advise Owner regarding and assist with, redevelopment activities, including but not limited to obtaining and evaluating any necessary soil reports and studies and determining the need for any site soil corrections; obtaining and evaluating survey, topographical survey, schematic designs and elevations for the Project; and reviewing the need for any property rights or other actions related to underground utilities, access, encroachments or other development limitations disclosed in the survey. Owner's Representative shall advise and assist the Owner in all activities necessary to obtain any and all property or rights-of-way necessary for development of the Project or the provision of adequate utility services and access thereto.

2.3 Coordinate and assure attorney review of contracts between Owner and Consultants hired directly by the Owner, prior to execution by the Owner.

2.4 Coordinate any required environmental review of the Project, and advise and assist Owner in obtaining all environmental permits or approvals required for the Project, if any.

2.5 Coordinate with Owner in identifying any governmental and quasi-governmental authorities having jurisdiction over the Project, as well as any other organizations that may have an interest in the Project; assist the Architect in obtaining permits for the Project; coordinate with the various municipal and other governmental agencies having permit responsibilities for the Project; represent the Owner at meetings of the applicable governmental units; recommend to the Owner appropriate policies or decisions to be followed on public matters affecting the Project; coordinate with the Contractor the obtaining of necessary building permits or other necessary construction approvals for the Project; and advise the Owners as to any material issues noted by the Architect.

2.6 Schedule and attend regular meetings with the Architect related to the development of the design.

2.7 Coordinate with the Contractor/CMAR and provide recommendations to the Owner and Architect regarding construction feasibility, value engineering, availability of materials and labor, time requirements for installation and construction, and factors relating to costs, including costs of alternative designs or materials in a manner consistent with the Project Program, Budget and Schedule, and possible cost reductions and economies if and when necessary to reconcile the Project Budget, Program and Schedule.

2.8 Review and comment on the drawings and specifications for the Project (the "Construction Documents"), as they are completed by the Architect, and coordinate their review by the Contractor/CMAR, if any.

2.9 Assist the Owner in the evaluation and recommendation of appropriate design alternatives in light of the Owner's Project Program and the Project Budget and Schedule, provided the Owner's Representative shall not assume any of the Architect's responsibilities for design or any of the Contractor's/CMAR's responsibilities for construction means, methods or costs.

2.10 Upon approval by Owner of design development plans and specifications, Owner's Representative shall (a) lead the process on behalf of the Owner in reviewing and coordinating the preparation by the Architect and other Project consultants of the Construction Documents for the Project; and (b) make recommendations regarding alternative solutions whenever design details appear to (i) adversely affect construction feasibility, the Project Program, Budget or Schedule; or (ii) cause the Project to deviate from the approved drawings or requirements of Owners.

2.11 Owner's Representative shall (i) review cost estimates for the estimated Project costs to be incurred by Owner in designing and constructing the Project (the "Project Costs Estimate"). The Project Costs Estimate shall include separate line items for each cost category included in the Project cost, with line items for anticipated contracts and subcontracts, and (ii) evaluate pricing for alternative building and engineering systems. In addition, Owner's Representative shall:

2.11.1 In consultation with the Architect and Contractor, provide value engineering services to analyze and make recommendations concerning availability of materials and labor, time requirements for installation and construction, and other factors related to costs, including costs of alternative designs or materials, and possible cost reductions and economies. Owner's Representative shall provide value engineering recommendations to Owner, but the final decision will, in every instance, be Owner's decision.

2.11.2 Recommend modifications to the Project design, Project Budget, Project Schedule and Project Program to reconcile each with the others, for final decision by Owner;

2.11.3 Assist Owner in setting a final Project Budget, based on the approved design and the Project Schedule, the Project Program, the Project Costs Estimate and financial constraints identified by Owner

2.12 Act as Owner's representative in coordinating and assisting the Architect in the preparation of bid documents, which shall consist of, among other things, the working drawings.

2.13 Serve as non-voting member of the Evaluation Team for the Projects, review proposals, prepare analyses and make recommendations to Evaluation Team regarding areas within its expertise.

2.14 Review and critically evaluate GMP Proposal, on behalf of Owner and make recommendations regarding revisions or approve for submission to the Board of Trustees, including the following:

2.14.1 Review line item costs for "Miscellaneous" costs not appropriately allocated to General Conditions or Cost of the Work, as defined by the Contractor/CMAR Contract;

2.14.2 Review line item costs for items not appropriately allocated to General Conditions or Cost of the Work, as defined by the Contractor/CMAR Contract;

2.14.3 Review methodology and calculation of GMP and markups to assure that they comply with the Contract Terms;

2.14.4 Review and provide recommendations to Owner, if any, regarding Contractor/CMAR's proposed mobilization schedule, temporary Project facilities, equipment, materials and services during construction and the assignment of responsibilities relating to same.

2.15 Assist the Owner in conducting post-ranking negotiation of the Project construction contract with either Contractor/CMAR.

2.16 Make recommendations as to the timely and economical purchases of materials and equipment; and monitor the purchase of such items.

3. CONSTRUCTION PHASE SERVICES

3.1 Owner's Representative shall represent the Owner in its communications with the Architect, Contractor, and Consultant(s); attend regular on-site meetings to review construction progress and pay requests and to provide appropriate recommendations to the Owner concerning the Owner's decisions on construction matters, including, where necessary, alternative designs or materials; and coordinate, review, advise the Owner concerning, and approve change orders, submittals, and requests for information.

3.2 Owner's Representative shall (i) assist and review the processing of change orders, (ii) advise Owner concerning the necessity for, scope of and recommended cost of change orders, and (iii) negotiate, on Owner's behalf, all change orders with Contractor.

3.3 Assist with coordination of the Architect's review and approval of shop drawings, product data and other submittals by Contractor, as necessary.

3.4 In conjunction with the Contractor/CMAR who has prime contractual responsibility, the Owner's Representative shall additionally review and advise the Owner concerning the adequacy of the Contractor's personnel and equipment, and the availability of materials and supplies to meet the Contractor's schedules in relation to the Project Schedule.

3.5 Notify Owner if Owner's Representative becomes aware that the work of Contractor is not being performed in accordance with the requirements of the Contract Documents. As appropriate, Owner's Representative shall have authority, with written authorization from the Owner, to require additional inspection

or testing of the work in accordance with the provisions of the Contract Documents, whether or not such work is covered, installed or completed. Owner's Representative shall review any and all test reports and notify the Owner, the Architect and the Contractor, as appropriate, of deficiencies in the work of which Owner's Representative becomes aware and shall advise the Owner of projected consequences of such default shall make recommendations to Owner with respect thereto.

3.6 Although Owner's Representative cannot not guarantee the performance by Contractor, Owner's Representative shall recommend courses of action to the Owner when Owner or Owner's Representative becomes aware that requirements of any Project construction contract are not being fulfilled, or when Contractor falls behind in its schedule; shall communicate recommendations, as directed by the Owner, to Contractor on behalf of the Owner; shall monitor Contractor's performance of such recommendations; and shall report Contractor's progress to the Owner on at least a monthly basis.

3.7 Advise the Owner concerning the purchase of building materials by the Contractor.

3.8 Attend on-site review of the Project to confirm substantial and final completion of the construction of the Project, and notify Owner when Owner's Representative believes the work under a Project construction contract is substantially complete and that a punch list should be prepared.

3.9 Owner's Representative shall confirm with the Architect that the Contractor has obtained from the Contractor/CMAR "as-built" drawings and any other warranties and documentation required by Construction Contract, as a condition precedent to Final Completion of each Project.

3.10 Together with the Architect and Owner, monitor and observe the testing and start-up of all utilities, systems and equipment for each Project; and coordinate with TAB Consultant as necessary to assure deviations noted have been corrected.

3.11 Confirm with Architect all requirements for final close-out of the Project and conditions-precedent to Final Payment have been met, and provide assistance as necessary to assure that all requirements for final close-out of the Project have been met including but not limited to (i) obtaining, or causing the Contractor to obtain, all government approvals required for the legal use and occupancy of the Project, (ii) obtaining all warranties, guarantees, bonds, insurance certificates, installation manuals, and other items required pursuant to the Project construction contracts, (iii) obtaining all affidavits, waivers, and releases the Contractors are required to provide pursuant to the Project construction contracts to achieve final completion of the Project, (iv) confirming with the Architect that the Contractor has obtained from the Contractor/CMAR "as-built" drawings, (v) analyzing all claims (including change order disputes and other claims for extra compensation) asserted by the Contractors and the Architect, and/or (vii) representing Owner at meetings and/or inspections scheduled by Owner and held to resolve problems relating to design, physical condition or operation of the Project to seek enforcement of warranties.

3.12 Assist the Owner with the selection of the TAB Consultant and/or Commissioning agent and coordinate and administer the Project TAB process and Project Commissioning process, if required on the specific Project.

3.13 Critically review final payment application of Contractor/CMAR for each project and make an independent evaluation of the appropriate project savings to be credited to the Owner as a deductive Change Order; negotiate appropriate savings disputes on behalf of the Owner, if any is required; review any final deductive Change Order for accuracy and completeness.

4. SECURITY/SAFETY. While performing the Work, the Owner's Representative shall promptly inform the Owner if the Owner's Representative becomes aware of any security concerns and/or unsafe conditions.

EXHIBIT C
TO AGREEMENT BETWEEN OWNER AND OWNER'S REPRESENTATIVE

OWNER REPRESENTATIVE'S PROJECT TEAM

The Owner Representative's Project Team include the following:

Name: Derek Bird
Title: Director of Operations, Central Texas
Direct Phone: (210) 592-3110
Email: dbird@agcm.com

Name: Mark Johnson
Title: Senior Project Manager
Direct Phone: (210) 994-0582
Email: mjohnson@agcm.com

Owner's Representative agrees that if any changes are made to the Project Team during the course of the Agreement, Owner's Representative will provide Owner with the new proposed team member's resume and submit to a criminal background check as required above. Owner must approve any new Project Team member(s). If the composition of the Project Team changes substantially, Owner may terminate this Agreement, and Owner is released from any payment obligations as of the date of termination and entitled to a *pro rata* reimbursement of any funds paid for work that was not completed.

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Consider and possible action regarding proposed agreement with O’Connell Robertson & Associates, Inc. for design and contract administration services on 2025 Bond Construction Projects.

Date: July 21, 2025

Presented by: Mike Doyle

Action

1. BACKGROUND INFORMATION

At the May 2025 Board Meeting, the Wimberley ISD Board of Trustees approved O’Connell Robertson & Associates, Inc. as the top-ranked Architect & Engineering firm. In conjunction with this action, the Board delegated authority to the Superintendent, or designee, to negotiate a contract with the selected firm. District administration has successfully completed contract negotiations, and the finalized agreement is now presented to the Board for consideration.

2. ADMINISTRATIVE RECOMMENDATION

It is administration’s recommendation that the Board approve the agreement for Architect & Engineering Services with O’Connell Robertson & Associates, Inc. for the District’s 2025 Bond Construction Projects as presented by Administration and authorize the Superintendent or his designee to execute the agreement.

3. BOARD ACTION REQUIRED

“I move that the Board approve the agreement with O’Connell Robertson & Associates, Inc. for design and contract administration services on the 2025 Bond Construction Projects as presented by Administration and authorize the Superintendent or his designee to execute the agreement.”



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the TWENTY-FIRST (21st) day of JULY in the year TWO THOUSAND TWENTY-FIVE (2025)
(In words, indicate day, month and year.)

BETWEEN the Architect’s client identified as the Owner:
(Name, legal status, address and other information)

Wimberley Independent School District, a political subdivision and public school district of the State of Texas
951 FM 2325
Wimberley, Texas 78676
Phone: (512) 847-2414

and the Architect:
(Name, legal status, address and other information)

O’Connell Robertson & Associates, Inc., a corporation of the State of Texas
811 Barton Springs Road, Suite #900
Austin, Texas 78704
Phone: (512) 478-7286

for the following Project:
(Name, location and detailed description)

Wimberley ISD May 2025 Bond Projects

The Owner and Architect agree as follows:

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

NOTE: Any reference hereinafter this one, to an AIA™ Document or any AIA Documents included in the Contract Documents shall refer to such document "as modified for this Project". In addition, any reference to AIA Documents shall all be considered to have included the Trademark "™" after the AIA reference, whether or not included in the text. The AIA Documents are registered intellectual property of the American Institute of Architects and use and amendment of such forms is permitted under license granted to Walsh Gallegos Trevino Kyle & Robinson P.C. for this Project. No use may be made of this AIA document other than as Contract Documents for this Project.

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

This program will include the following projects (the delivery method indicated below is subject to final Board approval):

- Bid Package 1 - Site + Pavement (CSP)
- Bid Package 2 - Danforth JH Campus (CMR)
- Bid Package 2.1 - Danforth JH Campus | Texans Stadium (CMR)
- Bid Package 2.2 - Danforth JH Campus | SMAC (CMR)
- Bid Package 2.3 - Danforth JH Campus | Insurance (CMR)
- Bid Package 3 - Wimberley HS (CMR)

- Bid Package 3.1 - Wimberley HS | Insurance (CMR)
- Bid Package 4 - BB|SB Complex (CSP)
- Bid Package 4.1 - BB|SB Complex (Insurance)
- Bid Package 5a - Scudder Campus Roofing + HVAC (CSP)
- Bid Package 5a - Scudder Campus Roofing + HVAC | Insurance (CSP)
- Bid Package 5b - Jacob's Well Roofing + HVAC (CSP)
- Bid Package 5b.1 - Jacob's Well Roofing + HVAC | Insurance (CSP)
- Bid Package 5c - Multicampus Roofing | Insurance (CSP)
- Bid Package 6 - Multicampus Improvements (CSP)

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

See Section 1.1.1, above.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

Bid Package 1 - Site + Pavement:	\$1,487,000
Bid Package 2 - Danforth JH Campus:	\$58,767,000
Bid Package 2.1 - Danforth JH Campus | Texans Stadium:	\$5,718,000
Bid Package 2.2 - Danforth JH Campus | SMAC:	\$13,232,000
Bid Package 2.3 - Danforth JH Campus | Insurance:	\$562,000
Bid Package 3 - Wimberley HS:	\$28,034,000
Bid Package 3.1 - Wimberley HS | Insurance:	\$1,464,000
Bid Package 4 - BB|SB Complex:	\$3,551,000
Bid Package 4.1 - BB|SB Complex:	\$80,000
Bid Package 5a - Scudder Campus Roofing + HVAC:	\$1,130,000
Bid Package 5a - Scudder Campus Roofing + HVAC | Insurance:	\$337,000
Bid Package 5b - Jacob's Well Roofing + HVAC:	\$3,880,000
Bid Package 5b.1 - Jacob's Well Roofing + HVAC | Insurance:	\$1,362,000
Bid Package 5c - Multicampus Roofing | Insurance:	\$1,667,000
Bid Package 6 - Multicampus Improvements:	\$4,346,000
TOTAL FOR ALL PROJECTS:	\$125,657,000.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

To be determined by Owner.

.2 Construction commencement date:

To be determined by Owner.

.3 Substantial Completion date or dates:

To be determined by Owner..

.4 Other milestone dates:

To be determined by Owner.

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

To be determined by the Board of Trustees.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None.

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Dr. Greg Bonewald, Superintendent
Wimberley Independent School District
951 FM 2325
Wimberley, TX 78676
Phone: (512) 847-2414 Email: Greg.Bonewald@wimberleyisd.net

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

AGCM, Inc.
Attn: Derek Bird, CCM
85 NE Loop 410, Suite 600
San Antonio, Texas 78216
Phone: (210) 403-2284
Email: Dbird@agcm.com

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

To be determined by Owner.

.2 Commissioning Agent:

To be determined by Owner.

.3 Surveyor:

To be determined by Owner.

.4 Other, if any:
(List any other consultants and contractors retained by the Owner.)

None.

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Jarrold Sterzinger, AIA, LEED AP
811 Barton Springs, Suite 900
Austin, Texas 78704
Phone: (512) 478-7286
Email: jsterzinger@oconnellrobertson.com

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Datum Engineers, Incorporated
8140 N. Mopac Expy., Building 1, Suite 120
Austin, Texas 78759
Email: jklahorst@datumengineers.com

.2 Mechanical Engineer:

O'Connell Robertson & Associates, Inc.
811 Barton Springs Road, Suite 900
Austin, Texas 78704
Phone: 512.478.7286

.3 Electrical Engineer:

O'Connell Robertson & Associates, Inc.
811 Barton Springs Road, Suite 900
Austin, Texas 78704
Phone: 512.478.7286

.4 Civil Engineer:

Kimley-Horn
10814 Jollyville Road
Campus IV, Suite 200
Austin, Texas 78759
Phone: 512.418.1771
Email: Allison.Kennaugh@kimley-horn.com

.5 Acoustic Engineer:

BAI, LLC
4006 Speedway
Austin, Texas 78751
Phone: 512.476.3464
Email: andy@baiaustin.com

- .6** Landscaping:
Studio 16:19
305 W. Liberty Ave, Suite 100
Round Rock, TX 78664
Phone: 512-534-8680
- .7** Technology:
To be determined by Architect.
- .8** Theatrical Consultant:
To be determined by Architect.
- .9** Acoustical Design:
To be determined by Architect.

§ 1.1.11.2 Consultants retained under Supplemental Services:

None.

§ 1.1.12 Other Initial Information on which the Agreement is based:

None.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services with the professional skill and degree of care ordinarily provided by competent architects practicing under the same or similar circumstances and professional license. The Architect shall be responsible to the Owner for all costs and damages resulting from (1) defects in design, (2) non-workability of

design details, (3) failure of the Architect to comply with the terms of this Agreement, and (4) errors and omissions of the Architect. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflict or omissions will be promptly corrected by Architect at no additional cost to Owner. Owner's approval, acceptance, use of or payment for all or any part of Architect's services shall in no way alter Architect's obligations or Owner's rights hereunder. Acceptance of reports or other documents by Owner shall not constitute nor be deemed a release of the responsibility and liability of Architect, its employees, associates, agents or its Subconsultants for the accuracy and competency of their testing, reports, assessments or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by Owner for any defect or error in testing, reports, or assessments and work performed by Architect, its employees, Subconsultants, and agents. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architects shall provide and maintain in effect during the performance of the Work under the Agreement insurance of the following types and with indemnification limits not less than the amounts indicated:

Worker's Compensation: (Including Waiver of Subrogation Endorsement)	All liability arising out of Architect's employment of workers and anyone for whom Architect shall be liable for Worker's Compensation claims. Worker's Compensation is required and no "alternative" form of insurance shall be permitted.
Professional Liability: Architect	\$3,000,000.00 per claim and \$5,000,000.00 in the aggregate.
Architect's Consultants	\$2,000,000.00 per claim and \$4,000,000.00 in the aggregate.
Commercial General Liability: Each Occurrence	\$3,000,000.00
General Aggregate	\$5,000,000.00
Personal and Advertising Injury	\$3,000,000.00 each person
Automobile Liability	\$1,000,000.00 combined single limit
Excess Umbrella Liability	\$5,000,000.00

- .1 The required insurance must be written by a company authorized to do business in Texas at the time the policy is issued. In addition, the company must be acceptable to the Owner. The Owner's Representative will contact the State Board of Insurance to confirm that the issuing companies are authorized to issue such policies in the State of Texas.
- .2 The Commercial General Liability and Automobile policies issued in the name of Architect shall also name the Owner as additional insured. Evidence of additional insured status will be provided to Owner by providing a copy of the endorsement being utilized to effect the additional and shall be subject to the Owner's reasonable approval.
- .3 It is the intent of the parties to this Agreement that all coverage provided herein shall be primary to and shall seek no contribution for all insurance available to Owner, with Owner's insurance being excess, secondary and non-contributing and shall apply to both ongoing and completed operations. The Commercial General Liability coverage shall be endorsed to provide such primary and non-contributing liability.
- .4 Architect shall have its insurance carrier(s) furnish to Owner insurance certificates in form satisfactory to Owner specifying the types and amounts of coverage in effect, the expiration dates of each policy, a

statement that no insurance will be canceled or materially changed while the Work is in progress without thirty (30) calendar days prior written notice to Owner, and a statement that, except for professional liability insurance and worker's compensation insurance, the Owner is named as additional insured. Architect shall permit Owner to examine the insurance policies, or at Owner's option, Architect shall furnish Owner with copies, certified by the carrier(s), of insurance policies required. If Architect neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Owner may, but shall not be obligated to, procure such insurance at Architect's expense.

- .5 Insurance provided pursuant to this Section shall be considered a part of the Architect's basic services and shall not be a Reimbursable Expense within the scope of Section 11.8, or other provisions of this Agreement.

(Paragraphs deleted)

§ 2.6 The Architect shall provide a design which when constructed in accordance with the Contract Documents will comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations orders and other legal requirements including but not limited to all zoning restrictions or requirements of record, building, occupancy, environmental, disabled person accessibility and land use laws, requirements regulations and ordinances relating to the construction use and occupancy of the Project ("Governmental Requirements") existing on the date of this Agreement and which may be enacted prior to Owner's approval of completed Construction Documents. Architect shall use its best efforts to avoid incorporating into the Project design elements that would give rise to code interpretation questions and to discuss in advance all such situations with the Owner.

§ 2.7 The Architect represents to Owner that all Design Documents, Contract Documents and other documents prepared and issued by Architect pursuant to this Agreement will be of good quality, free from substantial defects, and in conformance with and satisfying all applicable federal, state, municipal and local ordinances, codes, and other governmental requirements and shall be fit for the particular purpose intended thereby. Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 2.8 Notwithstanding any provision of this Article to the contrary, services made necessary as a result of the Architect's failure to timely provide accurate or complete information, approvals or clarifications, or to timely render a decision, shall be considered Basic Services.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, electrical and civil engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities. Any changes required by governmental authorities, if approved by the Owner, shall be made by the Architect at no additional cost to the Owner.

§ 3.1.6 The Architect shall be responsible for filing documents required for the approval of governmental authorities having jurisdiction over the Project, subject to review and approval of the Owner.

§ 3.1.7 [Intentionally Deleted.]

§ 3.1.8 [Intentionally Deleted.]

§ 3.1.9 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2017. A copy of the AIA Document A201-2017 shall be delivered to the Architect upon execution of this Agreement.

§ 3.1.10 Notwithstanding any other provision of the Agreement, the following are Services of the Architect fully compensated under Section 11.1 as Basic Services:

- .1 The time period during which the Architect's duty to provide Basic Services shall include that time necessary to correct any defective work caused by defects, errors or omissions of the Architect during any phase of construction. Such services shall be performed by the Architect at no additional charge, either in fee or expenses.
- .2 The Architect shall be responsible for retaining all necessary consultants to execute Architect's scope of work. Such consultants shall be professionals licensed by the State of Texas to practice the building discipline for which they are retained on the Project. Consultants required by the Architect shall at a minimum be required to make on-site visits and observations during those periods when work they have designed is being constructed in their professional judgment and as set out in Sections 3.6.2.1 and 4.2.3, below.
- .3 The Architect shall require the Contractor and its subcontractors to maintain a set of record drawings to be furnished to the Owner in reproducible form upon Substantial Completion of the Project. The Architect shall cause the Contractor to provide all warranty documents and Owner operation manuals required by the Contract Documents. The Architect shall review the record drawings, warranties, and operation manuals for conformance with the Contract Documents and shall deliver the record drawings, warranties, and operation manuals to the Owner by written transmittal.
- .4 The Architect shall be responsible for reporting all known building deficiencies to the Contractor for a period of one (1) year after the date of Substantial Completion. In addition, the Architect shall monitor the progress of corrections and furnish the Owner with written notification of completed corrections. The one (1) year period shall be extended to portions of the Work first completed after the date of Substantial Completion by the period of time between Substantial Completion and the actual completion of such Work. The obligations under this Section shall survive acceptance of the Work by the Owner.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, rendering, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Architect shall deliver documents at the Schematic Development Phase, consistent with the AIA Best Practices Schematic Design Quality Management Phase Checklist.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Architect shall deliver documents at the Design Development Phase, consistent with the AIA Best Practices Design Design Quality Management Phase Checklist.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and shall include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.4.6 After Owner's approval of the Construction Documents, the Architect shall not make or approve any change in the Work, except for minor changes in the Work not involving an adjustment in the Contract Sum, expenditure of contingency funds or an extension of the Contract Time, without the prior written consent of the Owner. The Architect shall be liable to the Owner for any damages arising from or caused by any change to the Work made or approved by the Architect without the Owner's prior written consent.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Procurement

§ 3.5.2.1 Procurement Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in the procurement process for Construction Services:

- .1 facilitating the distribution of Procurement Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Procurement Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Procurement Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Basic Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 if requested by Owner, the Architect shall organize and participate in selection interviews with prospective contractors and/or participate in negotiations with ranked contractors and prepare any summary reports requested by the Owner in related to the results of such processes.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Basic Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified by the Owner, a copy of which has been provided to the Architect concurrent with the execution of this Agreement. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.4 The Architect shall prepare Drawings, Specifications, and other documentation and supporting data evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives as Basic Services.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction but no less than two (2) times per month, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Architect shall ensure that Architect's consultants are required to visit the site at intervals appropriate to the corresponding scope of work which shall be no less than once per month during that time. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations

and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work except as otherwise required in this Agreement, (2) reviewed construction means, methods, techniques, sequences or procedures, or (3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum except to confirm inclusion of required lien release forms.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.3.4 The Architect shall observe the Work prior to approving any Certificate for Payments to the Contractor to determine if the Project is progressing in accordance with the approved schedule and to determine the dates of substantial completion and final completion. The Architect shall report the results of observations to the Owner in writing prior to approving any Certificate for Payments.

§ 3.6.3.5 Architect shall not issue a Certificate for Payment releasing any retainage without prior receipt of a Consent of Surety to Final Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted

to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents as Basic Services. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information as Basic Services.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall prepare Change Orders, Construction Change Directives and documents authorizing expenditures of contingency funds, with supporting documentation and data if deemed necessary by the Architect, as Basic Services compensated under Section 11.1, for the Owner's approval and execution in accordance with the Contract Documents. The Architect may order minor changes in the Work not involving an adjustment in the Contract Sum, an expenditure of contingency funds or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified as Basic Services compensated under Section 11.1.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Architect shall prepare a set of reproducible record drawings in electronic format showing significant changes made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.6.6 Pursuant to 19 Texas Administrative Code § 61.1036, the Architect shall sign and seal the Construction Documents and certify on the Certification of Project Compliance form developed by the Texas Education Agency as follows:

- .1 It has reviewed the standards contained in 19 TAC Chapter 61 and has used the best professional judgment and reasonable care consistent with the practice of architecture in the State of Texas in executing the construction documents and that these documents conform with the provisions of 19 TAC § 61.1036.
- .2 It has performed a building code search under applicable regulations that may influence the project and the design has been researched prior to becoming final.
- .3 It has designed the facility according to the provisions of 19 TAC § 61.1036 based on the long-range school facility plan and/or education specifications, building code specifications, and all documented changes to the Construction Documents provided by the District.

§ 3.6.6.7 As a condition to the Project being considered Substantially Complete, the Architect shall obtain the certification of the Contractor on the Certification of Project Compliance form that the facility has been constructed in general accordance with the Construction Documents set out in Section 3.6.6.6 above.

§ 3.6.6.8 [Intentionally Deleted.]

ARTICLE 4 BASIC, SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are Basic Services or Supplemental Services as indicated. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect – Basic Service
§ 4.1.1.2 Multiple preliminary designs	Architect – Basic Service
§ 4.1.1.3 Measured drawings	Not Included (Not included - Architect understand this to be documented, measured drawings of the existing conditions and an independent deliverable from the basic services contract documents.)
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Architect – Basic Service
§ 4.1.1.6 Building Information Model management responsibilities	Architect – Basic Service
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect – Basic Service
§ 4.1.1.9 Landscape design	Architect – Basic Service
§ 4.1.1.10 Architectural interior design	Architect – Basic Service
§ 4.1.1.11 Value Engineering	Architect – Basic Service

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Architect – Basic Service
§ 4.1.1.15 As-designed record drawings	Architect – Basic Service
§ 4.1.1.16 As-constructed record drawings (limited to integrating the contractor’s markups)	Architect – Basic Service
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	Architect – Basic Service
§ 4.1.1.21 Telecommunications/data design	Architect – Basic Service
§ 4.1.1.22 Security evaluation and planning	Architect – Basic Service
§ 4.1.1.23 Commissioning	Owner
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Architect – Optional Additional Service
§ 4.1.1.26 Multiple bid packages	Architect – Basic Service
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design <i>(includes supporting the furniture selections at Danforth Junior High and Wimberley High School, and the District procuring the work through a purchasing cooperative, and support the Owner in the installation process with site observations and punch list development. This exclude a public bid process.)</i>	Architect – Basic Service
<i>(Rows deleted)</i>	
§ 4.1.1.29 Other Supplemental Services	Not Provided
§ 4.1.1.30 Surveys	Owner
§ 4.1.1.31 Geotechnical Engineering	Owner
§ 4.1.1.32 Technology Consultant	Architect -Basic Service
§ 4.1.1.33 Landscaping Consultant	Architect – Basic Service
§ 4.1.1.34 Acoustic Engineer	Architect – Basic Service
§ 4.1.1.35 Theatrical Consultant	Architect – Basic Service
§ 4.1.1.32 Acoustic Design Consultant	Architect – Basic Service

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)

Self-explanatory.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

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(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

Self-explanatory.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. All services under the terms of this Agreement which would otherwise be constructed as Additional Services will be treated as Basic Services compensated under Section 11.1 for which no additional compensation is authorized, unless such services are requested in writing by the Architect and approved in writing by the Owner prior to the time such services are performed.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, or the Owner's schedule or budget for Cost of the Work;
- .2 [Section Deleted.];
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors; or
- .5 [Section Deleted.];
- .6 [Section Deleted.];
- .7 [Section Deleted.];
- .8 [Section Deleted.];
- .9 [Section Deleted.];
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction.
- .11 [Section Deleted.].

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(Paragraphs deleted)

[Paragraph Deleted.]

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 [Section Deleted.]
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.
- .5 The Architect shall visit the site and observe the Work at appropriate stages of construction no less than twice per month. The Architect shall report the results of all observations to the Owner in writing. Any and all observed deficiencies shall immediately be reported to the Owner and Contractor in writing.

§ 4.2.4 [Paragraph Deleted.]

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§ 4.2.5 [Paragraph Deleted.]

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. Architect shall coordinate with the Owner's surveyor(s).

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. Architect shall coordinate with the Owner's geotechnical engineer(s).

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

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§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect and Owner access to the Work wherever it is in preparation or progress.

§ 5.15 Within a reasonable time after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner or, to the extent the Work is not completed, the estimated cost to the Owner, to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Basic Service. Owner shall not be obligated to pay any additional compensation for any designs for Alternates that are not accepted by the Owner's Board of Trustees.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the bid or proposal providing the best value to the Owner, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;

- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's services for modifying the Construction Documents shall be without additional compensation. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall be permitted to retain copies, including those in electronic format and reproducible copies, of the Architect's and the Architect's consultants' Instruments of Service for information and reference in connection with the Owner's use and occupancy of the Project.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project.

§ 7.3.1 The payment of fees for professional services performed under this Agreement shall constitute full payment for a one-time, perpetual license fee for those uses of the Architect's Instruments of Service, for all documents produced pursuant to this Agreement and in existence as of the date of any such payment.

§ 7.3.2 The Owner shall have the right to use the Architect's Instruments of Service and to make derivative Works thereof for the purpose of completing the project in the event Architect is terminated for cause pursuant to this Agreement, without regard to whether such termination shall subsequently be adjudicated to have been wrongful, or whether such termination is for the convenience of the Owner. In the event the Owner shall make derivative works of the Architect's Instruments of Service pursuant to this Section, the Architect shall bear no liability for errors or omissions appearing in such derivative works.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 The provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the initiation of litigation.

§ 8.2.2 Unless the parties mutually agree otherwise, mediation shall be administered in accordance with the following:

- .1 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.
- .2 In the event the Owner and the Architect are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.
- .3 At all times during the course of any dispute resolution process, the Architect shall continue diligently and without delay to perform the services and obligations of the Agreement.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration [Section Deleted.]

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement through no fault of the Architect, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's

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option, cause for suspension of performance of services under this Agreement if not cured by the Owner within seven (7) days following notice of any past-due payment. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner.

§ 9.2 This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

§ 9.3 If the Project is suspended by the Owner for more than ninety (90) consecutive days, the Architect may terminate this Agreement upon not less than seven (7) days' written notice. Should the Architect elect to so terminate this Agreement, the Architect shall be compensated for services actually performed and expenses actually incurred prior to notice of such termination.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated only for services actually performed and reimbursable expenses actually incurred prior to termination.

§ 9.7
(Paragraphs deleted)
[Paragraph Deleted.]

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement is set forth in Article 7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. Venue for any lawsuit arising under this contract shall be in the county in which the Project is located. No provision of this Agreement is a waiver of any immunity or defense. No provision of this Agreement is a consent to suit.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect and Architect's consultants shall have no responsibility for the handling, removal, or disposal or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. The Architect and the Architect's consultants shall have no responsibility to initially discover the presence of such hazardous materials on the Project site, but shall have an affirmative duty to immediately report to the Owner the existence of such materials actually known by the Architect or the Architect's consultants to be present on the Project site.

§ 10.7 With prior written consent of the Owner, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Owner herein designates the following as confidential information: security measures; pending real estate purchases, exchange, lease, or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 In any adjudication or claim under this Agreement, reasonable and necessary attorney's fees that are equitable and just may be awarded to the prevailing party.

§ 10.11 By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.12 Pursuant to Texas Government Code Chapter 2271, as amended, if this contract is valued at \$100,000 or more and if the Architect has at least ten (10) full time employees, then the Architect, by its execution of this Agreement represents and warrants to the Owner that the Architect does not boycott Israel and will not boycott Israel during the term of this Agreement. This section does not apply to a sole proprietorship.

§ 10.13 Pursuant to Texas Government Code Chapters 2274 and 809, if this contract is valued at \$100,000 or more and if Architect has at least ten (10) full-time employees, then Architect represents and warrants to the District that the Architect does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

§ 10.14 Pursuant to Texas Government Code Chapter 2274, if this contract is valued at \$100,000 or more and if Architect has at least ten (10) full-time employees, then Architect represents and warrants to the District that the Architect does not discriminate against firearm entities or firearm trade associations and will not discriminate against firearm entities or firearm trade associations during the term of this Agreement.

§ 10.15 Architect shall keep all accounting and construction records on the Project for a period of at least twelve years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 et seq. and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

§ 10.16 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2017.

§ 10.17 Any notice required by or permitted under this Agreement must be in writing unless otherwise provided herein. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

§ 10.18 If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom.

§ 10.19 The Owner shall have the right to examine, copy, and/or audit the books and other records of the Architect relating solely to this Agreement upon reasonable request to the Architect.

§ 10.20 Architect verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect has misrepresented its inclusion on the Comptroller's list such omission or misrepresentation will void this Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

.2 Percentage Basis
(Insert percentage value)

The Fee for Basic Services shall be six point sixty-five percent (6.65%) of the Cost of Work for all projects which are listed in Section 1.1.1, above.

.3 Other
(Describe the method of compensation)

§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

None.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

None.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus zero percent (0%), or as follows:
(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Thirty-Five	percent (	35	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Twenty-Five	percent (	25	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be fixed for the term of this Agreement.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Please provide.

Employee or Category	Rate (\$0.00)
<i>See Exhibit A, attached hereto and incorporated herein.</i>	

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence except travel to and from the Project site;

Init.

- .2 [Subsection Deleted.];
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents that are requested by Owner in writing;
- .5 [Subsection Deleted.];
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 [Subsection Deleted.];
- .8 [Subsection Deleted.];
- .9 [Subsection Deleted.];
- .10 [Subsection Deleted.];
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective.
- .12 [Subsection Deleted.]

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Five percent (5%) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 **Payments to the Architect**

§ 11.10.1 **Initial Payments**

§ 11.10.1.1 An initial payment of ZERO DOLLARS (\$0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 [Intentionally Deleted.]

§ 11.10.2 **Progress Payments**

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Delinquent payments are subject to the Texas Prompt Pay Act, TEXAS GOVERNMENT CODE, Chapter 2251.

(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable.

§ 11.10.2.3 Records of Reimbursable Expenses, of expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative upon request at mutually convenient times. "Direct Personnel Expense" is defined as the direct salaries of the Architect's personnel engaged in the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 LICENSING AUTHORITY: The following information is included in this agreement as required by Texas Occupations Code section 1051.251: "The Texas Board of Architectural Examiners (333 Guadalupe Suite 2-350, Austin, Texas 78701 Telephone: 512-305-9000) has jurisdiction over individuals licensed to practice architecture in the State of Texas."

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 [Intentionally Deleted.]

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)
 - AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

 - Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .4 Other documents:
(List other documents, if any, forming part of the Agreement.)

Exhibit A – Architect’s Hourly Rate Schedule

This Agreement entered into as of the day and year first written above.

WIMBERLEY INDEPENDENT SCHOOL DISTRICT

O’CONNELL ROBERTSON & ASSOCIATES, INC.

**DRAFT FOR REVIEW ONLY
NOT FOR SIGNATURE AT THIS TIME**

**DRAFT FOR REVIEW ONLY
NOT FOR SIGNATURE AT THIS TIME**

OWNER (Signature)

ARCHITECT (Signature)

Dr. Greg Bonewald, Superintendent
(Printed name and title)

Jarrod Sterzinger, AIA LEED AP
(Printed name, title, and license number, if required)

Additions and Deletions Report for AIA® Document B101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:56:34 ET on 07/18/2025.

PAGE 1

AGREEMENT made as of the TWENTY-FIRST (21st) day of JULY in the year TWO THOUSAND TWENTY-FIVE (2025)

...

Wimberley Independent School District, a political subdivision and public school district of the State of Texas
951 FM 2325
Wimberley, Texas 78676
Phone: (512) 847-2414

...

O'Connell Robertson & Associates, Inc., a corporation of the State of Texas
811 Barton Springs Road, Suite #900
Austin, Texas 78704
Phone: (512) 478-7286

...

Wimberley ISD May 2025 Bond Projects

The Owner and Architect agree as ~~follows~~follows:

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13 SCOPE OF THE AGREEMENT

NOTE: Any reference hereinafter this one, to an AIA™ Document or any AIA Documents included in the Contract Documents shall refer to such document "as modified for this Project". In addition, any reference to AIA Documents shall all be considered to have included the Trademark "™" after the AIA reference, whether or not included in the text. The AIA Documents are registered intellectual property of the American Institute of Architects and use and amendment of such forms is permitted under license granted to Walsh Gallegos Trevino Kyle & Robinson P.C. for this Project. No use may be made of this AIA document other than as Contract Documents for this Project.

...

This program will include the following projects (the delivery method indicated below is subject to final Board approval):

- Bid Package 1 - Site + Pavement (CSP)
- Bid Package 2 - Danforth JH Campus (CMR)
- Bid Package 2.1 - Danforth JH Campus | Texans Stadium (CMR)

- Bid Package 2.2 - Danforth JH Campus | SMAC (CMR)
- Bid Package 2.3 - Danforth JH Campus | Insurance (CMR)
- Bid Package 3 - Wimberley HS (CMR)
- Bid Package 3.1 - Wimberley HS | Insurance (CMR)
- Bid Package 4 - BB|SB Complex (CSP)
- Bid Package 4.1 - BB|SB Complex (Insurance)
- Bid Package 5a - Scudder Campus Roofing + HVAC (CSP)
- Bid Package 5a - Scudder Campus Roofing + HVAC | Insurance (CSP)
- Bid Package 5b - Jacob's Well Roofing + HVAC (CSP)
- Bid Package 5b.1 - Jacob's Well Roofing + HVAC | Insurance (CSP)
- Bid Package 5c - Multicampus Roofing | Insurance (CSP)
- Bid Package 6 - Multicampus Improvements (CSP)

PAGE 3

See Section 1.1.1, above.

...

<u>Bid Package 1 - Site + Pavement: \$1,487,000</u>	
<u>Bid Package 2 - Danforth JH Campus: \$58,767,000</u>	
<u>Bid Package 2.1 - Danforth JH Campus | Texans Stadium: \$5,718,000</u>	
<u>Bid Package 2.2 - Danforth JH Campus | SMAC: \$13,232,000</u>	
<u>Bid Package 2.3 - Danforth JH Campus | Insurance: \$562,000</u>	
<u>Bid Package 3 - Wimberley HS: \$28,034,000</u>	
<u>Bid Package 3.1 - Wimberley HS | Insurance: \$1,464,000</u>	
<u>Bid Package 4 - BB|SB Complex: \$3,551,000</u>	
<u>Bid Package 4.1 - BB|SB Complex: \$80,000</u>	
<u>Bid Package 5a - Scudder Campus Roofing + HVAC: \$1,130,000</u>	
<u>Bid Package 5a - Scudder Campus Roofing + HVAC | Insurance: \$337,000</u>	
<u>Bid Package 5b - Jacob's Well Roofing + HVAC: \$3,880,000</u>	
<u>Bid Package 5b.1 - Jacob's Well Roofing + HVAC | Insurance: \$1,362,000</u>	
<u>Bid Package 5c - Multicampus Roofing | Insurance: \$1,667,000</u>	
<u>Bid Package 6 - Multicampus Improvements: \$4,346,000</u>	
<u>TOTAL FOR ALL PROJECTS:</u>	<u>\$125,657,000.</u>

...

To be determined by Owner.

...

To be determined by Owner.

...

To be determined by Owner..

PAGE 4

To be determined by Owner.

...

To be determined by the Board of Trustees.

...

None.

...

Dr. Greg Bonewald, Superintendent
Wimberley Independent School District
951 FM 2325
Wimberley, TX 78676
Phone: (512) 847-2414Email: Greg.Bonewald@wimberleyisd.net

...

AGCM, Inc.
Attn: Derek Bird, CCM
85 NE Loop 410, Suite 600
San Antonio, Texas 78216
Phone: (210) 403-2284
Email: Dbird@agcm.com

...

To be determined by Owner.

.2 Commissioning Agent:

To be determined by Owner.

.2 Civil Engineer:

.3 Surveyor:

To be determined by Owner.

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.3 — .4 Other, if any:

...

None.

...

Jarrod Sterzinger, AIA, LEED AP
811 Barton Springs, Suite 900
Austin, Texas 78704
Phone: (512) 478-7286
Email: jsterzinger@oconnellrobertson.com

...

Datum Engineers, Incorporated
8140 N. Mopac Expy., Building 1, Suite 120
Austin, Texas 78759
Email: jklahorst@datumengineers.com

...

O'Connell Robertson & Associates, Inc.
811 Barton Springs Road, Suite 900
Austin, Texas 78704
Phone: 512.478.7286

...

.3 Electrical Engineer:

O'Connell Robertson & Associates, Inc.
811 Barton Springs Road, Suite 900
Austin, Texas 78704
Phone: 512.478.7286

.4 Civil Engineer:

.3 Electrical Engineer:Kimley-Horn
10814 Jollyville Road
Campus IV, Suite 200
Austin, Texas 78759
Phone: 512.418.1771
Email: Allison.Kennaugh@kimley-horn.com

.5 Acoustic Engineer:

BAI, LLC
4006 Speedway
Austin, Texas 78751
Phone: 512.476.3464
Email: andy@baiaustin.com

.6 Landscaping:

Studio 16:19
305 W. Liberty Ave, Suite 100
Round Rock, TX 78664
Phone: 512-534-8680

.7 Technology:

To be determined by Architect.

.8 Theatrical Consultant:

To be determined by Architect.

.9 Acoustical Design:

To be determined by Architect.

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None.

...

None.

...

§ 1.3 The parties shall agree upon ~~written~~ protocols governing the transmission and use of, and reliance on, of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.2 The Architect shall perform its services ~~consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances, with the professional skill and degree of care ordinarily provided by competent architects practicing under the same or similar circumstances and professional license.~~ The Architect shall be responsible to the Owner for all costs and damages resulting from (1) defects in design, (2) non-workability of design details, (3) failure of the Architect to comply with the terms of this Agreement, and (4) errors and omissions of the Architect. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflict or omissions will be promptly corrected by Architect at no additional cost to Owner. Owner’s approval, acceptance, use of or payment for all or any part of Architect’s services shall in no way alter Architect’s obligations or Owner’s rights hereunder. Acceptance of reports or other documents by Owner shall not constitute nor be deemed a release of the responsibility and liability of Architect, its employees, associates, agents or its Subconsultants for the accuracy and competency of their testing, reports, assessments or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by Owner for any defect or error in testing, reports, or assessments and work performed by Architect, its employees, Subconsultants, and agents. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

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§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. ~~If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.~~ Architects shall provide and maintain in effect during the performance of the Work under the Agreement insurance of the following types and with indemnification limits not less than the amounts indicated:

<u>Worker’s Compensation:</u> <u>(Including Waiver of Subrogation Endorsement)</u>	<u>All liability arising out of Architect’s employment of workers and anyone for whom Architect shall be liable for Worker’s Compensation claims. Worker’s Compensation is required and no "alternative" form of insurance shall be permitted.</u>
<u>Professional Liability:</u> <u>Architect</u>	<u>\$3,000,000.00 per claim and \$5,000,000.00 in the aggregate.</u>
<u>Architect’s Consultants</u>	<u>\$2,000,000.00 per claim and \$4,000,000.00 in the aggregate.</u>
<u>Commercial General Liability:</u> <u>Each Occurrence</u>	<u>\$3,000,000.00</u>
<u>General Aggregate</u>	<u>\$5,000,000.00</u>
<u>Personal and Advertising Injury</u>	<u>\$3,000,000.00 each person</u>
<u>Automobile Liability</u>	<u>\$1,000,000.00 combined single limit</u>

Excess Umbrella Liability

\$5,000,000.00

- .1 The required insurance must be written by a company authorized to do business in Texas at the time the policy is issued. In addition, the company must be acceptable to the Owner. The Owner's Representative will contact the State Board of Insurance to confirm that the issuing companies are authorized to issue such policies in the State of Texas.
- .2 The Commercial General Liability and Automobile policies issued in the name of Architect shall also name the Owner as additional insured. Evidence of additional insured status will be provided to Owner by providing a copy of the endorsement being utilized to effect the additional and shall be subject to the Owner's reasonable approval.
- .3 It is the intent of the parties to this Agreement that all coverage provided herein shall be primary to and shall seek no contribution for all insurance available to Owner, with Owner's insurance being excess, secondary and non-contributing and shall apply to both ongoing and completed operations. The Commercial General Liability coverage shall be endorsed to provide such primary and non-contributing liability.
- .4 Architect shall have its insurance carrier(s) furnish to Owner insurance certificates in form satisfactory to Owner specifying the types and amounts of coverage in effect, the expiration dates of each policy, a statement that no insurance will be canceled or materially changed while the Work is in progress without thirty (30) calendar days prior written notice to Owner, and a statement that, except for professional liability insurance and worker's compensation insurance, the Owner is named as additional insured. Architect shall permit Owner to examine the insurance policies, or at Owner's option, Architect shall furnish Owner with copies, certified by the carrier(s), of insurance policies required. If Architect neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Owner may, but shall not be obligated to, procure such insurance at Architect's expense.
- .5 Insurance provided pursuant to this Section shall be considered a part of the Architect's basic services and shall not be a Reimbursable Expense within the scope of Section 11.8, or other provisions of this Agreement.

~~§ 2.5.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.~~

~~§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

~~§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 2.5.4 Workers' Compensation at statutory limits.~~

~~§ 2.5.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.~~

~~§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

~~**§ 2.5.7 Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~

~~§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.~~

§ 2.6 The Architect shall provide a design which when constructed in accordance with the Contract Documents will comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations orders and other legal requirements including but not limited to all zoning restrictions or requirements of record, building, occupancy, environmental, disabled person accessibility and land use laws, requirements regulations and ordinances relating to the construction use and occupancy of the Project ("Governmental Requirements") existing on the date of this Agreement and which may be enacted prior to Owner's approval of completed Construction Documents. Architect shall use its best efforts to avoid incorporating into the Project design elements that would give rise to code interpretation questions and to discuss in advance all such situations with the Owner.

§ 2.7 The Architect represents to Owner that all Design Documents, Contract Documents and other documents prepared and issued by Architect pursuant to this Agreement will be of good quality, free from substantial defects, and in conformance with and satisfying all applicable federal, state, municipal and local ordinances, codes, and other governmental requirements and shall be fit for the particular purpose intended thereby. Architect shall notify the Owner in a prompt and timely manner of any discovered discrepancies inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 2.8 Notwithstanding any provision of this Article to the contrary, services made necessary as a result of the Architect's failure to timely provide accurate or complete information, approvals or clarifications, or to timely render a decision, shall be considered Basic Services.

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and ~~electrical~~ electrical and civil engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

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§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities. Any changes required by governmental authorities, if approved by the Owner, shall be made by the Architect at no additional cost to the Owner.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility be responsible for filing documents required for the approval of governmental authorities having jurisdiction over the Project, subject to review and approval of the Owner.

§ 3.1.7 [Intentionally Deleted.]

§ 3.1.8 [Intentionally Deleted.]

§ 3.1.9 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2017. A copy of the AIA Document A201-2017 shall be delivered to the Architect upon execution of this Agreement.

§ 3.1.10 Notwithstanding any other provision of the Agreement, the following are Services of the Architect fully compensated under Section 11.1 as Basic Services:

- .1 The time period during which the Architect's duty to provide Basic Services shall include that time necessary to correct any defective work caused by defects, errors or omissions of the Architect during any phase of construction. Such services shall be performed by the Architect at no additional charge, either in fee or expenses.
- .2 The Architect shall be responsible for retaining all necessary consultants to execute Architect's scope of work. Such consultants shall be professionals licensed by the State of Texas to practice the building

discipline for which they are retained on the Project. Consultants required by the Architect shall at a minimum be required to make on-site visits and observations during those periods when work they have designed is being constructed in their professional judgment and as set out in Sections 3.6.2.1 and 4.2.3, below.

- .3 The Architect shall require the Contractor and its subcontractors to maintain a set of record drawings to be furnished to the Owner in reproducible form upon Substantial Completion of the Project. The Architect shall cause the Contractor to provide all warranty documents and Owner operation manuals required by the Contract Documents. The Architect shall review the record drawings, warranties, and operation manuals for conformance with the Contract Documents and shall deliver the record drawings, warranties, and operation manuals to the Owner by written transmittal.
- .4 The Architect shall be responsible for reporting all known building deficiencies to the Contractor for a period of one (1) year after the date of Substantial Completion. In addition, the Architect shall monitor the progress of corrections and furnish the Owner with written notification of completed corrections. The one (1) year period shall be extended to portions of the Work first completed after the date of Substantial Completion by the period of time between Substantial Completion and the actual completion of such Work. The obligations under this Section shall survive acceptance of the Work by the Owner.

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§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, rendering, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

...

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Architect shall deliver documents at the Schematic Development Phase, consistent with the AIA Best Practices Schematic Design Quality Management Phase Checklist.

...

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Architect shall deliver documents at the Design Development Phase, consistent with the AIA Best Practices Design Design Quality Management Phase Checklist.

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§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may shall include bidding requirements and sample forms.

...

§ 3.4.6 After Owner's approval of the Construction Documents, the Architect shall not make or approve any change in the Work, except for minor changes in the Work not involving an adjustment in the Contract Sum, expenditure of contingency funds or an extension of the Contract Time, without the prior written consent of the Owner. The Architect shall be liable to the Owner for any damages arising from or caused by any change to the Work made or approved by the Architect without the Owner's prior written consent.

...

§ 3.5.2 Competitive Bidding Procurement

§ 3.5.2.1 ~~Bidding Procurement~~ Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in ~~bidding the Project by:~~ the procurement process for Construction Services:

- .1 facilitating the distribution of ~~Bidding Procurement~~ Documents to prospective bidders;
- ...
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the ~~Bidding Procurement~~ Documents to the prospective bidders in the form of addenda; and,
- ...

§ 3.5.2.3 If the ~~Bidding Procurement~~ Documents permit substitutions, upon the Owner’s written authorization, the Architect shall, as an ~~Additional Basic~~ Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

- .4 ~~participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner. If requested by Owner, the Architect shall organize and participate in selection interviews with prospective contractors and/or participate in negotiations with ranked contractors and prepare any summary reports requested by the Owner in related to the results of such processes.~~

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner’s written authorization, the Architect shall, as an ~~Additional Basic~~ Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

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§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for ~~Construction–Construction~~, as modified by the Owner, a copy of which has been provided to the Architect concurrent with the execution of this Agreement. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.4 The Architect shall prepare Drawings, Specifications, and other documentation and supporting data evaluating Contractor’s proposals, and providing other services in connection with Change Orders and Construction Change Directives as Basic Services.

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of ~~construction,–construction~~ but no less than two (2) times per month, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Architect shall ensure that Architect’s consultants are required to visit the site at intervals appropriate to the corresponding scope of work which shall be no less than once per month during that time. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the ~~Work, Work~~ except as otherwise required in this Agreement, (2) reviewed construction means, methods, techniques, sequences or procedures, ~~(3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or~~ (4) or (3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. ~~Sum~~ except to confirm inclusion of required lien release forms.

...

§ 3.6.3.4 The Architect shall observe the Work prior to approving any Certificate for Payments to the Contractor to determine if the Project is progressing in accordance with the approved schedule and to determine the dates of substantial completion and final completion. The Architect shall report the results of observations to the Owner in writing prior to approving any Certificate for Payments.

§ 3.6.3.5 Architect shall not issue a Certificate for Payment releasing any retainage without prior receipt of a Consent of Surety to Final Payment.

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§ 3.6.4.4 ~~Subject to Section 4.2, the~~ The Architect shall review and respond to requests for information about the Contract Documents. ~~Documents as Basic Services. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for~~ information. ~~information as Basic Services.~~

...

§ 3.6.5.1 The Architect shall prepare Change Orders, Construction Change Directives and documents authorizing expenditures of contingency funds, with supporting documentation and data if deemed necessary by the Architect, as Basic Services compensated under Section 11.1, for the Owner's approval and execution in accordance with the Contract Documents. The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents not involving an adjustment in the Contract Sum, an expenditure of contingency funds or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified as Basic Services compensated under Section 11.1.

...

§ 3.6.5.3 The Architect shall prepare a set of reproducible record drawings in electronic format showing significant changes made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

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ARTICLE 4 — SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 3.6.6.6 Pursuant to 19 Texas Administrative Code § 61.1036, the Architect shall sign and seal the Construction Documents and certify on the Certification of Project Compliance form developed by the Texas Education Agency as follows:

- .1 It has reviewed the standards contained in 19 TAC Chapter 61 and has used the best professional judgment and reasonable care consistent with the practice of architecture in the State of Texas in executing the construction documents and that these documents conform with the provisions of 19 TAC § 61.1036.

- .2 It has performed a building code search under applicable regulations that may influence the project and the design has been researched prior to becoming final.
- .3 It has designed the facility according to the provisions of 19 TAC § 61.1036 based on the long-range school facility plan and/or education specifications, building code specifications, and all documented changes to the Construction Documents provided by the District.

§ 3.6.6.7 As a condition to the Project being considered Substantially Complete, the Architect shall obtain the certification of the Contractor on the Certification of Project Compliance form that the facility has been constructed in general accordance with the Construction Documents set out in Section 3.6.6.6 above.

§ 3.6.6.8 [Intentionally Deleted.]

ARTICLE 4 BASIC, SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. Basic Services or Supplemental Services as indicated. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

...

<u>§ 4.1.1.1</u>	<u>Programming</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.2</u>	<u>Multiple preliminary designs</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.3</u>	<u>Measured drawings</u>	<u>Not Included (Not included - Architect understand this to be documented, measured drawings of the existing conditions and an independent deliverable from the basic services contract documents.)</u>
<u>§ 4.1.1.4</u>	<u>Existing facilities surveys</u>	<u>Owner</u>
<u>§ 4.1.1.5</u>	<u>Site evaluation and planning</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.6</u>	<u>Building Information Model management responsibilities</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.7</u>	<u>Development of Building Information Models for post construction use</u>	<u>Not Provided</u>
<u>§ 4.1.1.8</u>	<u>Civil engineering</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.9</u>	<u>Landscape design</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.10</u>	<u>Architectural interior design</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.11</u>	<u>Value analysis/Engineering</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.12</u>	<u>Detailed cost estimating beyond that required in Section 6.3</u>	<u>Not Provided</u>
<u>§ 4.1.1.13</u>	<u>On-site project representation</u>	<u>Not Provided</u>
<u>§ 4.1.1.14</u>	<u>Conformed documents for construction</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.15</u>	<u>As-designed record drawings</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.16</u>	<u>As-constructed record drawings (limited to integrating the contractor’s markups)</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.17</u>	<u>Post-occupancy evaluation</u>	<u>Not Provided</u>
<u>§ 4.1.1.18</u>	<u>Facility support services</u>	<u>Not Provided</u>
<u>§ 4.1.1.19</u>	<u>Tenant-related services</u>	<u>Not Provided</u>
<u>§ 4.1.1.20</u>	<u>Architect’s coordination of the Owner’s consultants</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.21</u>	<u>Telecommunications/data design</u>	<u>Architect – Basic Service</u>
<u>§ 4.1.1.22</u>	<u>Security evaluation and planning</u>	<u>Architect – Basic Service</u>

§ 4.1.1.23 Commissioning	<u>Owner</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.25 Fast-track design services	<u>Architect – Optional Additional Service</u>
§ 4.1.1.26 Multiple bid packages	<u>Architect – Basic Service</u>
§ 4.1.1.27 Historic preservation	<u>Not Provided</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design <i>(includes supporting the furniture selections at Danforth Junior High and Wimberley High School, and the District procuring the work through a purchasing cooperative, and support the Owner in the installation process with site observations and punch list development. This exclude a public bid process.)</i>	<u>Architect – Basic Service</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 § 4.1.1.29 Other Supplemental Services	<u>Not Provided</u>
§ 4.1.1.30 Surveys	<u>Owner</u>
§ 4.1.1.31 Geotechnical Engineering	<u>Owner</u>
§ 4.1.1.32 Technology Consultant	<u>Architect -Basic Service</u>
§ 4.1.1.33 Landscaping Consultant	<u>Architect – Basic Service</u>
§ 4.1.1.34 Acoustic Engineer	<u>Architect – Basic Service</u>
§ 4.1.1.35 Theatrical Consultant	<u>Architect – Basic Service</u>
§ 4.1.1.32 Acoustic Design Consultant	<u>Architect – Basic Service</u>

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Self-explanatory.

PAGE 17

Self-explanatory.

...

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. All services under the terms of this Agreement which would otherwise be constructed as Additional Services will be treated as Basic Services compensated under Section 11.1 for which no additional compensation is authorized, unless such services are requested in writing by the Architect and approved in writing by the Owner prior to the time such services are performed.

...

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, or the Owner's schedule or budget for Cost of the Work, or procurement or delivery method; Work;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service; [Section Deleted.];
- ...
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors; or

- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;[Section Deleted.];
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;[Section Deleted.];
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;[Section Deleted.];
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;[Section Deleted.];
- .9 Evaluation of the qualifications of entities providing bids or proposals;[Section Deleted.];
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or, construction.
- .11 Assistance to the Initial Decision Maker, if other than the Architect.[Section Deleted.].

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.[Paragraph Deleted.]

...

- .1 (—) Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 (—) visits to the site by the Architect during construction[Section Deleted.]
- .3 (—) Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 (—) Two (2) inspections for any portion of the Work to determine final completion.
- .5 The Architect shall visit the site and observe the Work at appropriate stages of construction no less than twice per month. The Architect shall report the results of all observations to the Owner in writing. Any and all observed deficiencies shall immediately be reported to the Owner and Contractor in writing.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.[Paragraph Deleted.]

§ 4.2.5 If the services covered by this Agreement have not been completed within (—) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.[Paragraph Deleted.]

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§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other

improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. Architect shall coordinate with the Owner's surveyor(s).

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. Architect shall coordinate with the Owner's geotechnical engineer(s).

...

§ 5.9 ~~The~~ Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect and Owner access to the Work wherever it is in preparation or progress.

§ 5.15 Within ~~15 days~~ a reasonable time after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

...

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner or, to the extent the Work is not completed, the estimated cost to the Owner, to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and ~~shall~~ may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a ~~Supplemental Service~~ Basic Service. Owner shall not be obligated to pay any additional compensation for any designs for Alternates that are not accepted by the Owner's Board of Trustees.

...

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the ~~lowest bona fide bid or negotiated proposal,~~ bid or proposal providing the best value to the Owner, the Owner shall

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. ~~If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the The Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.~~

...

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall be permitted to retain copies, including those in electronic format and reproducible copies, of the Architect's and the Architect's consultants' Instruments of Service for information and reference in connection with the Owner's use and occupancy of the Project.

§ 7.3 ~~The Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. Project.~~ The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. ~~If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.~~

§ 7.3.1 ~~In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4. The payment of fees for professional services performed under this Agreement shall constitute full payment for a one-time, perpetual license fee for those uses of the Architect's Instruments of Service, for all documents produced pursuant to this Agreement and in existence as of the date of any such payment.~~

§ 7.3.2 The Owner shall have the right to use the Architect's Instruments of Service and to make derivative Works thereof for the purpose of completing the project in the event Architect is terminated for cause pursuant to this Agreement, without regard to whether such termination shall subsequently be adjudicated to have been wrongful, or whether such termination is for the convenience of the Owner. In the event the Owner shall make derivative works of the Architect's Instruments of Service pursuant to this Section, the Architect shall bear no liability for errors or omissions appearing in such derivative works.

...

§ 7.5 ~~Except as otherwise stated in Section 7.3, the The~~ provisions of this Article 7 shall survive the termination of this Agreement.

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.law.

...

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to ~~binding dispute resolution~~. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by ~~binding dispute resolution~~.the initiation of litigation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.Unless the parties mutually agree otherwise, mediation shall be administered in accordance with the following:

- .1 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.
- .2 In the event the Owner and the Architect are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.
- .3 At all times during the course of any dispute resolution process, the Architect shall continue diligently and without delay to perform the services and obligations of the Agreement.

...

[] Litigation in a court of competent jurisdiction

...

§ 8.3 Arbitration [Section Deleted.]

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2~~ The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.4 Consolidation or Joinder~~

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 8.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

~~§ 8.4~~ The provisions of this Article 8 shall survive the termination of this Agreement.

~~§ 9.1~~ If the Owner fails to make payments to the Architect in accordance with this Agreement, Agreement through no fault of the Architect, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. Agreement if not cured by the Owner within seven (7) days following notice of any past-due payment. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. Owner.

~~§ 9.2~~ If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

~~§ 9.3~~ If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, Project is suspended by the Owner for more than ninety (90) consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice. upon not less than seven (7) days' written notice. Should the Architect elect to so terminate this Agreement, the Architect shall be compensated for services actually performed and expenses actually incurred prior to notice of such termination.

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~~§ 9.6~~ If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements. In the event of termination not the fault of the Architect, the Architect shall be compensated only for services actually performed and reimbursable expenses actually incurred prior to termination.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

[Paragraph Deleted.]

...

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are is set forth in Article 7 and Section 9.7.7.

...

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. Venue for any lawsuit arising under this contract shall be in the county in which the Project is located. No provision of this Agreement is a waiver of any immunity or defense. No provision of this Agreement is a consent to suit.

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§ 10.6 ~~Unless otherwise required in this Agreement, the Architect~~ The Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at handling, removal, or disposal or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. The Architect and the Architect's consultants shall have no responsibility to initially discover the presence of such hazardous materials on the Project site, but shall have an affirmative duty to immediately report to the Owner the existence of such materials actually known by the Architect or the Architect's consultants to be present on the Project site.

§ 10.7 ~~The~~ With prior written consent of the Owner, the Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Owner herein designates the following as confidential information: security measures; pending real estate purchases, exchange, lease, or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, ~~arbitrator's order,~~ or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably

necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

...

§ 10.10 In any adjudication or claim under this Agreement, reasonable and necessary attorney's fees that are equitable and just may be awarded to the prevailing party.

§ 10.11 By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.12 Pursuant to Texas Government Code Chapter 2271, as amended, if this contract is valued at \$100,000 or more and if the Architect has at least ten (10) full time employees, then the Architect, by its execution of this Agreement represents and warrants to the Owner that the Architect does not boycott Israel and will not boycott Israel during the term of this Agreement. This section does not apply to a sole proprietorship.

§ 10.13 Pursuant to Texas Government Code Chapters 2274 and 809, if this contract is valued at \$100,000 or more and if Architect has at least ten (10) full-time employees, then Architect represents and warrants to the District that the Architect does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

§ 10.14 Pursuant to Texas Government Code Chapter 2274, if this contract is valued at \$100,000 or more and if Architect has at least ten (10) full-time employees, then Architect represents and warrants to the District that the Architect does not discriminate against firearm entities or firearm trade associations and will not discriminate against firearm entities or firearm trade associations during the term of this Agreement.

§ 10.15 Architect shall keep all accounting and construction records on the Project for a period of at least twelve years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 et seq. and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

§ 10.16 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2017.

§ 10.17 Any notice required by or permitted under this Agreement must be in writing unless otherwise provided herein. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

§ 10.18 If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom.

§ 10.19 The Owner shall have the right to examine, copy, and/or audit the books and other records of the Architect relating solely to this Agreement upon reasonable request to the Architect.

§ 10.20 Architect verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect has misrepresented its inclusion on the Comptroller's list such omission or misrepresentation will void this Agreement.

PAGE 24

~~()~~ % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6. The Fee for Basic Services shall be six point sixty-five percent (6.65%) of the Cost of Work for all projects which are listed in Section 1.1.1, above.

PAGE 25

None.

...

None.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ~~percent ()~~, zero percent (0%), or as follows:

...

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>Thirty-Five</u>	percent (	<u>35</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Twenty-Five</u>	percent (	<u>25</u>	%)

...

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall ~~not~~ be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

...

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be ~~adjusted in accordance with the Architect's and Architect's consultants' normal review practices.~~ fixed for the term of this Agreement.

...

[Please provide.]

...

See Exhibit A, attached hereto and incorporated herein.

...

- .1 Transportation and authorized out-of-town travel and ~~subsistence~~;subsistence except travel to and from the Project site;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;[Subsection Deleted.];

PAGE 26

- 4 Printing, reproductions, plots, and standard form documents; documents that are requested by Owner in writing;
- 5 Postage, handling, and delivery; [Subsection Deleted.];
- ...
- 7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project; [Subsection Deleted.];
- 8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants; [Subsection Deleted.];
- 9 All taxes levied on professional services and on reimbursable expenses; [Subsection Deleted.];
- 10 Site office expenses; [Subsection Deleted.];
- 11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and, Objective.
- 12 Other similar Project-related expenditures; [Subsection Deleted.]

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent (~~—~~%) Five percent (5%) of the expenses incurred.

...

§ 11.10.1.1 An initial payment of (~~\$~~) ZERO DOLLARS (\$0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 ~~If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$~~) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred. [Intentionally Deleted.]

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. ~~Amounts unpaid (~~—~~) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. Delinquent payments are subject to the Texas Prompt Pay Act, TEXAS GOVERNMENT CODE, Chapter 2251.~~

...

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding. liable.

§ 11.10.2.3 Records of Reimbursable Expenses, of expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative upon request at mutually convenient times. "Direct Personnel Expense" is defined as the direct salaries of the Architect's personnel engaged in the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

PAGE 27

§ 12.1 LICENSING AUTHORITY: The following information is included in this agreement as required by Texas Occupations Code section 1051.251: "The Texas Board of Architectural Examiners (333 Guadalupe Suite 2-350,

Austin, Texas 78701 Telephone: 512-305-9000) has jurisdiction over individuals licensed to practice architecture in the State of Texas."

...

.2 Building Information Modeling Exhibit, if completed:[Intentionally Deleted.]

...

Exhibit A – Architect’s Hourly Rate Schedule

...

WIMBERLEY INDEPENDENT SCHOOL DISTRICT

O’CONNELL ROBERTSON & ASSOCIATES, INC.

DRAFT FOR REVIEW ONLY
NOT FOR SIGNATURE AT THIS TIME

DRAFT FOR REVIEW ONLY
NOT FOR SIGNATURE AT THIS TIME

...

Dr. Greg Bonewald, Superintendent

Jarrod Sterzinger, AIA LEED AP

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Kelley L. Kalchthaler, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:56:34 ET on 07/18/2025 under Order No. 3104241723 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

EXHIBIT A

*To AIA® Document B101® – 2017
Standard Form of Agreement Between Owner and
Architect, as Modified By Owner*

**Owner: Wimberley Independent School District
Architect: O’Connell Robertson & Associates, Inc.
Project: Wimberley ISD May 2025 Bond Projects**

HOURLY RATES/FEES



2025 Hourly Rates

<u>Category</u>	<u>Rate</u>
Principal	\$340
Associate Principal	\$280
Sr. Registered Architect	\$250
Registered Architect	\$225
Designer/Space Planner	\$160
Sr. Registered Engineer	\$250
Registered Engineer	\$225
Sr. PME Designer	\$230
PME Designer	\$160
CAD/Production II	\$150
CAD/Production I	\$120
Sr. Commissioning Agent	\$265
Commissioning Agent	\$165
Sr. Registered Interior Design	\$225
Registered Interior Design	\$160
Interior Design	\$150
Construction Administration	\$230
Project Construction Coordinator	\$125
Project Manager	\$240
Communication Leader	\$210
Communication Specialist	\$200
Administrative	\$115

Austin 511 Barton Springs Road, Suite 900, Austin, Texas 78704 p: 512.475.7286 f: 512.475.7441
San Antonio 4040 Broadway, Suite 300, San Antonio, Texas 78209 p: 210.224.6032 f: 210.224.6453
Houston 1301 Fannin, Suite 755, Houston, Texas 77002 p: 713.457.1553 f: 713.457.1573

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Discussion and possible action on a Board resolution to approve the extension of the depository contract with Wells Fargo.

Date: July 21, 2025

Presented by: Mike Doyle

Action

1. BACKGROUND INFORMATION

In June 2021, the WISD Board of Trustees approved a contract with Wells Fargo to serve as the District's depository. In accordance with Texas Education Code (TEC) §45.208, the contract and any extensions must align with the District's fiscal year. Furthermore, per TEC §45.205(b), the District and the depository may mutually agree to extend the contract for up to three additional two-year terms.

2. ADMINISTRATIVE RECOMMENDATION

Administration recommends extending the contract for a second two-year term, covering the period from September 1, 2025, through August 31, 2027.

3. BOARD ACTION REQUIRED

"I move that the Board approve the resolution to extend the depository contract with Wells Fargo for an additional two-year term, from September 1, 2025, through August 31, 2027."

**Board Resolution Extending Depository Contract for Funds
Of Independent School Districts Under Texas Education Code,
Chapter 45, Subchapter G, School District Depositories**

Resolved by the Wimberley ISD Board of Trustees **that:**

Board of Trustees
Wells Fargo, N.A. located at Hays
(Name of Depository Bank) (Name of County)

County, State of Texas, being a bank as defined in section 45.201 of the Texas Education Code, and Wimberley ISD (CDN: 105-905) agree to extend this depository
(Name of District)

contract pursuant to Texas Education Code Section 45.205, for an additional two-year term from 09/01/2025, through 08/31/2027. Under Texas Education Code Section 45.205(b), a school district and the district's depository bank may agree to extend a depository contract for three additional two-year terms. The extension constitutes the parties' second two-year term.
(first, second, third)

Furthermore, under Texas Education Code Section 45.205(c), the contract term and any extension must coincide with the school district's fiscal year.

AGREED AND ACCEPTED on behalf of Wimberley ISD
Name of District

this the 21 day of July, 2025.

Signature of President of School Board

AGREED AND ACCEPTED on behalf of Depository this the _____ day of _____, _____.

Typed Name of Depository

Signature of Authorized Bank Officer

Title of Authorized Bank Officer

Acknowledgement

Acknowledged before me in _____ County, Texas, on _____, 20____, by

_____, bank officer of the Depository named in the preceding document, for the Depository.

Signature of Notary

(SEAL)

Notary Public in and for _____
County, Texas

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Consideration and Possible Action to adopt the Delivery Method for Construction Services for Bid Package 2 and 3, in accordance with Texas Government Code Chapter 2269.

Date: July 21, 2025

Presented by: Mike Doyle

Action

1. BACKGROUND INFORMATION

Bid Packages 2 and 3 have currently been identified as generally summarized below. Scope is conceptual at this stage, and may ultimately change slightly post Construction Manager at Risk selection, and as design and needs progress. Getting the Construction Manager at Risk on board early during design, prior to design completion, increases the benefit to the District and maximizes their effectiveness in cost control and constructability.

2. ADMINISTRATIVE RECOMMENDATION

Approve as recommended.

3. BOARD ACTION REQUIRED

“I move that the Board adopt the Construction Manager at Risk as the delivery method for construction services for Bid Package 2 and 3.”

Bid Package 2 – Conceptually Estimated \$75-\$80 Million

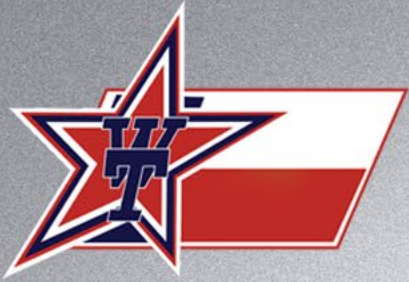
Part of Wimberley ISD's 2025 bond program are planned improvements to the District's facilities located on the Danforth Junior High School property. A combination of new construction and additions and renovations are included within this package. The following is a summary of currently known scopes of work:

- A new District Multipurpose Educational Auditorium facility. This facility will serve educational purposes at the High School and Junior High level, as well as for after-hours performances, support community events, and other performance or gathering activities. The auditorium is intended to include approximately 600 seats, a 50' modified proscenium, a lobby, stage, rigging, performance A/V and lighting systems, and other typical theater arts support and storage spaces.
- A new Shaded Multipurpose Activity Center. This facility will be constructed to serve as a covered practice field for athletics, performing arts, and other outdoor activities for the District. It includes a roof-only structure over a 70 yard artificial turf field, lighting, netting, and fencing.
- A new outdoor storage building adjacent to the shaded multipurpose activity center.
- Additions and renovations for performing arts and athletic educational spaces at the Junior High School, including a new band hall, weight room, renovated locker facilities, and other supporting ancillary spaces for these programs.
- HVAC and electrical equipment replacements, including boilers, ERUs, LED lighting, lift pumps, and other equipment, fixtures, and devices.
- Exterior envelope improvements, including some roof replacement, window replacement, and cleaning of the exterior masonry and materials.
- Site work for the property will include additional parking to support the new auditorium, modified access drives, drainage and stormwater management improvements, resurfacing of some existing parking areas, and fencing.
- Exterior improvements to Texan Stadium including replacement of approximately 2,000 seats, addition of approximately 1,800 seats, site improvements to enhance pedestrian traffic flow, relocation of the field events, field lighting replacement, field turf replacement, track replacement and addition of a track 'D' zone, associated drainage improvements to manage stormwater on-site. In addition to the stadium improvements there are two planned concessions additions to each side of the existing field house building.
- Technology improvements for safety and security upgrades including a campus intercom system and messaging displays.

Bid Package 3 – Conceptually Estimated \$28-\$32 Million

Part of Wimberley ISD's 2025 bond program are planned improvements to the District's facilities located on the Wimberley High School property. Primarily site work and additions and renovations are included within this package. The following is a summary of currently known scopes of work:

- A performing and fine arts addition of approximately 4,600sf
- A weight room, gymnasium entry, and school entry addition of approximately 6,000sf
- Interior renovations and improvements to multiple gyms including new goals, bleachers, lighting, flooring, scoreboards, and sound reinforcement.
- A new, paved, band marching practice pad.
- Exterior envelope improvements, including some roof replacement, window replacement, stucco repair, and cleaning of the exterior masonry and materials.
- Interior renovations, finish replacements, safety and security improvements, restroom renovations, and administration renovations.
- HVAC and electrical equipment replacement, including main building rooftop unit replacement, lighting replacements, and plumbing improvements.
- Technology improvements for safety and security upgrades including a campus intercom system and messaging displays.



Wimberley ISD

Excellence. Innovation. Service.

Monthly Financial Report

Reported on July 21, 2025

Financial Data through June 30, 2025



Wimberley ISD

Excellence. Innovation. Service.

Combined Balance Sheet Highlights

Total Cash & Investment Balances for all Governmental & Proprietary Funds	\$32,158,225
Total Cash & Investments - General Fund	\$14,767,001
Total Cash & Investments - Debt Service	\$15,320,175
Unaudited Ending General Fund Balance	\$13,023,645

Current position of the unaudited ending General Fund Balance is equivalent to 5.54 operating months



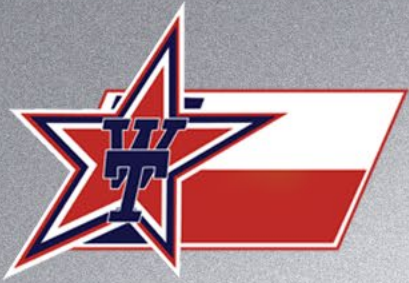
State of Revenues, Expenditures – General Fund

Revenue	\$28,798,907	94% of the budget revenue
Activity	\$23,119,575	73% of the overall revised budget expenditures



State of Revenues, Expenditures – Child Nutrition

Revenue	\$953,464	86% of budgeted revenue
Activity	\$1,016,668	80% of budgeted expenditures



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State of Revenues, Expenditures – Debt Service

Revenue	\$10,587,858	97% of budgeted revenue
Activity	\$1,554,971	18% of budgeted expenditures

Bond 2025 Issuance Date:

- June 24, 2025
- \$135M New Money
- \$16.69M in Refunding

Budgeted overall interest rate (True Interest Costs) at the time of the election was called was 4.91%, with a final TIC at 4.82%.

Savings to the District ~\$1.1M in total debt service over 30 years, with an additional ~\$600K in interest with refunding.



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State of Revenues, Expenditures – Special Revenue

Revenue	\$1,406,338
Activity	\$1,620,848



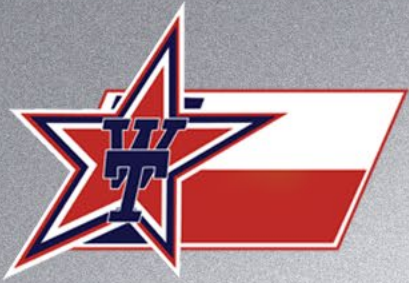
Wimberley ISD

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State of Revenues, Expenditures – Enterprise Funds

	Blue Hole After School Program	Jacob's Well After School Program	Blue Hole PK Program
Revenue	\$150,960	\$87,700	\$542,239
Activity	\$119,766	\$54,512	\$435,456

Total net profit through the month - \$171,521



Wimberley ISD

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Current Tax Collections

- Total Current Month Tax Collections:
 - \$347,077
- Total Fiscal Year to Date Tax Collection:
 - \$34,799,415
 - 98% of Levy
 - Previous year comparison
 - 99%
- Total Budgeted Tax Revenue
 - \$35,349,005
 - Percent of Budget Collected - 98%
 - Previous year comparison
 - 98%



25-26 Budget Projection

- Total Refined ADA
 - 2024-25: 2,397.035
 - Assumed 2025-26: 2396.548

Estimated Revenue	\$29.4M - \$29.6M
Estimated Payroll Budget	\$23.4M - \$23.6M
Estimated Non-Payroll Budget	\$6.4M - \$6.5M
Estimated Impact to Fund Balance	(\$500K - \$510K)

Wimberley Independent School District
Combined Balance Sheet
for the Month Ending June 30, 2025
(Un-Audited)

	<u>General Fund</u>	<u>Child Nutrition Fund</u>	<u>Debt Service Fund</u>	<u>Special Revenue Funds</u>	<u>Enterprise Funds</u>	<u>Total</u>
Assets:						
11XX Cash and Cash Equivalents	\$ (783,066.18)	\$ 345,107.27	\$ 8,553.53	\$ 121,789.07	\$ 949,017.26	\$ 641,400.95
Current Investments	15,550,067.39		15,311,622.12	654,935.04	200.00	31,516,824.55
Total Cash and Investments	\$ 14,767,001.21	\$ 345,107.27	\$ 15,320,175.65	\$ 776,724.11	\$ 949,217.26	\$ 32,158,225.50
12XX Property Taxes - Delinquent	1,245,581.00	-	376,299.00	-	-	1,621,880.00
Allowance for Uncollectible Taxes	(124,559.00)	-	(37,631.00)	-	-	(162,190.00)
Accrued Interest	0.04	-	817.59	-	-	817.63
Due from State Agencies	3,401.45	2,252.20	2,693.00	79,591.93	-	87,938.58
Due from other Governments	46,327.52	-	17,985.43	-	-	64,312.95
Due from Other Funds	1,378.65	-	-	4,228.60	-	5,607.25
Other Receivables	15,457.86	85,301.31	-	3,271.86	-	104,031.03
Total Receivables	\$ 1,187,587.52	\$ 87,553.51	\$ 360,164.02	\$ 87,092.39	\$ -	\$ 1,722,397.44
13XX Inventories	17,738.27	21,678.83	-	-	-	39,417.10
Prepaid Items	199.00	-	-	-	-	199.00
Other Current Assets	\$ 17,937.27	\$ 21,678.83	\$ -	\$ -	\$ -	\$ 39,616.10
Total Current Assets	\$ 15,972,526.00	\$ 454,339.61	\$ 15,680,339.67	\$ 863,816.50	\$ 949,217.26	\$ 33,920,239.04
215X Accounts Payable	\$ 850.01	-	-	-	-	\$ 850.01
Other Liabilities	-	-	-	-	-	-
Payroll Deductions and Withholdings	130,865.95	-	-	-	-	130,865.95
216X Accrued Wages Payable	1,358,260.86	26,610.39	-	-	-	1,384,871.25
Due to Debt Service	-	-	-	-	-	-
Due to State Agencies	-	-	2,883.00	-	-	2,883.00
Due to other Governments	162,008.09	-	2,541.67	719.85	-	165,269.61
22XX Accrued Expenses	53,892.18	1,992.61	-	-	0.21	55,885.00
23XX Deferred Revenues	121,981.66	-	-	412.72	33,856.30	156,250.68
Deferred Inflows	1,121,022.00	(33.10)	338,668.00	-	-	1,459,656.90
Total Liabilities	\$ 2,948,880.75	\$ 28,569.90	\$ 344,092.67	\$ 1,132.57	\$ 33,856.51	\$ 3,356,532.40
Fund Balance/Equity						
Reserved/Designated Fund Balance	9,616.57	151,789.51	3,448,613.06	-	-	3,610,019.14
3601 Reserved for Current Year						
3602 Expenditures/Expenses	-	-	\$ -	-	-	-
3600 Unreserved Fund Balance/Fund Equity	\$ 13,014,028.68	273,980.20	11,887,633.94	862,683.93	915,360.75	26,953,687.50
Total Fund Balance/Equity	\$ 13,023,645.25	\$ 425,769.71	\$ 15,336,247.00	\$ 862,683.93	\$ 915,360.75	\$ 30,563,706.64
Total Liabilities and Fund Equity	\$ 15,972,526.00	\$ 454,339.61	\$ 15,680,339.67	\$ 863,816.50	\$ 949,217.26	\$ 33,920,239.04

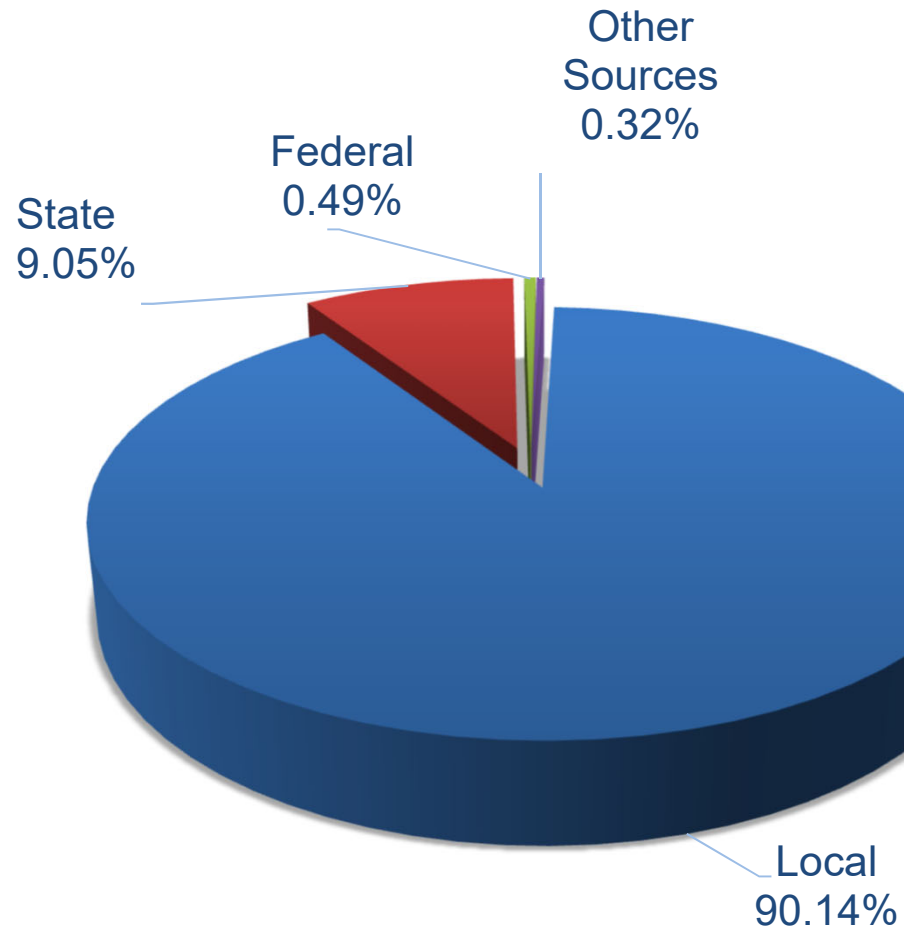
Wimberley Independent School District
Statement of Revenues, Expenditures, and Changes in Fund Balance
for the Month Ending June 30, 2025
(Un-Audited)

	GENERAL FUND						
	<u>Prior Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Original</u> <u>Budget</u>	<u>Revised</u> <u>Budget</u>	<u>Encumbrances</u>	<u>Current Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Unrealized/</u> <u>Unexpended</u> <u>Budget</u>	<u>Percentage</u> <u>Y-T-D</u>
Revenues:							
Local	\$ 24,822,688.32	\$ 26,367,627	\$ 26,390,319	\$ -	\$ 25,959,338.59	430,980.41	98.37%
State	\$ 2,759,359.69	3,981,764	3,981,764	\$ -	\$ 2,607,136.98	1,374,627.02	65.48%
Federal	\$ 73,847.57	75,000	75,000	\$ -	\$ 140,554.36	-65,554.36	187.41%
Other Sources	\$ 91,878.00	91,878	91,878	\$ -	\$ 91,878.00	-	100.00%
Total Revenues	\$ 27,747,773.58	\$ 30,516,269	\$ 30,538,961	\$ -	\$ 28,798,907.93	\$ 1,740,053.07	94.30%
11-Instruction	\$ 12,645,773.47	15,237,323	15,339,410	129,468.14	12,857,610.23	2,352,331.63	83.82%
12-Library	\$ 213,998.44	254,980	254,980	282.36	205,668.31	49,029.33	80.66%
13-Prof Dev	\$ 105,717.38	191,325	224,702	14,901.00	124,313.03	85,487.97	55.32%
21-Instruct Admin	\$ 462,573.53	543,863	511,792	1,151.21	408,731.07	101,910.07	79.86%
23-Campus Admin	\$ 1,082,724.69	1,323,230	1,323,213	1,723.67	1,113,209.85	208,279.48	84.13%
31-Counselors	\$ 879,822.43	1,216,713	1,141,345	4,861.28	1,020,419.16	116,064.56	89.40%
33-Health Services	\$ 188,789.48	305,718	305,718	178.98	224,874.02	80,665.00	73.56%
34-Transportation	\$ 839,234.13	1,051,112	1,077,896	33,426.26	860,707.35	183,762.39	79.85%
36-Co-Curricular	\$ 1,207,991.71	1,387,800	1,387,509	36,034.65	1,210,256.24	141,218.11	87.23%
41-Gen Admin	\$ 1,120,985.76	1,494,517	1,473,977	4,289.69	1,250,288.11	219,398.85	84.82%
51-Maintenance	\$ 2,935,853.79	3,710,157	3,703,735	243,977.87	2,947,867.94	511,889.19	79.59%
52-Security	\$ 623,527.30	652,259	654,244	922.55	194,701.24	458,620.21	29.76%
53-Data Services	\$ 370,707.61	464,677	457,845	2,369.47	373,629.78	81,845.75	81.61%
81-Facilities Acquisition/Constr.	\$ -	-	-	-	\$ -	-	NA
91-Purchase of WADA-Chp 49	\$ -	3,466,927	3,466,927	-	\$ 22,497.00	3,444,430.00	0.65%
99-Other Intergovernmental charge	\$ 281,510.36	321,400	321,400	-	\$ 304,801.47	16,598.53	94.84%
00-Other Uses	\$ -	21,000	21,000	-	\$ -	21,000.00	0.00%
Total Expenditures and Other Uses	\$ 22,959,210.08	\$ 31,643,001	\$ 31,665,693	\$ 473,587.13	\$ 23,119,574.80	\$ 8,072,531.07	73.01%
Excess of Revenues Over (Under) Expenditures and Other Uses	\$ 4,788,563.50	\$ (1,126,732)	\$ (1,126,732)	(473,587.13)	\$ 5,679,333.13		
Fund Balance as of September 1, 2024		\$ 7,344,311	\$ 7,344,311	(12,301.25)	\$ 7,344,311.00		
Fund Balance Ending - Monthly Reporting Period		\$ 6,217,579.55	\$ 6,217,579	(485,888.38)	\$ 13,023,644.13	\$ (7,291,953.51)	

Wimberley Independent School District
Detail of Expenditures & Other Uses(Program) - General Fund
for the Month Ending June 30, 2025
(Un-Audited)

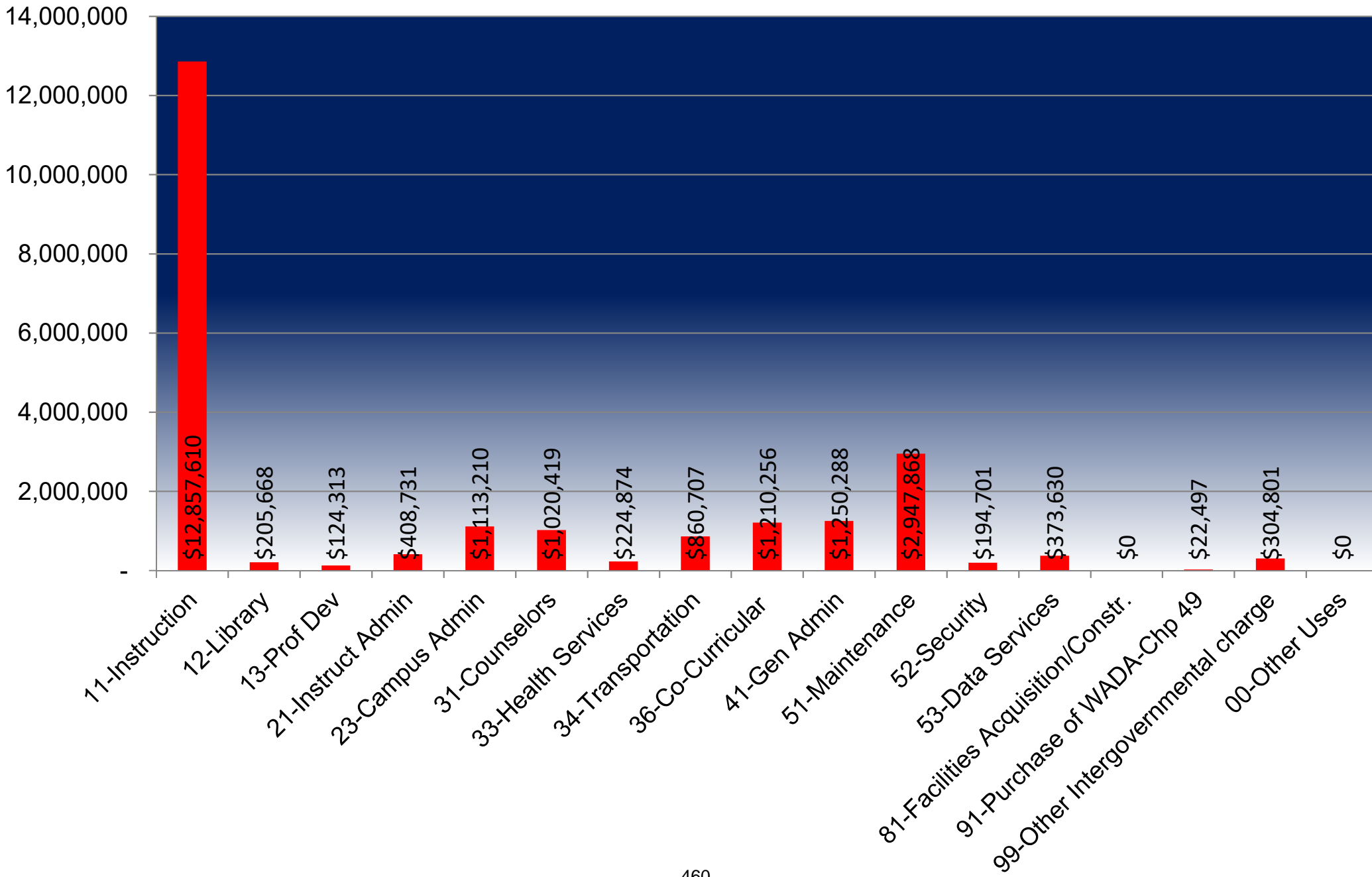
	GENERAL FUND						
	<u>Prior Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Original</u> <u>Budget</u>	<u>Revised</u> <u>Budget</u>	<u>Encumbrances</u>	<u>Current Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Unrealized/</u> <u>Unexpended/</u> <u>Budget</u>	<u>Percentage</u> <u>Y-T-D</u>
<i>Expenditures and Other Uses by Program Code:</i>							
11-Basic Educational Services	8,400,651.85	10,075,703	9,911,872	123,998.63	8,406,841.01	1,381,032.36	84.82%
21-Gifted and Talented	213,205.16	157,217	154,988	-	105,463.92	49,524.08	68.05%
22-Career and Technical	751,427.18	792,411	1,090,924	767.74	884,182.21	205,974.05	81.05%
23-Services to Students with Disabilities	2,508,064.92	3,219,947	3,208,322	18,546.84	2,636,005.58	553,769.58	82.16%
24-Accelerated Education	510,512.36	670,147	668,744	138.02	475,152.77	193,453.21	71.05%
25-Bilingual Education and Special Language	206,487.89	328,216	328,528	-	257,020.88	71,507.12	78.23%
28-Disciplinary Alternative Education (DAEP)	92,329.42	112,595	112,595	-	94,364.50	18,230.50	83.81%
33-Prekindergarten Special Education Services	138,219.41	138,987	151,651	5,159.75	121,589.13	24,902.12	80.18%
36-Early Education Allotment	171,522.15	209,394	209,394	-	177,337.12	32,056.88	84.69%
37-Dyslexia	96,547.30	104,318	104,109	-	93,495.73	10,613.27	89.81%
38-College, Career & Military Readiness	170,571.48	208,494	208,987	-	232,641.53	(23,654.53)	111.32%
43-Dyslexia - Special Education	172,285.47	244,789	244,967	-	219,487.17	25,479.83	89.60%
91-Athletics and Related Activities	1,022,252.88	1,187,561	1,183,946	26,123.68	1,021,464.39	136,357.93	86.28%
99-Undistributed	8,505,132.61	14,193,222	14,086,666	298,852.47	8,394,528.86	5,393,284.67	59.59%
Total Expenditures and Other Uses	22,959,210.08	31,643,001	31,665,693	473,587.13	23,119,574.80	8,072,531.07	73.01%

General Fund Revenues Collected Year to Date

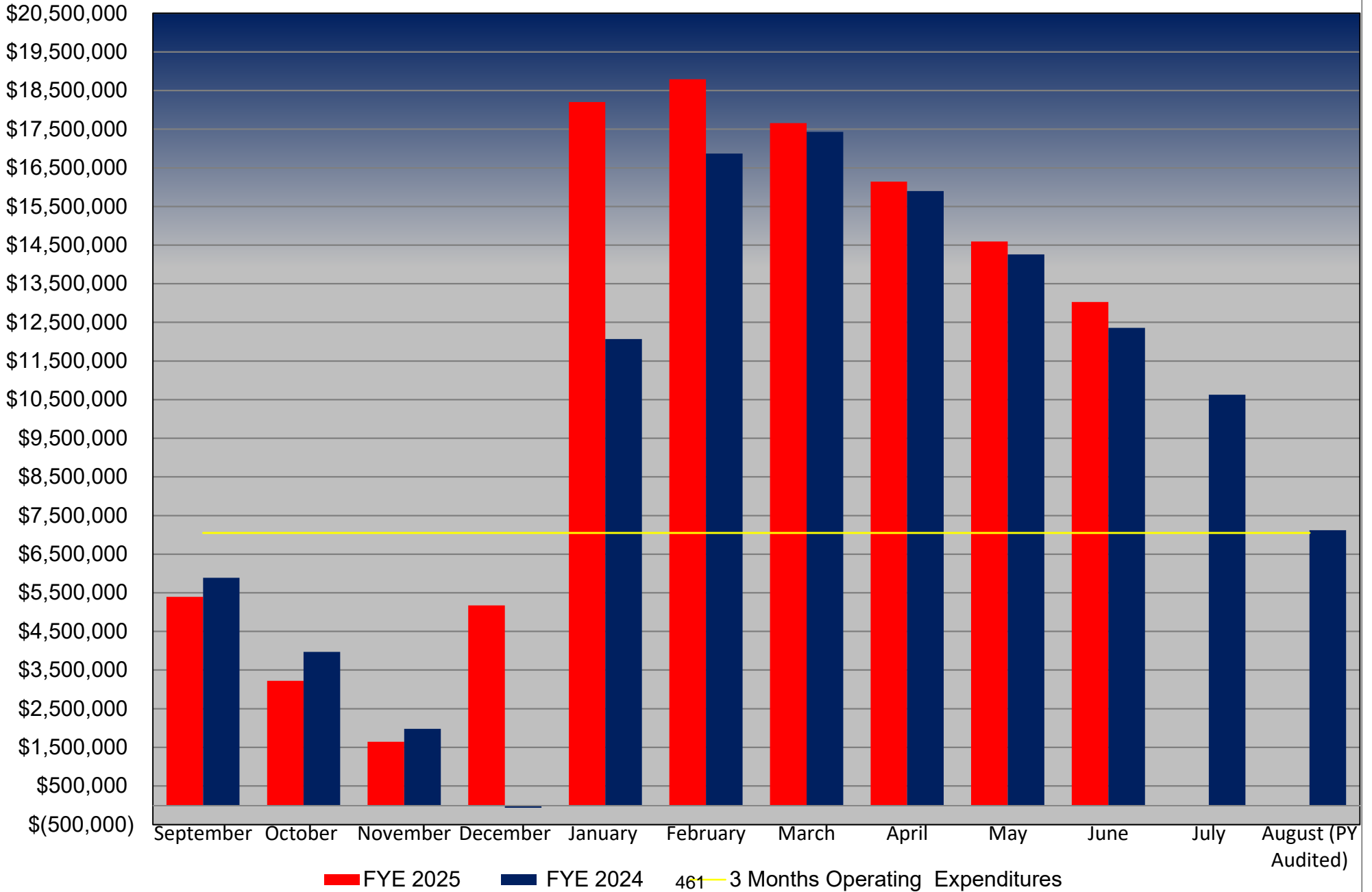


■ Local ■ State ■ Federal ■ Other Sources

General Fund Expenditures Year to Date



Fund Balance by Month



Wimberley Independent School District
Statement of Revenues, Expenditures, and Changes in Fund Balance
for the Month Ending June 30, 2025
(Un-Audited)

CHILD NUTRITION FUND

	<u>Prior Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Original</u> <u>Budget</u>	<u>Revised</u> <u>Budget</u>	<u>Current Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Unrealized/</u> <u>Unexpended</u> <u>Budget</u>	<u>Percentage</u> <u>Y-T-D</u>
Revenues and Other Resources:						
Local	\$ 578,242.25	\$ 582,775	\$ 582,775	\$ 590,778.65	\$ (8,003.65)	101%
State	4,695.63	5,550	5,550	4,603.59	946.41	83%
Federal	545,258.46	555,000	504,121	358,081.62	146,039.38	71%
Other sources	-	21,000	21,000	-	21,000.00	0%
Total Revenues and Other Resources	\$ 1,128,196.34	\$ 1,164,325	\$ 1,113,446	\$ 953,463.86	\$ 159,982.14	86%
Expenditures and Other Uses:						
35-6100 Payroll	371,285.51	517,021	517,021	\$ 435,102.77	81,918.23	84%
35-6200 Professional and Contracted Services	133.67	220	7,820	\$ 7,423.14	396.86	95%
35-6300 Supplies & Materials	591,947.90	572,084	644,911	\$ 556,440.95	88,470.05	86%
52-6300 Supplies & Materials	2,755.59	3,000	1,525	\$ 1,255.69	269.31	82%
35-6400 Food Service Other Operating Expenses	11,295.73	13,000	17,350	\$ 12,730.96	4,619.04	73%
35-6600 Food Service Capital Expenses	49,686.60	105,000	80,569	\$ 3,714.00	76,855.00	5%
Total Expenditures	\$ 1,027,105.00	\$ 1,210,325	\$ 1,269,196	\$ 1,016,667.51	\$ 252,528.49	80%
Excess of Revenues and Other Resources Over (Under) Expenditures	\$ 101,091.34	\$ (46,000)	\$ (155,750)	\$ (63,203.65)		
Fund Balance as of September 1, 2024		488,973	488,973	488,973.00		
Fund Balance Ending - Monthly Reporting Period		\$ 442,973	\$ 333,223	\$ 425,769.35	\$ 92,546.35	

	Current				Current			
	Prior Year/Mo.	Year/Mo.	Increase/ (Decrease)	% Change	Prior Year/Mo.	Year/Day	Increase / (Decrease)	% Change
School Breakfast Program Meals Served: (Days)					15	15		
Free-Bkfst	436	277	(159)	-36%	29	18	(11)	-38%
Reduced-Bkfst	1	32	31	3100%	-	2	2	N/A
Paid-Bkfst	85	146	61	72%	6	10	4	67%
Total	522	455	(67)	-13%	35	30	(5)	-14%
School Lunch Program Meals Served:								
Free-Lunch	304	262	(42)	-14%	20	17	(3)	-15%
Reduced-Lunch	-	32	32	N/A	-	2	2	N/A
Paid-Lunch	43	22	(21)	-49%	3	1	(2)	-67%
Total	347	316	(31)	-9%	23	20	(3)	-13%
Grand Totals	869	771	(98)	-11%	58	50	(8)	-14%

	Prior Year/Mo.	Current Year/Mo.	Increase/(Decrease)	% Change
Number of Children approved for Free Meals	61	59	(2)	-3.3%
Number of Children approved for Reduced Meals	1	4	3	300.0%
Total	62	63	1	1.6%

Wimberley Independent School District
Statement of Revenues, Expenditures, and Changes in Fund Balance
for the Month Ending June 30, 2025
(Un-Audited)

DEBT SERVICE FUND

	<u>Prior Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Original</u> <u>Budget</u>	<u>Revised</u> <u>Budget</u>	<u>Current Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Unrealized/</u> <u>Unexpended</u> <u>Budget</u>	<u>Percentage</u> <u>Y-T-D</u>
Revenues:						
Local Revenue						
Taxes, Current Year Levy	9,016,021.69	\$ 9,685,800	\$ 9,685,800	9,460,945.95	\$ 224,854.05	98%
Taxes, Prior Year	9,878.61	45,000	45,000	66,798.57	(21,798.57)	148%
Penalties, Interest and Other Tax Revenues	60,525.58	45,000	45,000	88,131.92	\$ (43,131.92)	196%
Earnings from Investments	566,867.69	450,000	450,000	457,064.30	(7,064.30)	102%
Miscellaneous Revenue	-	-	-	-	-	NA
Local Revenue	\$ 9,653,293.57	\$ 10,225,800	\$ 10,225,800	\$ 10,072,940.74	\$ 152,859.26	99%
State Revenue						
Additional State Aid for Homestead Exemption	\$ 480,531.00	\$ -	\$ 512,224	\$ 514,917.00	(2,693.00)	101%
State Revenue	\$ 480,531.00	\$ -	\$ 512,224	\$ 514,917.00	\$ (2,693)	101%
Other Sources						
Issuance of Bonds	\$ -	\$ -	\$ -	\$ -	-	NA
Operating Transfer In	\$ -	\$ -	\$ -	\$ -	-	NA
Bond Premium/Discount	\$ -	\$ -	\$ -	\$ -	-	NA
Other Source Revenue	\$ -	\$ -	\$ -	\$ -	\$ -	0%
Total Revenue	\$ 10,133,824.57	\$ 10,225,800.00	\$ 10,738,024.00	\$ 10,587,857.74	\$ 150,166.26	99%
Expenditures:						
71-6511 Bond Principal	-	1,335,000	1,335,000	-	1,335,000.00	0%
71-6511 Bond Principal - DFC	7,431,687.51	4,251,058	4,251,058	-	4,251,058.00	0%
71-6521 Interest on Bonds	1,714,864.60	3,107,942	3,107,942	1,553,970.86	1,553,971.14	50%
71-6599 Other Debt Service Fees	13,150.00	15,000	15,000	1,000.00	14,000.00	7%
Total Expenditures	\$ 9,159,702.11	\$ 8,709,000	\$ 8,709,000	\$ 1,554,970.86	\$ 7,154,029.14	18%
Excess of Revenues Over (Under) Expenditures	\$ 974,122.46	\$ 1,516,800	\$ 2,029,024	\$ 9,032,886.88		
Fund Balance as of September 1, 2024		\$ 6,303,361	\$ 6,303,361	\$ 6,303,361.00		
Fund Balance Ending - Monthly Reporting Period		\$ 7,820,161	\$ 8,332,385	\$ 15,336,247.88	\$ (7,003,862.88)	

Wimberley Independent School District
Statement of Revenues, Expenditures, and Changes in Fund Balance
for the Month Ending June 30, 2025
(Un-Audited)

SPECIAL REVENUE FUNDS

	<u>Prior Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Revised Budget</u>	<u>Current Year</u> <u>Actual Revenues/</u> <u>Expenditures</u>	<u>Unrealized/</u> <u>Unexpended</u> <u>Budget</u>	<u>Percentage</u> <u>Y-T-D</u>
Revenues:					
Local	\$ 1,082,869.89	\$ 1,360,926.50	\$ 919,314.18	\$ 441,612.32	68%
State	203,506.45	208,599.00	133,452.11	75,146.89	64%
Federal	1,469.00	1,874,508.00	984,928.97	889,579.03	53%
Total Revenues	\$ 1,287,845.34	\$ 3,444,033.50	\$ 2,037,695.26	\$ 1,406,338.24	59%
Expenditures:					
11-Instruction	145,560.06	1,052,210.93	856,554.35	195,656.58	81%
12-Library	-	4,000.00	3,293.93	706.07	82%
13-Prof Dev	-	8,500.00	6,858.49	1,641.51	81%
21-Instruct Admin	-	150.00	148.80	-	99%
23-School Leadership	60,968.69	60,791.00	60,791.00	-	100%
31-Counselors	69,578.19	120,645.00	38,906.37	81,738.63	32%
33-Health Services	3,081.28	4,679.68	1,258.79	3,420.89	27%
34-Transportation	-	-	-	-	NA
36-Co-Curricular	919,278.89	1,478,341.63	847,923.66	630,417.97	57%
41-Gen Admin	3,042.45	17,455.95	1,338.26	16,117.69	8%
51-Maintenance	-	-	-	-	NA
52-Security	-	899,845.00	208,696.37	691,148.63	23%
53-Data Services	-	-	-	-	NA
61-Community Service	-	-	-	-	NA
81-Facilities Acquisition/Constr	-	-	-	-	NA
99-Other Intergovernmental Charges	-	-	-	-	NA
00-Other Uses	-	-	-	-	NA
Total Expenditures	\$ 1,201,509.56	\$ 3,646,619.19	\$ 2,025,770.02	\$ 1,620,847.97	56%
Excess of Revenues					
Over (Under) Expenditures	\$ 86,335.78	\$ (202,585.69)	\$ 11,925.24		
Unaudited Fund Balance September 1, 2024		\$ 852,290.00	\$ 852,290.00		
Fund Balance Ending - Monthly Reporting Period		\$ 649,704.31	\$ 864,215.24	\$ 214,510.93	

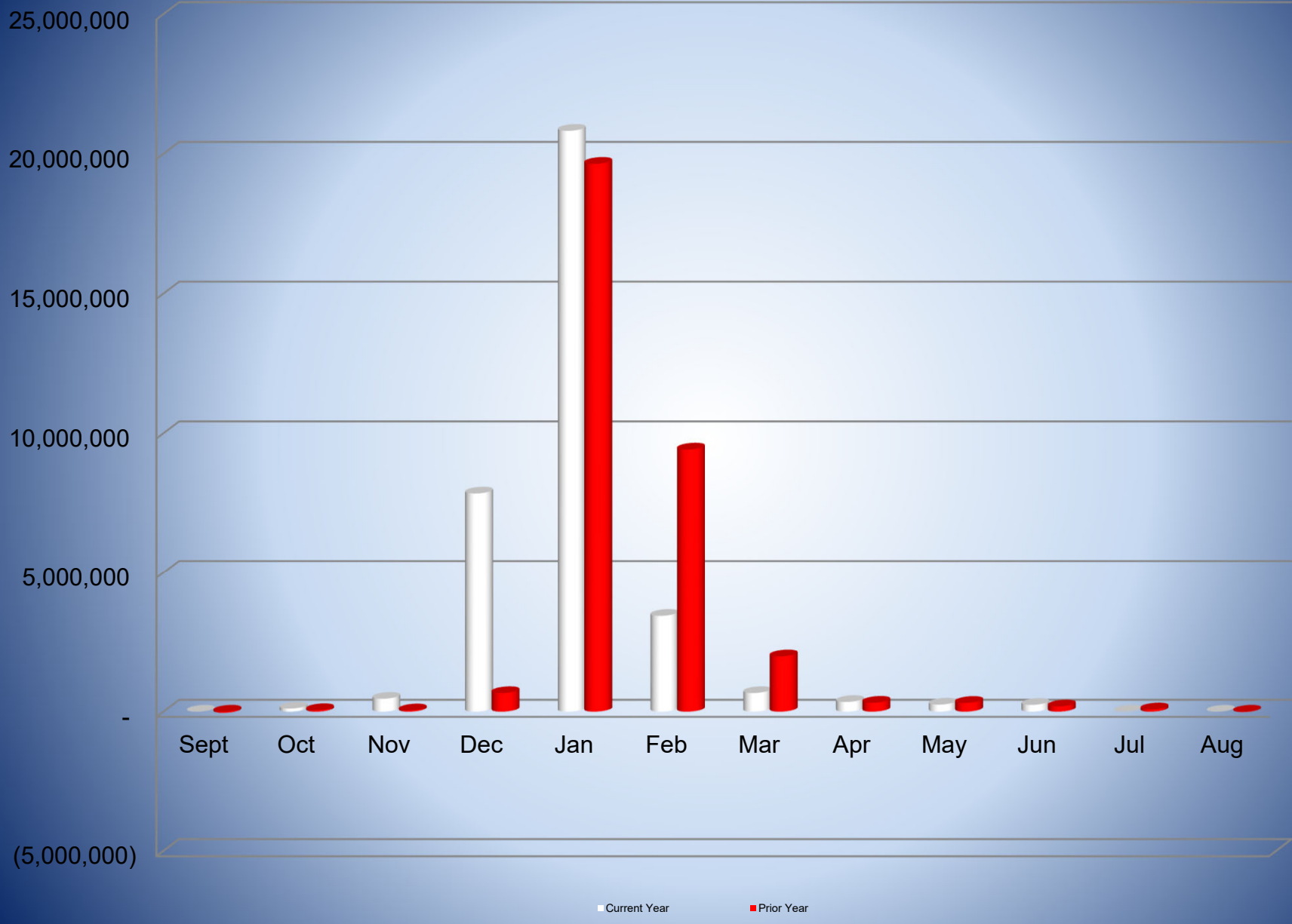
Wimberley Independent School District
Statement of Revenues, Expenses, and Changes in Equity
for the Month Ending June 30, 2025
(Un-Audited)

	ENTERPRISE FUNDS			
	<u>2024-2025</u> <u>Blue Hole</u> <u>After School</u> <u>Program</u>	<u>2024-2025</u> <u>Jacob's Well</u> <u>After School</u> <u>Program</u>	<u>2024-2025</u> <u>Blue Hole</u> <u>Pre-K</u> <u>Program</u>	<u>2024-2025</u> <u>Total Revenues/</u> <u>Expenses</u>
Revenues and Other Resources:				
Local	\$ 145,066.36	\$ 84,805.66	\$ 518,020.28	\$ 747,892.30
State	5,893.47	2,894.77	24,219.12	33,007.36
Other sources	-	-	-	-
Total Revenues and Other Resources	\$ 150,959.83	\$ 87,700.43	\$ 542,239.40	\$ 780,899.66
Expenses and Other Uses:				
6100 Payroll	93,303.46	43,457.02	370,483.79	507,244.27
6200 Professional and Contracted Services	-	-	-	-
6300 Supplies and Materials	3,586.65	1,651.14	5,374.36	10,612.15
6400 Other Operating Expenses	-	-	-	-
6600 Capital Outlay	-	-	-	-
8000-Other Uses	22,875.65	9,404.19	59,598.16	91,878.00
Total Expenses	\$ 119,765.76	\$ 54,512.35	\$ 435,456.31	\$ 609,734.42
Excess of Revenues and Other Resources Over (Under) Expenses	\$ 31,194.07	\$ 33,188.08	\$ 106,783.09	\$ 171,165.24
Fund Balance September 1, 2024	\$ 183,626.92	\$ 75,489.08	\$ 478,405.00	\$ 737,521.00
Fund Balance Ending - Monthly Reporting Period	\$ 214,820.99	\$ 108,677.16	\$ 585,188.09	\$ 908,686.24

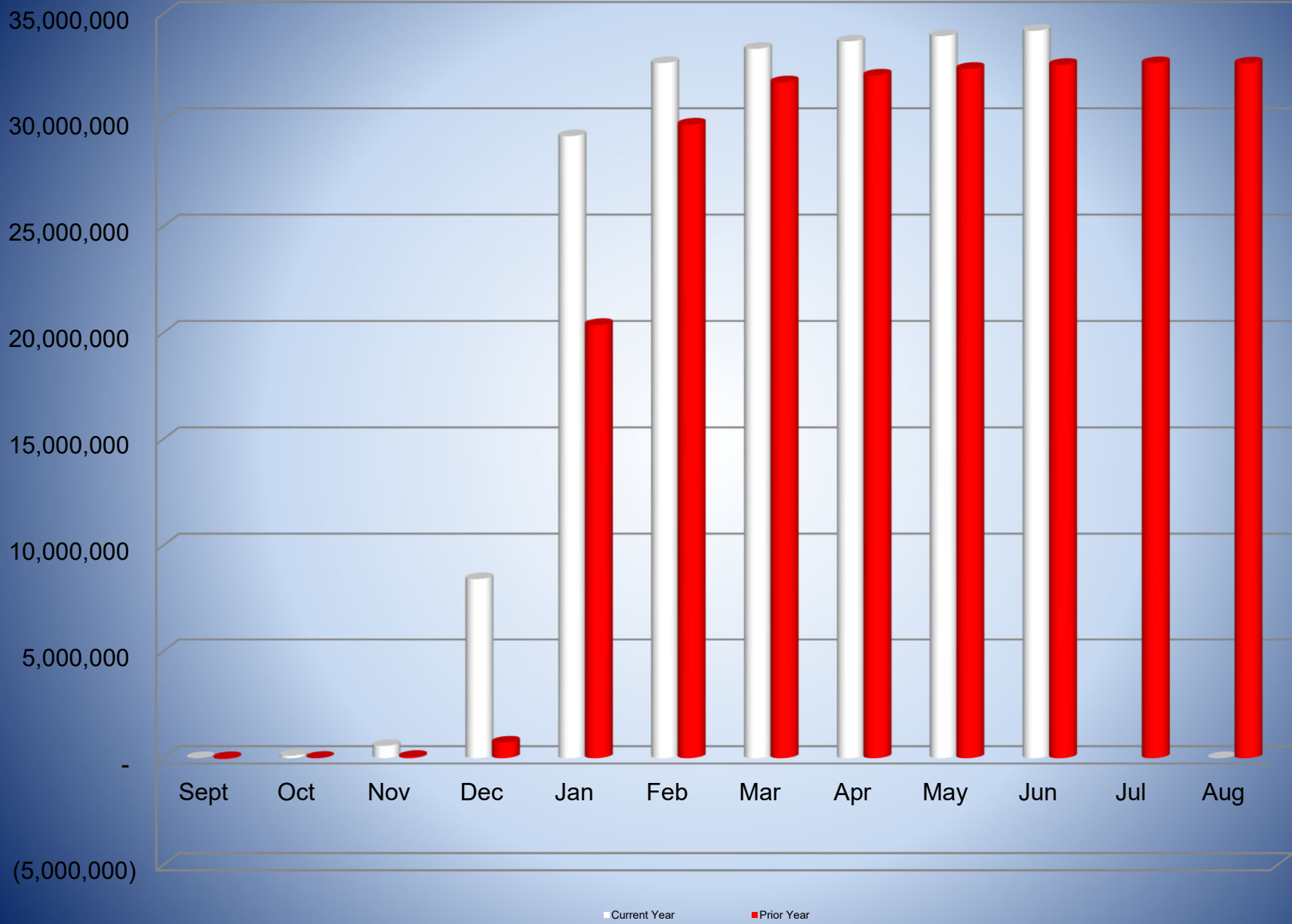
Wimberley Independent School District
Monthly Tax Collection Report
for the Month Ending June 30, 2025

	<u>Prior Year 2023-2024</u>				<u>Current Year 2024-2025</u>			
	<u>General Fund</u>	<u>Debt Service Fund</u>	<u>Total</u>	<u>% of Levy</u>	<u>General Fund</u>	<u>Debt Service Fund</u>	<u>Total</u>	<u>% of Levy</u>
<u>Current Month Tax Collections:</u>								
5711 Taxes-Current Year Tax Levy	\$ 135,056.48	\$ 51,654.68	\$ 186,711.16		\$ 175,388.61	\$ 67,082.00	\$ 242,470.61	
5712 Taxes-Delinquent Collections	\$ (12,490.68)	\$ (3,909.58)	\$ (16,400.26)		\$ 41,679.88	\$ 14,290.45	\$ 55,970.33	
5719 Penalties and Interest	\$ 19,046.93	\$ 7,237.04	\$ 26,283.97		\$ 35,788.23	\$ 12,848.25	\$ 48,636.48	
Total Current Month Collections	\$ 141,612.73	\$ 54,982.14	\$ 196,594.87	0.59%	\$ 252,856.72	\$ 94,220.70	\$ 347,077.42	0.98%
<u>Fiscal Year to Date Collections:</u>								
5711 Taxes-Current Year Tax Levy	\$ 23,582,194.59	\$ 9,016,021.69	\$ 32,598,216.28		\$ 24,735,955.55	\$ 9,460,945.95	\$ 34,196,901.50	
5712 Taxes-Delinquent Collections	\$ 47,834.91	\$ 9,878.61	\$ 57,713.52		\$ 197,909.24	\$ 66,798.57	\$ 264,707.81	
5719 Penalties and Interest	\$ 173,664.53	\$ 60,525.58	\$ 234,190.11		\$ 249,630.16	\$ 88,175.65	\$ 337,805.81	
Total Revenue Collected	\$ 23,803,694.03	\$ 9,086,425.88	\$ 32,890,119.91	99%	25,183,494.95	9,615,920.17	34,799,415.12	98%
Total Budgeted Tax Revenue (Current, Delinquent, Penalty & Interest)	\$ 24,196,895.00	\$ 9,227,561.00	\$ 33,424,456.00		\$ 25,573,205.00	\$ 9,775,800.00	\$ 35,349,005.00	
Percentage of Budget Collected	98%	98%	98%		98%	98%	98%	

Month to Date Tax Collections Current Levy



Year to Date Tax Collections Current Levy





Minutes of Regular Meeting

Board of Trustees

A Regular Meeting of the Board of Trustees of Wimberley Independent School District was held Monday, **Monday, June 16, 2025**, beginning at **6:00 PM** in the WISD Administration Building, 951 FM 2325, Wimberley, TX 78676.

1. Call the meeting to order and determine a quorum - The regular meeting of the Board of Trustees of the Wimberley Independent School District was called to order by Dr. Campbell at 6:00 p.m. A quorum was established with the following members present. Dr. Rob Campbell, Chad Canine, Will Conley, Lindsey Deringer, Lexi Jones, Andrea Justus, Ken Strange.

Administrators Present: Dr. Bonewald, Jason Valentine, Michael Doyle, Laurie Grisham, Ryan Wilkes, SueAnna Thomas, Joseph Holzmann, Marlyana Zachary, and Christi Moeller

Directors Present: Allen Bruggman, Chrisit Moeller, Michael Doyle.

The Pledge of Allegiance to the U.S. flag was led by the Board of Trustees. Dr. Campbell held a moment of reflection and the District's Vision, Mission and Goals were read.

2. Special Recognition – Presenter Dr. Bonewald
Dr. Bonewald began by recognizing Coach DeMarco and the boys' track athletes for their dedication and outstanding performance throughout the season. He reviewed each of the athletes who qualified for competition, highlighting several standout individuals whose efforts significantly contributed to the team's success. Their hard work and commitment were evident in the achievements of the entire program.
Following that, Dr. Bonewald acknowledged Coach Locke and the members of the Texan Baseball team. He praised the players for their perseverance, sportsmanship, and impressive performance over the course of the season. He noted that this year marked a historic chapter for the program, commending the team for their accomplishments and the legacy they are building for future Texan athletes.
3. PUBLIC FORUM – No individual requested to address the board during Public Forum.
4. Information Items
 - A. Strategic Plan Update- Annual Student, Staff, and Parent Reports - Presented by Allen Bruggman
Allen Bruggman presented an update on the district's Strategic Plan, focusing on the Annual Student, Staff, and Parent Survey Reports. He highlighted key findings from the engagement and satisfaction surveys, including the areas with the highest levels of agreement and disagreement across the district. Mr. Bruggman also shared student feedback on what they believe could be improved and what they value most at each campus. He then reviewed staff satisfaction results, emphasizing what employees value in the workplace based on survey data. Lastly, he presented findings from the community satisfaction and well-being surveys, again noting the areas with the highest and lowest levels of agreement.
5. Action Items
 - A. Consideration and approval of an order by the Board of Trustees of the Wimberley Independent School District authorizing the issuance of “Wimberley Independent School District unlimited tax school building and refunding bonds, series 2025”; levying a continuing direct annual ad valorem tax for the payment of the bonds; delegating the authority to certain members of the board of trustees and district staff to approve and execute certain documents relating to the sale of the bonds; and providing an effective date. Presented by Michael Doyle, CFO; Dan

Wegmiller, Specialized Public Finance; and Stephanie Leibe, Norton Rose Fulbright. Michael Doyle introduced Dan Wegmiller with Specialized Public Finance and Stephanie Leibe with Norton Rose Fulbright. Mr. Wegmiller provided a presentation outlining the documents the Board is being asked to authorize in relation to the sale of the bonds. He also shared an update on the projected timeline and scheduling following the completion of the bond sale.

I MOVE THAT THE BOARD OF TRUSTEES ADOPT AN ORDER AUTHORIZING THE ISSUANCE OF "WIMBERLEY INDEPENDENT SCHOOL DISTRICT UNLIMITED TAX SCHOOL BUILDING AND REFUNDING BONDS, SERIES 2025" PURSUANT TO A DELEGATED SALE. This motion, made by Ken Strange and seconded by Andrea Justus, Passed. Yea: 7, Nay: 0

- B. Discuss and Consider Board Approval of a Delegate and Alternate to the 2025 Texas Association of School Boards (TASB) Delegate Assembly. Presented by Dr. Campbell Motion to nominate Lindsey Deringer as the delegate to the 2025 Texas Association of School Boards (TASB). This motion, made by Lexi Jones and seconded by Andrea Justus, Passed. Yea:7,Nay:0

Motion to nominate Lexi Jones as the Alternate to the 2025 Texas Association of School Boards (TASB). This motion, made by Lindsey Deringer and seconded by Ken Strange, Passed. Yea: 7, Nay: 0

- C. Consideration and possible action to adopt the prevailing wage rates in connection with the construction projects authorized by the Board. Presented by Michael Doyle, CFO.

I move that the Board adopt the most current prevailing wage rates for Hays County, as published by the U.S. Department of Labor under the Davis-Bacon Act (40 U.S.C. § 276a et seq.) and its amendments, for the Bond 2025 construction projects authorized by the Board. These rates may be updated as new rates are published, and only the base wage rates in the applicable wage rate decision shall be used-unless federal funds are involved in the specific project. This motion, made by Andrea Justus and seconded by Will Conley, Passed. Yea: 7, Nay: 0

- D. Consider the approval of purchasing the replacement copy machine fleet for WISD. Presented by Michael Doyle, CFO.

Motion to approve the purchase of copy machines for WISD. This motion, made by Ken Strange and seconded by Will Conley, Passed. Yea: 7, Nay: 0

- E. Consider the approval of purchasing student devices through Dell Technologies. Presented by Michael Doyle, CFO.

Motion to approve the purchasing of student devices through Dell Technologies as presented. This motion, made by Andrea Justus and seconded by Will Conley, Passed. Yea: 7, Nay: 0

- F. Consider the approval of purchasing wireless access points for JWE/Scudder. Presented by Michael Doyle, CFO.

Motion to approve the purchasing of wireless access points for JWE/ Scudder as presented. This motion, made by Ken Strange and seconded by Will Conley, Passed. Yea: 7, Nay: 0

- G. Consideration and possible action regarding ranking/selection of Professional Services Providers. Presented by Michael Doyle, CFO.

Motion to approve the ranking/ selection of the professional services providers as presented. This motion, made by Andrea Justus and seconded by Will Conley, Passed. Yea: 7, Nay: 0

6. CFO's Report - Chief Financial Officer, Michael Doyle

Michael Doyle, presented the monthly financial report to the Board, providing an overview of the district's current financial standing. The presentation included key highlights from the past year's performance, a summary of budget variances, and updates on revenue and expenditures. Mr. Doyle also discussed notable trends, addressed questions from the Board regarding financial projections, and outlined ongoing fiscal strategies. Additionally, he provided an update on current tax collections and the closing of the 24-25 budget projection.

Regular Board of Trustees Meeting
June 16, 2025

7. Superintendent's Report

- **May Texan of the Month:**

Dr. Bonewald began by recognizing Kris Vannoy, Wimberley High School Counselor, as the May Texan of the Month for her outstanding contributions to students and staff.

- **Baseball State Championship:**

He congratulated the Wimberley Texans Baseball team on their State Championship win and praised their dedication throughout the season.

- **UIL Lone Star Cup Victory:**

Wimberley ISD won the 4A UIL Lone Star Cup Championship, marking the first time in 25 years the district has earned this honor.

- Dr. Bonewald explained the point system and highlighted contributions from various UIL groups and competitions that led to the win.

- **Summer Camps:**

WISD summer camps are underway with strong student participation across all programs.

- **Band Percussion Success:**

The band percussion program achieved notable success, with more students qualifying for recognition and advancement than ever before.

- **Legislative Updates:**

Dr. Bonewald briefly reviewed legislative items passed during the 89th session, highlighting key approvals relevant to public education and the district.

8. Consent Agenda - Presiding Officer

Motion to approve the consent agenda as presented. This motion, made by Ken Strange and seconded by Will Conley, Passed. Yea 7, Nay: 0

- A. Minutes of the Regular Meeting
- B. Student Enrollment and Attendance
- C. Budget Amendment No. 9
- D. Approve WISD Threat Assessment Team Members

9. Closed Session -The Board adjourned into closed session at 7:29 p.m. pursuant to Texas Government Code Section: 551.071 et seq.

- A. Deliberation Regarding Security Devices or Security Audits. *Texas Gov't Code §551.076 and §551.089*
- B. Personnel Matters. *Texas Gov't Code §551.074*
 - 1. New hires/terminations/employee discipline
- C. Deliberation Regarding Real Property. *Texas Gov't Code §551.072*
- D. Consultation with Attorney. *Texas Gov't Code §551.071*

10. The Board will reconvene and take possible action on items discussed in executive session - The Board reconvened at 8:25 p.m.

Motion to offer positions to Amanda Abney, Amanda Daniels, Kylie Doherty, Shelly Dutta, Amanda Hogan, Daniel Lancaster, William Pucci, Kory Reischling, Anna Wright, Traci Hightower, and Chloe Chavez at WISD. This motion, made by Ken Strange and seconded by Lindsey Deringer, Passed. Will Conley: Abstain (With Conflict) Yea: 6, Nay: 0,

Prepare for next meeting - The next regular meeting is scheduled for Monday, July 21, 2025.

11. Adjourn – Presiding Officer

There being no further business to discuss, motion to adjourn at 8:26 p.m. This motion, made by Ken Strange and seconded by Lindsey Deringer, Will Conley: Abstain (With Conflict) Passed. Yea: 6, Nay: 0

Regular Board of Trustees Meeting
June 16, 2025

Chad Canine, Secretary

Dr. Rob Campbell, President

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Order of Election

Date: 07/21/2025

Presenter: Dr. Bonewald

Consent

1. BACKGROUND INFORMATION

Per the Texas Secretary of State the purpose of an Order of Election is required to officially order the election and to give notice to the public. For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day. An election ordered by an authority of a political subdivision that is not ordered for a uniform election date shall be ordered not later than the 62nd day before election day. This section supersedes a law outside this code to the extent of any conflict

2. ADMINISTRATIVE RECOMMENDATION

Approve as recommended

3. BOARD ACTION REQUIRED

Yes

**ORDER OF ELECTION
(Orden de Eleccion)
WIMBERLEY INDEPENDENT SCHOOL DISTRICT**

To the Registered Voters of the Wimberley Independent School District, Hays County, Texas:
(A los votantes registrados del Distrito Escolar Independiente de Wimberley, Condado de Hays, Texas:)

Notice is hereby given that the polling places listed below will be open from 7:00 a.m. to 7:00 p.m. on November 4, 2025, for voting in a general election to elect Trustees of the Wimberley Independent School District, Places 4 and 5.

(Notifíquese, por las presente, que las casillas electorales sitados abajo se abrirán desde las 7:00 a.m. hasta las 7:00 p.m. el 4 de Noviembre de 2025 para votar en la Elección General para elegir La Junta Directiva del Distrito Escolar Independiente de Wimberley, para Lugares 4 y 5.)

Location of Polling Place:

(Dirección de las Casillas Electorales:)

See list attached

Early voting by personal appearance will be conducted each weekday at:
(La votación adelantada en persona se llevará a cabo de Lunes a Viernes en:)

October 20, 2025 – October 31, 2025
(el 20 de Octubre de 2025 – el 31 de Octubre de 2025)
Hays County Election Center
120 Stagecoach Trail
San Marcos TX 78666-5999

Applications for ballot by mail should be mailed to:

(Las solicitudes para boletas que se votaran en ausencia por correo deberan enviarse a:)
Jennifer Doinoff, Early Voting Clerk
(Secretario De Votacion Adelantada, Jennifer Doinoff)
120 Stagecoach Trail
San Marcos TX 78666-5999

Applications for ballot by mail must be received no later than the close of business on **October 24, 2025**

*(Las solicitudes para boletas que se votaran en ausencia por correo deberan recibirse para el fin de las horas de las horas de negocio el **Octubre 24, 2025**)*

Issued this the **21st day of July, 2025**

Signature of Presiding Officer
(Firma del Oficial que Preside)

Member (Miembro)

Member (Miembro)

Member (Miembro)

Member (Miembro)

Member (Miembro)

Member (Miembro)

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Teacher Appraisers and Calendar

Date: July 21, 2025

Presenter: Jason Valentine

Consent

BACKGROUND INFORMATION

DNA (Local) Performance Appraisal: Evaluation of Teachers

State Method (T-TESS) – The commissioner's recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS), was developed in accordance with Education Code 21.351. *19 TAC 150.1001(b), .1002(a)*

Appraisers: The teacher appraisal process requires at least one certified appraiser. An appraiser must be the teacher's supervisor or a person approved by the board.

Campus Administrator: Only a campus administrator may act as a certified appraiser, except as provided below.

Assessment of Teacher Performance - Each teacher must be appraised each school year, except as provided below at Less-Than-Annual Appraisal. Whenever possible, an appraisal shall be based on the teacher's performance in fields and teaching assignments for which he or she is certified. *19 TAC 150.1003(a)*

During the appraisal period, the certified appraiser shall evaluate and document teacher performance specifically related to the domain criteria as identified in 19 Administrative Code 150.1002(a) and the performance of teachers' students as defined in 19 Administrative Code 150.1001(f)(2). *19 TAC 150.1003(e)*

Appraisal Calendar: A district shall establish a calendar for teacher appraisals and provide that calendar to teachers within three weeks from the first day of instruction. The appraisal period for each teacher must include all of the days of the teacher's contract.

Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.

The appraisal calendar shall:

1. Exclude observations in the two weeks after the day of completion of the T-TESS orientation in the school years when an orientation is required; and
2. Indicate a period for end-of-year conferences that ends no later than 15 working days before the last day of instruction for students.

ADMINISTRATIVE RECOMMENDATION

Approve as Recommended

BOARD ACTION REQUIRED

Yes

Wimberley I.S.D. FY26 Teacher Appraisal Calendar

S	M	T	W	T	F	S	
		28	29	30	31	1	2
3	4	5	6	7	8	9	
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31							

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23	24	25	26	27	28	29
30						

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21	22	23	24	25	26	27
28	29	30	31			

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18	19	20	21	22	23	24
25	26	27	28	29	30	31

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15	16	17	18	19	20	21
22	23	24	25	26	27	28

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17	18	19	20	21	22	23	
24	25	26	27	28	29	30	

School Closed/Holidays
 Appraisal days**
 Teacher workday
 **Limited on testing days

<u>Teacher Appraisers</u>	
<i>District-wide</i>	Jason Valentine
<i>WHS</i>	Ryan Wilkes Errin Jennings Jason Giesen
<i>Danforth JH</i>	Joseph Holzmann Katy Huebner
<i>Jacob's Well Elem.</i>	SueAnna Thomas Meagan Buck
<i>Blue Hole Primary</i>	Marlayna Zachary Katrina Willard

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Changing the date of the Regular August Board Meeting from **Monday, August 18, 2025**, to **Monday, August 25, 2025**.

Date: July 21, 2025

Presenter: Dr. Campbell

Consent

1. BACKGROUND INFORMATION

The Regular August Board Meeting was originally scheduled for Monday, August 18, 2025. Due to scheduling conflicts and in an effort to ensure full participation of board members and district leadership, administration is recommending the meeting be rescheduled to Monday, August 25, 2025. This change will allow for adequate preparation and ensure that all necessary items can be addressed with the full board present.

2. ADMINISTRATIVE RECOMMENDATION

Administration recommends changing the date of the Regular August Board Meeting from **Monday, August 18, 2025**, to **Monday, August 25, 2025**.

3. BOARD ACTION REQUIRED

Approve as recommended

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Approve Designation of Non-Business Calendar Days Related to New Public Information Act Requirements

Date: 07/21/25

Presenter: Dr. Bonewald

Consent

1. BACKGROUND INFORMATION

HB 3033, passed during the regular legislative session, amends the Public Information Act (PIA) by limiting the number of "nonbusiness" days for school districts.

Prior to HB 3033, days when districts were closed (such as holiday breaks) were not counted in the deadline calculations. Now, the statute expressly limits nonbusiness day exclusions to weekend days, national and state holidays and the Friday or Monday after a holiday which falls on a weekend and is earlier/later observed.

Significant Change- nonbusiness PIA days may be designated when district administrative offices are closed or operating with minimal staff. However, school districts may designate no more than TEN nonbusiness days within each calendar year for purposes of the PIA. Authority to designate districts' non business days is provided solely to the Board of Trustees.

2. ADMINISTRATIVE RECOMMENDATION

Approve proposed PIA calendar which designates non business PIA days for each calendar year limited only to PIA requests.

3. BOARD ACTION REQUIRED

Approve as recommended



2025-2026 PIA CALENDAR

August 2025						
S	M	T	W	T	F	S
					1	2
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17	18	19	20	21	22	23
24	25	26	27	28	30	31

September 2025						
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28	29					

October 2025						
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November 2025						
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December 2025						
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January 2026						
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February 2026						
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March 2026						
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29	30	31				

April 2026						
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19	20	21	22	23	24	25
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May 2026						
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June 2026						
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28	29					

July 2026						
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	31		

Nonbusiness Days

Federal & State Holidays

HB3033 Nonbusiness Day Calendars

In 2023, the Texas Legislature passed HB3033 which amends Chapter 552 of the Texas Government Code (Texas Public Information Act) by adding section 552.0031. The statute is effective September 1, 2023, and clarifies business days and requires the establishment of nonbusiness days under the Texas Public Information Act.

The new statute defines 'business day' as a day other than a Saturday or Sunday, a national holiday, or a state holiday. Additionally, the new rule requires a government body to identify no more than 10 days each calendar year that the governmental body's administrative offices are closed or operating with minimum staffing, as nonbusiness days.

The recognized list of national and state holidays is identified in Texas Government Code 662.003. The Friday before or Monday after a national or state holiday is not a business day for the governmental body if the holiday occurs on a Saturday or Sunday and the governmental body observes that day on that Friday or Monday.

**WIMBERLEY INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION
WIMBERLEY, TEXAS**

Subject: Discuss and Consider Approval of Agreement for the Purchase of Attendance Credit (Option 3 Agreement) and to Delegate Contractual Authority to the Superintendent for Chapter 49 Payment to the State.

Date: July 21, 2025

Presenter: Mike Doyle

Consent

1. BACKGROUND INFORMATION

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 49, Subchapters A and D, and rules adopted by the commissioner of education as authorized by the TEC, §49.006. The purpose of this agreement is to enable the district to reduce its local revenue level to a level not to exceed the level established under TEC, §48.257 for the school year.

The school year to which this agreement applies is 2025-2026.

2. ADMINISTRATIVE RECOMMENDATION

Approve as recommended.

3. BOARD ACTION REQUIRED

“For the 2025-2026 school year, we delegated contractual authority to obligate the school district under Texas Education Code(TEC) §11.1511(c)(4) to the superintendent, solely for the purpose of obligating the district under TEC, §48.257 and TEC, Chapter 49, Subchapters A and D, and the rul" For es adopted by the commissioner of education as authorized under TEC, 49.006. This included approval of the Agreement for the Purchase of Attendance Credit or the Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)”

Agreement for the Purchase of Attendance Credit

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 49, Subchapters A and D, and rules adopted by the commissioner of education as authorized by the TEC, §49.006. The purpose of this agreement is to enable the district to reduce its local revenue level to a level not to exceed the level established under TEC, §48.257 for the school year.

The school year to which this agreement applies is 2025-2026 (the "school year").

The agreement is for Wimberley Independent School District School District ("the district"), with a county-district number of 105-905, to purchase attendance credit from the state for the school year.

This agreement is subject to the approval of the voters of the district as provided by the TEC, §49.156. The board of trustees of the district agrees to submit to the commissioner of education, on request, a certified copy of the board minutes showing the canvass of the election.

Initial payments will be based on the commissioner's estimate of the total cost of credit as determined under TEC, §49.153, using the district's projected maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year. The district agrees to make the payments in accordance with the schedule specified in the TEC, §49.154.

The total cost of credit will be determined by the commissioner in accordance with the TEC, §49.153, when final data on the district's maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year is available. If that amount is less than the amount paid by the district through August 15 of the school year, the difference will be refunded. If that amount is greater than the amount paid, the district shall remit an amount equal to the difference for deposit in the state treasury to be used for the Foundation School Program.

The cost of purchased attendance credit will be reduced for county appraisal district costs. The reduction will be computed in accordance with the TEC, §49.157. If the reduction exceeds the cost for the school year, the difference will be carried forward and applied to each subsequent year's cost until the total amount of the reduction has been exhausted.

Signature of President, Board of Trustees

Date: July 21, 2025

Signature of Secretary, Board of Trustees

Date: July 21, 2025

Signature of Superintendent

Date: July 21, 2025

Typed Name of Superintendent

Date:

Signature of Commissioner of Education or Designee