Board Workshop Agenda
Lake Travis Independent School District Board of Trustees

A meeting of the Board of Trustees of Lake Travis Independent School District will be held February 16, 2022, beginning at 6:00 PM in the Educational Development Center, Live Oak Room
607 RR 620 North
Austin, TX 78734.

The subjects to be discussed or considered, or upon which any formal action may be taken are listed below. Items do not have to be taken in the order shown on this agenda.

1. Call To Order and Quorum Determination
2. Pledge of Allegiance and Moment of Silence
3. Recognitions
   - A. Lake Travis High School 2022 Texas Music Educators Association All-State Musicians — 3
4. Public Comments/Citizen Participation
5. Presentation/Discussion Items
   - A. January 2022 Monthly Financial Reports - Statement of Revenues and Expenditures, Balance Sheet, Tax Statement and 2018 Capital Projects Report — 4
   - B. TASB Policy Update 118 Affecting the Following Policies: — 9
     CFD(LOCAL): ACCOUNTING - ACTIVITY FUNDS MANAGEMENT
     CQB(LOCAL): TECHNOLOGY RESOURCES - CYBERSECURITY
     DFE(LOCAL): TERMINATION OF EMPLOYMENT - RESIGNATION
     DP(LOCAL): PERSONNEL POSITIONS
     EHBC(LOCAL): SPECIAL PROGRAMS - COMPENSATORY/ACCELERATED SERVICES
     EIE(LOCAL): ACADEMIC ACHIEVEMENT - RETENTION AND PROMOTION
     FDE(LOCAL): ADMISSIONS - SCHOOL SAFETY TRANSFERS
     FEA(LOCAL): ATTENDANCE - COMPULSORY ATTENDANCE
     FEC(LOCAL): ATTENDANCE - ATTENDANCE FOR CREDIT
     FFG(LOCAL): STUDENT WELFARE - CHILD ABUSE AND NEGLECT
     FL(LOCAL): STUDENT RECORDS
   - C. Review 2021-2022 District and Campus Improvement Plan Goals and Performance Objectives — 1000
   - D. Board Notification under Board Policy CH (Local)-Playground Equipment for Serene Hills Elementary School — 1005

E. Estimated Guaranteed Maximum Price (GMP) for CMR-12 for Serene Hills Elementary School Renovation Project for the Summer of 2022 1006

6. Consideration Items
   A. Supplemental Pay Rate Adjustments for 2021-2022 1012
   B. TEA Expedited Waiver Request for Staff Development Minutes Waiver 1013
   C. Resolution No. 021622-01 Authorizing Travis Central Appraisal District Chief Appraiser to Act as Agent for Property Value Protests 1015
   D. Superintendent's Employment Contract 1018
   E. Consent Agenda
      1. 2022-2023 Off Campus Physical Education Providers 1028
      2. Locally Approved Courses for UIL No Pass/No Play Exemptions 1033
      3. 2022-2023 Innovative Course Approval 1037
      4. January 18th, 2022 Board Meeting Minutes 1039
      5. January 26, 2022 Superintendents' Summative Conference Minutes 1045
7. Upcoming Meetings and Events
   A. March 23, 2022, 6:00 p.m. - Monthly Board Meeting, EDC
   B. April 6, 2022, 6:00 p.m. - Budget Workshop, EDC
   C. April 20, 2022, 6:00 p.m. - Monthly Board Meeting, EDC
8. Closed Session - Trustees will adjourn into Closed Session as permitted by the Texas Government Code 551.001 et. seq.
   A. Section 551.074 - Personnel Matters
      1. The Board will discuss the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees or officials. (This may involve consultation with attorney as permitted under Section 551.071)
   B. Section 551.071 - Consultation with Attorney
      1. The Board will discuss and receive legal advice from its attorney on matters which should be confidential under Texas Government Code Section 551.071 (2).
   C. Section 551.072 - Deliberation Regarding Real Property
      1. The Board will discuss the purchase, exchange, lease or value of real property. (This may involve consultation with attorney as permitted under section 551.071.)
   D. Section 551.0821 - School Board: Personally Identifiable Information About a Public School Student
      1. The Board will discuss personally identifiable information about a public school student.
   E. Section 551.076 - Deliberation Regarding Security Devices or Security Audits; Closed Meeting. This chapter does not require a governmental body to conduct an open meeting to deliberate:
      1. The deployment, or specific occasions for implementation of security personnel or devices.
9. Adjournment

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Lake Travis High School 2022 Texas Music Educators Association All-State Musicians

RECOMMENDED ACTION
For recognition only.

RATIONALE
The musical talents of four Lake Travis High School students have earned each of them a place on the 2022 All State Band and Choir as determined by the Texas Music Educators Association (TMEA).

According to TMEA, All State is the highest honor a Texas music student can receive. Approximately 1,875 students were selected through a process that began in the fall of 2021 with over 70,000 students from around the state vying for the honor to perform in one of 18 ensembles.

The following students from Lake Travis High School have been selected as All State musicians:

- **Sam Bangert** – sophomore (band)
- **Marco Cornel** – senior (band)
- **Jake Fagan** – sophomore (band)
- **Ashley Schneider** – senior (choir)

Students performed with other Texas All-State musicians Saturday, February 12 at the Henry B. González Convention Center in San Antonio as part of the 2022 Texas Music Educators Association Clinic/Convention. Richard Hicks and Adam Poynor direct the Lake Travis High School band and choir programs, respectively.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Charles Aguillon - Director of Fine Arts
Marco Alvarado - Executive Director of Communications & Community Relations

ATTACHMENTS
None

MEETING DATE
February 16, 2022

AGENDA ITEM ACTION SHEET

AGENDA ITEM
January 2022 Monthly Financial Reports-Statement of Revenues and Expenditures, Balance Sheet, Tax Statement and 2018 Capital Projects Report

RECOMMENDED ACTION
For presentation/discussion only.

RATIONALE
To provide a financial update to the Board and community regarding the financial position of the school district.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Pam Sanchez - Assistant Superintendent of Business Services
Brad Goerke - Director of Finance

ATTACHMENTS
1. Statement of Revenues and Expenditures-January 2022
2. Balance Sheet-January 2022
3. Tax Statement-January 2022
4. 2018 Capital Projects Report-January 2022

MEETING DATE
February 16, 2022

Lake Travis ISD
STATEMENT OF REVENUE AND EXPENDITURES GENERAL FUND

1/31/2022

		Current Year				Prior Year	
Revenues		**Budget**	**Actual**	**Balance**	**Percent of Budget**	**Cumulative Actual**	**Percent of Actual**
5711	Current Year Tax Revenue	$ 135,527,224	$ 118,218,742	$ 17,308,482	87.23%	$ 110,727,749	86.51%
5700	Other Local Revenues	2,444,000	679,768	1,764,232	27.81%	1,034,874	38.40%
5800	State Program Revenue	8,880,598	3,125,630	5,754,968	35.20%	3,497,075	41.00%
5900	Federal Revenue	690,000	43,881	646,119	6.36%	36,497	8.16%
	Total Revenue	**$ 147,541,822**	**$ 122,068,021**	**$ 25,473,801**	**82.73%**	**$ 115,296,194**	**82.55%**
Expenditures							
11	Instruction	$ 58,795,044	$ 26,417,728	$ 32,377,316	44.93%	$22,115,147	42.51%
12	Instructional Resources	946,936	435,376	511,560	45.98%	406,678	41.43%
13	Staff Development	1,095,204	302,819	792,385	27.65%	370,619	42.98%
21	Instructional Administration	2,006,072	877,264	1,128,808	43.73%	705,706	37.40%
23	School Administration	4,650,202	1,979,638	2,670,564	42.57%	1,863,911	39.59%
31	Guidance & Counseling	3,932,443	2,006,003	1,926,440	51.01%	1,479,115	38.00%
32	Social Work Services	140,139	65,885	74,254	47.01%	60,819	38.34%
33	Health Services	922,045	409,065	512,980	44.36%	377,032	39.38%
34	Transportation	4,654,001	1,866,812	2,787,189	40.11%	1,781,915	41.48%
35	Food Service	90,000	30,000	60,000	33.33%	37,500	49.86%
36	Co-Curricular Account	2,491,177	1,123,873	1,367,304	45.11%	843,745	42.12%
41	General Administration	3,766,012	1,495,267	2,270,745	39.70%	1,554,793	41.67%
51	Plant & Maint. Operation	10,943,134	4,685,255	6,257,879	42.81%	4,635,254	42.27%
52	Security	659,853	356,534	303,319	54.03%	310,485	42.58%
53	Non-Inst. Data Processing	2,927,386	1,006,317	1,921,069	34.38%	1,146,260	41.77%
61	Community Services	421,600	130,964	290,636	31.06%	111,868	41.60%
81	Facilities/Construction	30,000	10,000	20,000	33.33%	12,500	53.97%
91	State Transfers	45,283,201	-	45,283,201	0.00%		0.00%
92	Incremental Cost WADA	300,000	194,076	300,000	0.00%	131,404	50.00%
93	SPED TRF-Regular Day	45,000	-	45,000	0.00%		0.00%
95	JJAEP Transfer Payments	15,000	-	15,000	0.00%		0.00%
99	Travis County Appraisal	570,000	238,674	331,326	41.87%	226,872	51.09%
	Total Expenditures	**$ 144,684,449**	**$ 43,631,549**	**$ 101,052,900**	**30.16%**	**$ 38,171,623**	**27.89%**
Other Resources and (Uses)							
7990	Other Resources	-	-	-	0.00%	-	0.00%
8990	Other Uses	-	-	-	0.00%	-	0.00%
8911	Transfers-Out	-	-	-	0.00%	-	0.00%
	Total Resources & Uses	**$ -**	**$ -**	**$ -**	**0.00%**	**$ -**	**0.00%**

Fund Balance

1200	Excess (Deficiency) Of Revenues Over	$ 2,857,373	$ 78,436,472
3000	Beginning Fund Balance 9/1	$ 47,501,838	
3000	Ending Fund Balance 8/31	**$ 50,359,211**	
3590	Committed Fund Balance	**$ 565,513**	
3600	Unassigned Fund Balance	**$ 49,793,698**	

Lake Travis ISD
COMBINED INTERIM BALANCE SHEET - ALL FUND TYPES
AS OF: January 31, 2022

		General Fund	Special Revenue Funds	Debt Service Fund	Capital Projects Fund	Internal Svc., Trust & Agency Funds	Total Funds
Assets							
Current Assets:							
1101	Cash	$ 5,034,483	$ 982,631	$ 1,018,060	$ 11,531,607	$ 7,298,383	$ 25,865,165
1103	Temporary Investments	128,447,047		49,181,166	29,317,304	113,732	207,059,248
	Total Cash and Investments	**$ 133,481,530**	**$ 982,631**	**$ 50,199,226**	**$ 40,848,911**	**$ 7,412,115**	**$ 232,924,413**
Receivables:							
1210	Property Taxes-Current	$ 15,386,292	$ -	$ 472,773	$ -	$ -	$ 15,859,065
1220	Property Taxes-Delinquent	2,221,884	-	790,767	-	-	3,012,650
1230	Allowance-Uncollected Taxes	(868,808)	-	(279,355)	-	-	(1,148,163)
1240	Due From Federal Agencies	994,953	18,459	-	-	-	1,013,412
1250	Sundry Receivables	636	1,058	-	-	-	1,695
1260	Due From Funds	433,099	-	-	-	1,736,899	2,169,998
1280	Due From Other Funds	1,121	-	-	-	6,333,745	6,334,867
1290	Other Receivables	-	3,370	-	-	-	3,370
1300	Inventories, At Cost	34,855	293,160	-	-	-	328,015
	Total Receivables	**$ 18,204,033**	**$ 316,047**	**$ 984,184**	**$ -**	**$ 8,070,644**	**$ 27,574,909**
1400	Other Current Assets	-	-	-	-	269,407	269,407
	Total Assets	**$ 151,685,563**	**$ 1,298,678**	**$ 51,183,410**	**$ 40,848,911**	**$ 15,752,167**	**$ 260,768,729**
Resources							
5010	Estimated Revenue	$ 147,541,822	$ 13,937,877	$ 53,600,000	$ 70,000	$ 15,796,326	$ 230,946,025
5030	Less: Realized Revenue	122,068,021	3,222,695	43,171,627	13,124	3,011,441	171,486,908
5000	Revenues to be Received	25,473,801	10,715,182	10,428,373	56,876	12,784,885	59,459,117
	Total Assets & Resources	**$ 177,159,364**	**$ 12,013,860**	**$ 61,611,783**	**$ 40,905,787**	**$ 28,537,052**	**$ 320,227,846**
Liabilities							
Current Liabilities:							
2110	Accounts Payable	$ 170,352	$ 204,469	$ -	$ (40)	$ 10,605	$ 385,386
2160	Accrued Wages Payable	7,930,062	394,189	-	7,682	89,551	8,421,484
2170	Due To Other Funds	556,378	178,262	-	2,615	1,408,567	2,145,822
2180	Due To Other Govt's	951	-	334	-		1,285
2190	Due To Student Groups	-	-	-	-	-	-
2150	Payroll Deduct & Withhold	-	-	-	-	11,716,028	11,716,028
	Total Current Payables	**$ 8,657,743**	**$ 776,920**	**$ 334**	**$ 10,257**	**$ 13,224,750**	**$ 22,670,004**
2210	Accrued Expenses	-	-		3,480,072	1,066,715	4,546,787
2300	Deferred Revenue	17,089,510	318,953	6,104,441	-	-	23,512,904
2400	Payable From Restricted Assets	-	-	-	-	-	-
	Total Liabilities	**$ 25,747,253**	**$ 1,095,873**	**$ 6,104,775**	**$ 3,490,329**	**$ 14,291,465**	**$ 50,729,695**
Fund Equity							
6010	Appropriations	$ 144,684,449	$ 13,651,943	$ 48,490,000	$ 40,934,766	$ 16,332,201	$ 264,093,359
6050	Less: Expenditures	(43,631,549)	(4,235,713)	(8,800)	(3,378,503)	(5,912,739)	(57,167,304)
6030	Encumbrances						-
	Available Appropriations	**$ 101,052,900**	**$ 9,416,230**	**$ 48,481,200**	**$ 37,556,263**	**$ 10,419,462**	**$ 206,926,055**
4310	Reserve For Encumbrances		-	-	-	-	-
3600	Unassigned Fund Balance	49,793,698	1,501,757	7,025,808	(140,805)	3,826,125	62,006,583
3590	Committed Fund Balance - Accr. Leave	565,513					565,513
	Total Liability & Fund Equity	**$ 177,159,364**	**$ 12,013,860**	**$ 61,611,783**	**$ 40,905,787**	**$ 28,537,053**	**$ 320,227,847**

SUMMARY OF TAX COLLECTIONS
AS OF JANUARY 2022

2021-22 Original Tax Levy	$ 182,820,518.94
Delinquent Taxes as of 8/31/2021	3,790,302.00
Total Receivables for 2021-22	$ 186,610,820.94
Current Year Adjustments	(738,142.95)
Prior Year Adjustments	(321,603.26)
Adjusted Receivables	$ 185,551,074.73
Total Net Collections To Date	(161,383,693.76)
Outstanding Receivables as of 1/31/2022	$ 24,167,380.97

SUMMARY OF BUDGETED COLLECTIONS	BUDGETED	NET COLLECTED	BUDGETED DIFFERENCE	% OF BUDGET COLLECTED
Maintenance - Current Tax	$ 134,246,504.00	$ 118,218,742.18	$ 16,027,761.82	88.06%
Maintenance - Prior Year Tax	450,000.00	92,783.09	357,216.91	20.62%
Maintenance - Penalties & Interest	600,000.00	107,100.00	492,900.00	17.85%
Sub-total	$ 135,296,504.00	$ 118,418,625.27	$ 16,877,878.73	87.53%
Debt Service - Current Tax	$ 52,800,000.00	$ 42,894,569.09	$ 9,905,430.91	81.24%
Debt Service - Prior Year Tax	200,000.00	32,754.97	167,245.03	16.38%
Debt Service - Penalties & Interest	200,000.00	37,744.43	162,255.57	18.87%
Sub-total	$ 53,200,000.00	$ 42,965,068.49	$ 10,234,931.51	80.76%
Total Collections	$ 188,496,504.00	$ 161,383,693.76	$ 27,112,810.24	85.62%

Tax Collection Comparison with 2021-22: Adjusted Tax Roll	2021-22	2020-21	2019-20
Percent of Current Year Taxes Collected	88.48%	85.48%	88.92%
Percent of Total Taxes Collected	88.55%	85.84%	89.22%
Percent of Total Taxes and P & I Collected	88.63%	85.97%	89.33%

Tax Collection Comparison with 2021-22: Original Tax Roll			
Percent of Current Year Taxes Collected	88.13%	84.95%	88.62%
Percent of Total Taxes Collected	88.20%	85.30%	88.91%
Percent of Total Taxes and P & I Collected	88.27%	85.43%	89.02%

Lake Travis ISD
2018 Bond Program Summary
January 31, 2022

	Resources	Original Budget	Amended Budget	Total Resources	Balance
1	Bond Proceeds	253,000,000.00	236,305,111.00	236,305,111.42	(0.42)
2	Interest Revenue	0.00	5,063,711.00	5,041,782.71	21,928.29
3	Interest Subject to Arbitrage Rebate	0.00	0.00	0.00	0.00
4	Bond Premiums	0.00	18,631,178.00	18,631,178.35	(0.35)
	Total Resources	**253,000,000.00**	**260,000,000.00**	**259,978,072.48**	**21,927.52**

	Appropriations	Original Budget	Amended Budget	Total Expended	Balance to Complete
10	Elementary School #7	31,511,000.00	34,196,881.00	34,596,165.46	(399,284.46)
20	Elementary School #8	3,979,000.00	3,688,531.00	199,308.29	3,489,222.71
30	Secondary School #2	13,802,000.00	9,053,407.00	6,058,725.93	2,994,681.07
40	Middle School #3	75,980,710.00	79,786,275.00	77,283,875.41	2,502,399.59
50	FCA Projects	36,610,132.00	59,320,862.00	49,502,276.33	9,818,585.67
60/70	Small Renovation Improvements	16,927,133.00	14,015,202.00	11,336,938.39	2,678,263.61
	Construction/Renovation	**178,809,975.00**	**200,061,158.00**	**178,977,289.81**	**21,083,868.19**
81	Instructional Materials & Equipment	5,707,000.00	5,639,300.00	3,223,794.37	2,415,505.63
82	Technology	29,901,700.00	25,937,510.00	23,454,243.20	2,483,266.80
83	Copy Machines	750,000.00	750,000.00	457,763.91	292,236.09
84	Maintenance	600,000.00	1,060,000.00	746,555.80	313,444.20
85	Food & Nutrition Services	3,950,789.00	1,973,811.00	1,594,570.08	379,240.92
86	Transportation	13,300,000.00	10,983,059.00	7,590,436.51	3,392,622.49
87	District Furniture & Equipment	6,000,000.00	6,000,000.00	5,736,188.66	263,811.34
88	Police	0.00	400,000.00	353,170.06	46,829.94
90	Land	1,270,000.00	1,270,000.00	561,719.00	708,281.00
91	Bond Closing	2,000,000.00	1,918,024.00	1,918,023.77	0.23
94	Contingency	7,510,536.00	7,142.00	0.00	7,142.00
95	Program Administration	3,200,000.00	3,199,996.00	2,074,095.30	1,125,900.70
97	LTMS Wastewater Expansion	0.00	800,000.00	46,538.45	753,461.55
	Other Programs	**74,190,025.00**	**59,938,842.00**	**47,757,099.11**	**12,181,742.89**
	Total 2018 Bond Program	**253,000,000.00**	**260,000,000.00**	**226,734,388.92**	**33,265,611.08**

AGENDA ITEM ACTION SHEET

AGENDA ITEM
TASB Policy Update 118 Affecting the Following Policies:

CFD(LOCAL): ACCOUNTING - ACTIVITY FUNDS MANAGEMENT
CQB(LOCAL): TECHNOLOGY RESOURCES - CYBERSECURITY
DFE(LOCAL): TERMINATION OF EMPLOYMENT - RESIGNATION
DP(LOCAL): PERSONNEL POSITIONS
EHBC(LOCAL): SPECIAL PROGRAMS - COMPENSATORY/ACCELERATED SERVICES
EIE(LOCAL): ACADEMIC ACHIEVEMENT - RETENTION AND PROMOTION
FDE(LOCAL): ADMISSIONS - SCHOOL SAFETY TRANSFERS
FEA(LOCAL): ATTENDANCE - COMPULSORY ATTENDANCE
FEC(LOCAL): ATTENDANCE - ATTENDANCE FOR CREDIT
FFG(LOCAL): STUDENT WELFARE - CHILD ABUSE AND NEGLECT
FL(LOCAL): STUDENT RECORDS

RECOMMENDED ACTION
For discussion only. Action will be requested at the March 23, 2022 board meeting.

RATIONALE
TASB regularly sends updates of legal and local policy reflective of legislative changes, court cases, Commissioner's rulings, letters, etc. Update 118 includes a significant number or revisions to both legal and local policies as a result of changes implemented during the 87th Regular Legislative Session. For a detailed summary of the recommended changes to local policies, please see the Explanatory Notes.

Note, the policy update for EHAA (LOCAL) was originally included in Update 118. However, that policy was presented to the Board separately and approved during the December 15, 2021 board meeting.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Amber King – General Counsel

ATTACHMENTS
Update 118 Packet
Local Policy Comparison Packet

MEETING DATE
February 16, 2022

Localized Policy Manual Update 118

227913 Lake Travis ISD

Update 118 contains (LOCAL) policies that require board action and adoption notification before we can incorporate the revisions into your district's Policy On Line® manual.

What should I do to prepare for board adoption?

1. In Local Manual Updates[1] *(myTASB login required)*, download and save the numbered update resource material.
2. Present the (LOCAL) policies to your board for adoption.
3. Following board action, notify Policy Service of adoption so we can incorporate the adopted policies into your district's Policy On Line manual.
4. If there are additional changes, submit the annotated changes with your Adoption Notification Form.

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

1. Go to Local Manual Updates and click the "notify TASB" link.
2. Fill out and submit the electronic Adoption Notification Form for TASB-Initiated Updates.

Questions?

- If you have questions regarding Policy On Line, contact pol-support@tasb.org.
- If you have questions regarding policy text, contact your district's assigned policy consultant.[2]

[1] Local Manual Updates: https://www.tasb.org/apps/policyUpdates/GetUpdates.aspx
[2] Contact a Policy Service Consultant: https://www.tasb.org/services/policy-service/consultant-contact-information.aspx

Localized Policy Manual Update 118

Lake Travis ISD

You can download a PDF of this update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more under Local Manual Updates[3] in the myTASB Policy Service Resource Library.

Other materials, including an overview video of the (LOCAL) policy changes, are available under Policy Manual Update Resources.[4]

Need help? Please call your policy consultant at 800-580-7529 or email Policy.Service@TASB.org.

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Overview

Update 118 encompasses changes in law from the 87th Legislative Session that have an immediate effect on the governance and management of the district. See the Explanatory Notes for a full listing of the legal policies affected. Recommended changes to local policies address the following topics:

- Activity funds
- Cybersecurity
- Resignations by contract employees
- School counselor duties
- Human sexuality instruction
- Accelerated instruction and retention and promotion
- School safety transfers

- Optional excused absences for students and attendance for credit
- Child abuse and neglect reporting
- Student records

Your Localized Update 118 packet also contains:

- **Explanatory Notes** describing the changes to each policy. Please note that, where appropriate, the Explanatory Notes ask you to verify that a particular policy reflects current district practice and to advise us of any changes needed so that our records and the district's policy manual accurately track the district's practice. Explanatory notes may also provide important information about policies not included in the update packet.
- **Instructions** for incorporating this update into each of the district's Localized Policy Manuals after board adoption. Use the enclosed Instruction Sheet as a guide to which policies should be added, replaced, and removed from your manual.

PLEASE NOTE: Changes to the policy manual based on bills from the special called sessions will be included in Update 119.

Local Policy Overview for Update 118

Beginning with Update 116, the redesigned publication *Local Policy Overview* replaced *Vantage Points*.

Like *Vantage Points*, the *Local Policy Overview* provides a general, high-level overview of the changes to the (LOCAL) policies included in TASB updates. Presented in both video and written document formats, the *Local Policy Overview* is available on myTASB in Policy Manual Update Resources.[5] From there, you may forward it electronically or print the written document for distribution to staff and board members.

Legal Services Update Memo

TASB Legal Services' Legal Issues in Update 118 memo[6] (available in the myTASB Policy Service Resource Library under Policy Manual Update Resources) describes common legal concerns specific to the local policies recommended in this update for your consideration prior to board adoption of any local policies. Local policies will not be sent for a separate review by Legal Services as part of the update process. If after reviewing the memo you have questions about any specific provisions in your local policies, please contact TASB Legal Services at 800-580-5345.

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

(LEGAL) policies:

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

(LOCAL) policies:

- Require close attention by both the administration and the board
- Must reflect the practices of the district and the intentions of the board
- May only be changed by board action (adopt, revise, or repeal)

If your board adopts changes to the (LOCAL) policies contained in this packet, please notify your policy consultant.

How to Place Policy Changes on the Agenda for Board Action

TASB recommends that the district address this update on the agenda as follows:

> "*Policy Update 118:*
>
> - *(LEGAL) policies*
> - *(LOCAL) policies (see attached list of codes)"*

(LEGAL) policies sub-item: TASB recommends that the board review, but not adopt, the (LEGAL) policies issued in the update. If the board may discuss certain issues addressed by the updated (LEGAL) policies, particularly if those issues are of interest to the public, then, for purposes of discussion, the relevant policy codes, titles, and subtitles should be listed under the sub-item.

(LOCAL) policies sub-item: Board action on the (LOCAL) policies included in the update must occur within a properly posted, open meeting of the board.

- You may use the "(LOCAL) Policy Action List" provided online in Local Manual Updates and include the list under the sub-item, or you may compile a list of (LOCAL) policy codes, titles, and subtitles from the Instruction Sheet and Explanatory Notes included in the update packet.

- A suggested motion for board action on the (LOCAL) policies included in the update:

  "I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 118 [with the following changes:]"

How to Notify Policy Service of Board Action

Notify Policy Service of the board's action on Update 118 so our records remain accurate. Go to Local Manual Updates[7] in myTASB and click the "notify TASB" link. Then fill out and submit the electronic Adoption Notification Form for TASB-Initiated Updates.

How to Keep Minutes

The board's action on Localized Update 118 must be reflected in board minutes. Your minutes should include:

- The list of proposed (LOCAL) policy actions, such as the Instruction Sheet—annotated to reflect any changes made by the board
- The Explanatory Notes for the update (filed as an attachment to the minutes)
- Copies of new, replaced, or rescinded (LOCAL) policies

How to Maintain Your Historical Record

To construct a separate historical record of the manual, you must track the history of individual (LOCAL) policies. You should maintain a permanent historical record of every (LOCAL) policy adopted, revised, or rescinded by the board.

At a minimum, this record should include the following key pieces of information:

- Policy code
- Date of board action
- Text of policy

For more guidance on maintaining this record, please refer to *The Administrator's Guide to Policy Management*,[8] available in the myTASB Policy Service Resource Library.

How to Keep Your Administrative Regulations Current

Regulations Resource Manual[9] Update 64, which includes revisions to model regulations and forms corresponding with Update 118, is now available on myTASB.

Inspect your district's administrative procedures and documents—including (EXHIBIT)s, (REGULATION)s, handbooks, and guides—that may be affected by Update 118 policy changes.

If you must make changes to the (REGULATION)s or (EXHIBIT)s contained in your board policy manual, please notify your policy consultant.

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PLEASE NOTE: 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.

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[3] Local Manual Updates: https://www.tasb.org/apps/policyUpdates/GetUpdates.aspx
[4] Policy Manual Update Resources: https://www.tasb.org/services/policy-service/mytasb/policy-manual-update-resources.aspx
[5] Policy Manual Update Resources: https://www.tasb.org/services/policy-service/mytasb/policy-manual-update-resources.aspx
[6] Legal Issues memo: https://www.tasb.org/services/policy-service/mytasb/policy-manual-update-resources/documents/u118_legal_issues.pdf
[7] Local Manual Updates: https://www.tasb.org/apps/policyUpdates/GetUpdates.aspx
[8] Administrator's Guide to Policy Management: https://www.tasb.org/services/policy-service/mytasb/guidance-for-policy-administrators.aspx
[9] *TASB Regulations Resource Manual*: https://www.tasb.org/services/policy-service/mytasb/regulations-resource-manual.aspx

Instruction Sheet

TASB Localized Policy Manual Update 118

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Code	Type	Action To Be Taken	Note
ATTN	(NOTE)	No policy enclosed	See explanatory note
A	(LEGAL)	Replace table of contents	Revised table of contents
AE	(LEGAL)	Replace policy	Revised policy
AG	(LEGAL)	Replace policy	Revised policy
AIA	(LEGAL)	Replace policy	Revised policy
AIB	(LEGAL)	Replace policy	Revised policy
AIC	(LEGAL)	Replace policy	Revised policy
AIE	(LEGAL)	ADD policy	See explanatory note
BA	(LEGAL)	DELETE policy	See explanatory note
BAA	(LEGAL)	Replace policy	Revised policy
BBA	(LEGAL)	Replace policy	Revised policy
BBBA	(LEGAL)	Replace policy	Revised policy
BBBB	(LEGAL)	Replace policy	Revised policy
BBBD	(LEGAL)	Replace policy	Revised policy
BBD	(LEGAL)	Replace policy	Revised policy
BBFA	(LEGAL)	Replace policy	Revised policy
BDF	(LEGAL)	Replace policy	Revised policy
CBA	(LEGAL)	Replace policy	Revised policy
CBB	(LEGAL)	Replace policy	Revised policy
CCG	(LEGAL)	Replace policy	Revised policy
CCGA	(LEGAL)	Replace policy	Revised policy
CCH	(LEGAL)	Replace policy	Revised policy
CDC	(LEGAL)	Replace policy	Revised policy
CE	(LEGAL)	Replace policy	Revised policy
CFA	(LEGAL)	Replace policy	Revised policy
CFC	(LEGAL)	Replace policy	Revised policy
CFD	(LOCAL)	Replace policy	Revised policy
CH	(LEGAL)	Replace policy	Revised policy
CHE	(LEGAL)	Replace policy	Revised policy
CHF	(LEGAL)	Replace policy	Revised policy
CHG	(LEGAL)	Replace policy	Revised policy
CHH	(LEGAL)	Replace policy	Revised policy
CK	(LEGAL)	Replace policy	Revised policy
CKA	(LEGAL)	Replace policy	Revised policy

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Code	Type	Action To Be Taken	Note
CKB	(LEGAL)	Replace policy	Revised policy
CKC	(LEGAL)	Replace policy	Revised policy
CKD	(LEGAL)	Replace policy	Revised policy
CKE	(LEGAL)	Replace policy	Revised policy
CKEA	(LEGAL)	Replace policy	Revised policy
CKEB	(LEGAL)	Replace policy	Revised policy
CKEC	(LEGAL)	Replace policy	Revised policy
CLA	(LEGAL)	Replace policy	Revised policy
CLE	(LEGAL)	Replace policy	Revised policy
CMD	(LEGAL)	Replace policy	Revised policy
CNA	(LEGAL)	Replace policy	Revised policy
CNC	(LEGAL)	Replace policy	Revised policy
CO	(LEGAL)	Replace policy	Revised policy
CQ	(LEGAL)	Replace policy	Revised policy
CQA	(LEGAL)	Replace policy	Revised policy
CQB	(LEGAL)	Replace policy	Revised policy
CQB	(LOCAL)	Replace policy	Revised policy
CRD	(LEGAL)	Replace policy	Revised policy
CV	(LEGAL)	Replace policy	Revised policy
CVB	(LEGAL)	Replace policy	Revised policy
DBA	(LEGAL)	Replace policy	Revised policy
DC	(LEGAL)	Replace policy	Revised policy
DEA	(LEGAL)	Replace policy	Revised policy
DEAA	(LEGAL)	Replace policy	Revised policy
DEC	(LEGAL)	Replace policy	Revised policy
DECB	(LEGAL)	Replace policy	Revised policy
DFE	(LEGAL)	Replace policy	Revised policy
DFE	(LOCAL)	Replace policy	Revised policy
DG	(LEGAL)	Replace policy	Revised policy
DGC	(LEGAL)	Replace policy	Revised policy
DH	(LEGAL)	Replace policy	Revised policy
DIA	(LEGAL)	Replace policy	Revised policy
DMA	(LEGAL)	Replace policy	Revised policy
DP	(LEGAL)	Replace policy	Revised policy

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Code	Type	Action To Be Taken	Note
DP	(LOCAL)	Replace policy	Revised policy
E	(LEGAL)	Replace table of contents	Revised table of contents
EB	(LEGAL)	Replace policy	Revised policy
EEB	(LEGAL)	Replace policy	Revised policy
EEL	(LEGAL)	Replace policy	Revised policy
EF	(LEGAL)	Replace policy	Revised policy
EHA	(LEGAL)	Replace policy	Revised policy
EHAA	(LEGAL)	Replace policy	Revised policy
EHAA	(LOCAL)	ADD policy	See explanatory note
EHAD	(LEGAL)	Replace policy	Revised policy
EHBAB	(LEGAL)	Replace policy	Revised policy
EHBB	(LEGAL)	Replace policy	Revised policy
EHBC	(LEGAL)	Replace policy	Revised policy
EHBC	(LOCAL)	Replace policy	Revised policy
EHBE	(LEGAL)	Replace policy	Revised policy
EHBF	(LEGAL)	Replace policy	Revised policy
EHBG	(LEGAL)	Replace policy	Revised policy
EHBK	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy
EI	(LEGAL)	Replace policy	Revised policy
EIE	(LEGAL)	Replace policy	Revised policy
EIE	(LOCAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EK	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
EKBA	(LEGAL)	Replace policy	Revised policy
EL	(LEGAL)	Replace policy	Revised policy
EMB	(LEGAL)	Replace policy	Revised policy
EMI	(LEGAL)	Replace policy	Revised policy
FD	(LEGAL)	Replace policy	Revised policy
FDA	(LEGAL)	Replace policy	Revised policy
FDAA	(LEGAL)	Replace policy	Revised policy
FDB	(LEGAL)	Replace policy	Revised policy
FDE	(LEGAL)	Replace policy	Revised policy

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Code	Type	Action To Be Taken	Note
FDE	(LOCAL)	Replace policy	Revised policy
FEA	(LEGAL)	Replace policy	Revised policy
FEA	(LOCAL)	Replace policy	Revised policy
FEC	(LEGAL)	Replace policy	Revised policy
FEC	(LOCAL)	Replace policy	Revised policy
FED	(LEGAL)	Replace policy	Revised policy
FFAC	(LEGAL)	Replace policy	Revised policy
FFB	(LEGAL)	Replace policy	Revised policy
FFBA	(LEGAL)	Replace policy	Revised policy
FFEB	(LEGAL)	Replace policy	Revised policy
FFG	(LEGAL)	Replace policy	Revised policy
FFG	(LOCAL)	Replace policy	Revised policy
FFH	(LEGAL)	Replace policy	Revised policy
FFI	(LEGAL)	Replace policy	Revised policy
FL	(LEGAL)	Replace policy	Revised policy
FL	(LOCAL)	Replace policy	Revised policy
FM	(LEGAL)	Replace policy	Revised policy
FNCD	(LEGAL)	Replace policy	Revised policy
FNCG	(LEGAL)	Replace policy	Revised policy
FNG	(LEGAL)	Replace policy	Revised policy
FOC	(LEGAL)	Replace policy	Revised policy
FOD	(LEGAL)	Replace policy	Revised policy
FOF	(LEGAL)	Replace policy	Revised policy
GBA	(LEGAL)	Replace policy	Revised policy
GBAA	(LEGAL)	Replace policy	Revised policy
GKA	(LEGAL)	Replace policy	Revised policy
GKD	(LEGAL)	Replace policy	Revised policy
GKE	(LEGAL)	Replace policy	Revised policy
GNB	(LEGAL)	Replace policy	Revised policy
GNC	(LEGAL)	Replace policy	Revised policy
GRB	(LEGAL)	Replace policy	Revised policy

Explanatory Notes
TASB Localized Policy Manual Update 118

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ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

Please note:

Changes at Update 118 are based almost exclusively on legislation from the 87th Regular Legislative Session.

Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 87th Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted.

For more information about the bills mentioned below and other changes from the 87th Legislative Session, download the free *2021 Legislative Summary for TASB Members* PDF at https://store.tasb.org/legislative-summary-for-tasb-members-pdf/.

The *Local Policy Overview* for Update 118, available in the myTASB Policy Service Resource Library at https://www.tasb.org/services/policy-service/mytasb/policy-manual-update-resources.aspx, provides a general, high-level overview of the changes to the (LOCAL) policies included in the update. **(LEGAL) policies provide the legal framework for key areas of district operations; they are not adopted by the board.**

Changes to the policy manual based on bills from the special called sessions will be included in Update 119.

A(LEGAL) BASIC DISTRICT FOUNDATIONS

The A Section table of contents has been updated to include the new codes AIE, Investigations, and AEA, Educational Equity.

In Update 119, Policy Service will be reviewing districts' AE(LOCAL) and recoding any equity provisions to the new AEA(LOCAL).

AE(LEGAL) EDUCATIONAL PHILOSOPHY

The objectives of public education have been updated to reflect HB 4509 revisions regarding instruction on American patriotism.

AG(LEGAL) HOME-RULE DISTRICTS

Provisions on home rule districts have been updated to reflect the applicability of Education Code Chapter 39 and special investigations (SB 1365) and parental options to retain students (SB 1697) for these districts.

AIA(LEGAL) ACCOUNTABILITY: ACCREDITATION AND PERFORMANCE INDICATORS

Details regarding accountability performance ratings have been added from SB 1365, including the effects of "Not Rated" and D ratings.

AIB(LEGAL) ACCOUNTABILITY: PERFORMANCE REPORTING

Revisions to the quality of learning indicators are from HB 4545.

AIC(LEGAL) ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS

Significant changes from the 87th Legislature, Regular Session address:

- The authority of conservators, management teams, and boards of managers;

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- Interventions and consequences for D ratings;
- Revisions regarding campus turnaround plans;
- Appeals of interventions and sanctions; and
- New intervention programs, including designation as a resource campus and required compliance with the strong foundations grant program requirements.

We have also added an existing prohibition on student trustees participating in a closed board meeting when a personnel matter is being considered.

Provisions on monitoring reviews and on-site investigations have been moved to AIE, Investigations.

AIE(LEGAL) ACCOUNTABILITY: INVESTIGATIONS

Provisions on special investigations (formerly *special accreditation investigations*) and monitoring reviews and activities have been revised as a result of SB 1365 and moved to this new code on investigations.

BA(LEGAL) BOARD LEGAL STATUS

The provision regarding the board's governance authority has been moved to BAA(LEGAL), which addresses the board's powers and duties.

BAA(LEGAL) BOARD LEGAL STATUS: POWERS AND DUTIES

The provision regarding the board's governance authority has been moved from BA(LEGAL) and revised to better reflect statutory wording.

SB 1365 adds exceptions to the board's exclusive power to govern and oversee the management of the district to address the appointment of a board of managers.

Provisions on the board's authority related to district property have been deleted, as they are included at other codes.

BBA(LEGAL) BOARD MEMBERS: ELIGIBILITY/QUALIFICATIONS

Changes to this legally referenced policy include:

- Clarification regarding felony convictions for eligibility and service as a board member (HB 1540 and Attorney General Opinion KP-0251); and
- Revisions to the definition of "residence" (SB 1111).

BBBA(LEGAL) ELECTIONS: CONDUCTING ELECTIONS

Provisions updated in accordance with HB 3107 include those related to election orders, election notices, filing information, delivery or submission of election documents, drawings to determine the order of names on the ballot, and temporary branch polling places.

SB 1116 requires a new internet posting 21 days before election day with information about the upcoming election.

Requirements regarding early voting rosters have been updated in accordance with HBs 1382 and 1622.

BBBB(LEGAL) ELECTIONS: POST-ELECTION PROCEDURES

HB 3107 clarifies processes for tied votes and runoff elections.

SB 1116 includes a new requirement to post online detailed information on election results.

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BBBD(LEGAL) ELECTIONS: CAMPAIGN ETHICS

Amended Ethics Commission rules change the definition of "political advertising" to address text messages.

BBD(LEGAL) BOARD MEMBERS: TRAINING AND ORIENTATION

The State Board of Education must require school safety training for trustees per HB 690 and work with the Texas School Safety Center to develop curriculum and materials by January 1, 2022.

BBFA(LEGAL) ETHICS: CONFLICT OF INTEREST DISCLOSURES

A definition of "contract" has been added to assist with application of conflicts disclosure provisions. Other provisions have been reordered, reworded, and removed for readability.

BDF(LEGAL) BOARD INTERNAL ORGANIZATION: CITIZEN ADVISORY COMMITTEES

HB 1525 imposes new meeting requirements for school health advisory councils, including posting of meeting details in advance of meetings and preparing and posting meeting minutes and recordings.

CBA(LEGAL) STATE AND FEDERAL REVENUE SOURCES: STATE

An existing provision regarding the purpose of the Foundation School Program has been added.

CBB(LEGAL) STATE AND FEDERAL REVENUE SOURCES: FEDERAL

We have referenced an existing provision that prohibits the use of federal loan or grant funds to procure or obtain foreign telecommunications equipment.

CCG(LEGAL) LOCAL REVENUE SOURCES: AD VALOREM TAXES

Provisions on ad valorem taxes were affected by several bills.

- HB 1525 includes exceptions to the prohibition on levying a maintenance tax at a rate with the intent to create a surplus in maintenance tax revenue to pay the district's debt service. We have also added a reference to the consequences of violating the prohibition without an applicable exception.
- SB 1438 addresses the calculation and adoption of tax rates in a disaster area.

Because provisions permitting a district to adopt a tax rate before adopting a budget no longer align with current statutes and TEA processes for calculating the maximum compressed rate, they have been deleted from the policy.

CCGA(LEGAL) AD VALOREM TAXES: EXEMPTIONS AND PAYMENTS

Legislation affected several provisions on tax exemptions and payments:

- SB 1427 clarifies that the temporary exemption for qualified property damaged by disaster applies only to physical damage.
- SB 1438 repeals the provisions permitting a governing body to adopt a temporary exemption for qualified property damaged by disaster, making the exemption automatic.
- HB 988 addresses exemptions for goods-in-transit when the district is in a disaster area.
- SB 742 expands the existing provision regarding installment payments in a disaster area to include property in an *emergency* area.

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CCH(LEGAL) LOCAL REVENUE SOURCES: APPRAISAL DISTRICT

A recent attorney general opinion clarifies that an employee of an appraisal district may not serve as a trustee in a school district that is a participating entity in the appraisal district.

HB 988 creates a criminal offense for a board member, officer, or employee of a participating taxing unit, such as a school district, who communicates with the appraisal district to influence a property's appraisal value unless the person owns or leases the property.

The circumstances under which a person is ineligible to serve on the board of directors of an appraisal district were revised by SB 63, and additional detail on eligibility restrictions have been added from existing law.

Provisions on adjusting the number of appraisal board members in special circumstances have been removed.

CDC(LEGAL) OTHER REVENUES: GIFTS AND SOLICITATIONS

HB 1525 requires a district to accept donations from a parent-teacher organization or association to fund supplemental educational staff positions and spend the donation for the designated purpose.

Under HB 3979, a district is prohibited from accepting private funding for curriculum or professional development for a course as described by Education Code 28.002(h-3)(3), which pertains to certain social studies course content and requirements.

CE(LEGAL) ANNUAL OPERATING BUDGET

SB 1365 prohibits use of local funds to initiate or maintain an action against the state or officer of the state arising out of a decision, order, or determination that is final and unappealable under the Texas Education Code, unless specifically authorized.

The bill also creates a criminal offense for a board member who votes to approve an expenditure in violation of an Education Code provision for a purpose for which the funds may not be spent.

CFA(LEGAL) ACCOUNTING: FINANCIAL REPORTS AND STATEMENTS

A reference to the updated *Financial Accountability System Resource Guide*, adopted June 2021, has been added.

CFC(LEGAL) ACCOUNTING: AUDITS

A reference to the updated *Financial Accountability System Resource Guide*, adopted June 2021, has been added.

CFD(LOCAL) ACCOUNTING: ACTIVITY FUNDS MANAGEMENT

Recommended revisions to this local policy are to align with the recently adopted amendments to the *Financial Accountability System Resource Guide (FASRG)*, Module 1, Appendix H, on activity funds. (See the *FASRG* Financial Accounting and Reporting Appendices at https://tea.texas.gov/sites/default/files/fasrg17-module1-farappendices-final-accessible.pdf.)

Substantive changes include clarification that student activity funds are those funds raised and collected by student clubs and organizations. Approval to spend those funds rests solely with the student organization or club, with disbursement management and approvals by the principal and sponsor.

A more specific reference to the district's accounting practices and procedures was added regarding management of expenditures.

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CH(LEGAL) PURCHASING AND ACQUISITION

The Professional Services Procurement Act was revised to address procurement of services by forensic analysts and science experts (HB 3774) and physicians, optometrists, and registered nurses under certain circumstances (SB 799).

A definition of a "contingent fee contract" for legal services has been added from SB 1821, and other revisions on this topic are from HB 1428.

SB 799 also amends provisions on management fees under cooperative purchasing contracts.

CHE(LEGAL) PURCHASING AND ACQUISITION: VENDOR DISCLOSURES AND CONTRACTS

Districts are prohibited from entering into certain contracts with a company for goods and services unless the contract contains written verification that the company:

- Does not boycott energy companies, as described (SB 13); and
- Does not discriminate against a firearm entity or firearm trade association, as described (SB 19).

Existing statutory provisions on vendor conflict of interest questionnaires have been added for completeness.

CHF(LEGAL) PURCHASING AND ACQUISITION: PAYMENT PROCEDURES

HB 1476 imposes additional requirements on districts regarding disputed invoices with vendors.

CHG(LEGAL) PURCHASING AND ACQUISITION: REAL PROPERTY AND IMPROVEMENTS

Revisions to the annual eminent domain reporting requirements have been added from SB 157.

CHH(LEGAL) PURCHASING AND ACQUISITION: FINANCING PERSONAL PROPERTY PURCHASES

SB 58 adds cloud computing services to the definition of personal property under the Public Property Finance Act.

Existing legal sources related to the Public Property Finance Act have been added for completeness and address lease-purchase contracts and fair processes for competitive bidding.

CK(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT

Changes from HB 3597 include the following:

- A district will have three, not six, months to respond to a notification from the Texas School Safety Center (TxSSC) that the district failed to report the results of its safety audit.
- A copy of a memorandum of understanding or mutual aid agreement between a district and another entity addressing school safety and security issues provided to the TxSSC is confidential and not subject to disclosure under the Public Information Act.

CKA(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: INSPECTIONS

Extensive revisions to this legally referenced policy on asbestos are a result of amended Texas Asbestos Health Protection rules effective July 8, 2021.

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CKB(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: ACCIDENT PREVENTION AND REPORTS

HB 3597 requires the commissioner of education in consultation with other relevant entities to adopt rules on emergency drills and exercises. The previous Administrative Code provisions have been removed pending development of the new rules.

Before a district may conduct an active threat exercise, the district must comply with new notice provisions and other requirements in accordance with SB 168. The *Regulations Resource Manual* includes a sample notification form.

CKC(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: EMERGENCY PLANS

Legislative cleanup resulted in several revisions to this legally referenced policy on emergency plans:

- HB 3607 removes a reference to an expired statute;
- HB 3597 clarifies that a multihazard emergency operations plan must include responding to a train derailment if a district *facility*, rather than a *school*, is within 1000 yards of a railroad track; and
- HB 3597 corrects a reference to the *five*, not *four*, phases of emergency management to be addressed in a multihazard emergency operations plan.

CKD(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: EMERGENCY MEDICAL EQUIPMENT AND PROCEDURES

Although still required, the annually provided instruction on cardiopulmonary resuscitation and the use of automated external defibrillators no longer has to meet guidelines under the Health and Safety Code. (SB 199)

CKE(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: SECURITY PERSONNEL

HB 1788 addresses a school district's immunity from liability for damages resulting from a reasonable action by security personnel to maintain safety at a school campus, including actions relating to possession or use of a firearm. The district also has immunity from liability for any reasonable action taken by a district employee who has written permission from the board to carry a firearm on campus.

We have revised the provisions on authorizing handguns from Attorney General Opinion GA-1051 in light of the repeal of Penal Code 46.035 by HB 1927.

CKEA(LEGAL) SECURITY PERSONNEL: COMMISSIONED PEACE OFFICERS

SB 24 adds new pre-employment procedures that law enforcement agencies must follow before hiring a licensed peace officer.

If the Texas Commission on Law Enforcement (TCOLE) provides model policies on the topics required in law, a law enforcement agency must, within 180 days of TCOLE providing the policies, adopt a policy on the required topics and may adopt the model policies. (HB 3712)

A law enforcement agency that intends to use a drone for law enforcement purposes must, no later than January 1, 2022, adopt a policy regarding the use of force by means of a drone. (HB 1758)

HB 929 amends existing provisions on body-worn cameras and requires an officer to keep the camera activated during an investigation in which the officer is participating.

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CKEB(LEGAL) SECURITY PERSONNEL: SCHOOL MARSHALS

SB 741 permits a school marshal to carry a concealed handgun and eliminates the previous requirement for the firearm to be locked in a secure safe within the marshal's immediate reach if the marshal has direct, regular contact with students.

CKEC(LEGAL) SECURITY PERSONNEL: SCHOOL RESOURCE OFFICERS

SB 1191 amends the definition of a school resource officer to exclude a peace officer who only provides services at extracurricular activities.

CLA(LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT: SECURITY

A new requirement to post human trafficking warning signs has been added from SB 1831.

CLE(LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT: FLAG DISPLAYS

Pursuant to SB 797, schools must display in each building a poster or framed copy of the national motto that also includes representations of the U.S. and state flags if donated or purchased from private donations.

CMD(LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT: INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

HB 3261 expands the items and services on which a district can use its technology and instructional materials allotment (TIMA).

The bill also eliminates the provision requiring a district to purchase items in a specified order.

CNA(LEGAL) TRANSPORTATION MANAGEMENT: STUDENT TRANSPORTATION

SB 204 permits a district to operate a transportation system for interdistrict transfer students outside district boundaries and without having an interlocal agreement with the transferring district if the district meets applicable certification requirements and has a policy that prohibits the screening of transfer requests using academic performance, disciplinary history, or attendance records.

Please contact your policy consultant if your district will use this approach and you need changes to FDA(LOCAL). The *Regulations Resource Manual* includes a sample certification statement.

A district in a disaster area is eligible for transportation funding for the cost of transporting a meal or instructional materials in accordance with SB 462.

Other revisions are to better match legal sources.

CNC(LEGAL) TRANSPORTATION MANAGEMENT: TRANSPORTATION SAFETY

SB 1267 repeals provisions on school bus emergency evacuation training.

CO(LEGAL) FOOD AND NUTRITION MANAGEMENT

SB 1351 revises provisions permitting a campus to donate surplus food. Links have also been updated.

CQ(LEGAL) TECHNOLOGY RESOURCES

SB 475 adds "robotic process automation" to the examples of next generation technology.

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CQA(LEGAL) TECHNOLOGY RESOURCES: DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

The list of required internet postings has been updated to include:

- Election information and election results (SB 1116);
- Notice of school health advisory council (SHAC) meetings, minutes, and recordings (HB 1525);
- A link to the comptroller website to find information on the district's agreements to limit appraised property values (existing requirement);
- Information regarding compliance with requirements for a district that will operate a transportation system outside district boundaries without an interlocal agreement (SB 204); and
- The district's employment policy and any referenced regulations (HB 750).

The optional posting pertaining to annual notice of programs for college credit has been updated as a result of SB 1095.

CQB(LEGAL) TECHNOLOGY RESOURCES: CYBERSECURITY

Reporting of a breach of system security to TEA now includes a requirement to also report to an entity with which TEA contracts and may be made by district employees other than the cybersecurity coordinator per SB 1696.

Cybersecurity training requirements were amended by HB 1118 and SB 1267.

Security breach notifications under the Business and Commerce Code were amended by HB 3746.

CQB(LOCAL) TECHNOLOGY RESOURCES: CYBERSECURITY

Based on HB 1118 and SB 1267, the provision addressing board delegation to the superintendent regarding cybersecurity training has been revised to:

- Reflect the elimination of the annual training requirement (except for the cybersecurity coordinator); and
- Give the superintendent the authority to impose consequences for failure to complete required training.

Recommended revisions regarding reports of breaches involving student information are based on SB 1696, which permits the district, rather than the cybersecurity coordinator, to report breaches to TEA and others as required by law.

Sample procedures in the *Regulations Resource Manual* have also been updated based on these changes.

CRD(LEGAL) INSURANCE AND ANNUITIES MANAGEMENT: HEALTH AND LIFE INSURANCE

SB 1444 permits a district participating in TRS ActiveCare to opt out of participation as described and prohibits a district participating in TRS ActiveCare from offering health coverage that is not provided under TRS ActiveCare.

Other revisions are to reorder provisions for better flow, remove unnecessary provisions, and better reflect legal sources.

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CV(LEGAL) FACILITIES CONSTRUCTION

HB 2581 amends provisions on contracting procedures for construction projects, including evaluation of submissions and criteria for awarding construction contracts.

SB 338 permits a district to adopt and incorporate into relevant contracts the Texas Facilities Commission's uniform general conditions.

CVB(LEGAL) FACILITIES CONSTRUCTION: COMPETITIVE SEALED PROPOSALS

HB 2581 requires a district using competitive sealed proposals for construction projects to make the evaluations public within 7 business days of the contract award and provide the evaluations to all offerors. A reference to provisions on weighting the value assigned to price has also been added.

DBA(LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: CREDENTIALS AND RECORDS

New provisions from HB 1525 and SB 1356 permit members of teacher organizations and other eligible individuals to participate in a tutoring program to provide supplemental instruction to students as overseen by the superintendent.

DC(LEGAL) EMPLOYMENT PRACTICES

A new posting requirement from HB 750 requires a district to post on its website the employment policy required by Education Code 11.1513(a) and any regulations referenced in the policy. Any form referenced in the policy must be posted on the district's intranet or at a district administrative office.

HB 1525 requires a district to accept donations from a parent-teacher organization or association to fund supplemental educational staff positions and spend the donation for the designated purpose.

DEA(LEGAL) COMPENSATION AND BENEFITS: COMPENSATION PLAN

With limited exceptions, HB 1525 requires a district to maintain salaries provided for the 2019–20 school year under HB 3, 86th Legislative Session, as long as the employee remains employed by the district.

Revisions regarding TRS surcharges for rehired retirees include:

- A prohibition against a district passing on to a retiree the cost of TRS surcharges (SB 202); and
- A temporary exemption from TRS surcharges through February 1, 2025, when a retiree is employed to mitigate student learning loss (SB 288).

DEAA(LEGAL) COMPENSATION PLAN: INCENTIVES AND STIPENDS

HB 1525 eliminates the requirement that a teacher be certified to be designated a master, exemplary, or recognized teacher under a local optional teacher designation system.

Changes to provisions on mentor teachers and achievement academy stipends are from SB 1267.

DEC(LEGAL) COMPENSATION AND BENEFITS: LEAVES AND ABSENCES

Districts that employ peace officers must implement two new leave provisions.

- SB 1359 requires a policy allowing the use of paid mental health leave by officers who experience a traumatic event in the scope of employment.
- HB 2073 requires the board to develop and implement a paid quarantine leave policy for district peace officers who are ordered to isolate or quarantine because of possible or known exposure to a communicable disease while on duty.

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In July, Policy Service sent an email with information on local policy changes to districts which our records show employ peace officers. If your district employs peace officers and has not yet contacted the district's policy consultant for policy revisions, please do so.

DECB(LEGAL) LEAVES AND ABSENCES: MILITARY LEAVE

HB 1589 adds new disaster leave provisions for employees in the military who are called to state active duty in response to a disaster.

DFE(LEGAL) TERMINATION OF EMPLOYMENT: RESIGNATION

HB 2519 requires notice to employees whom the district reports to SBEC for contract abandonment and limits SBEC's authority to sanction a teacher who files a resignation after the 45th day but no later than the 30th day before the first day of instruction.

DFE(LOCAL) TERMINATION OF EMPLOYMENT: RESIGNATION

Revisions to this local policy on resignations are guided by a recent commissioner of education proposal for decision. Based on the relevant statutory wording, a contract employee's resignation effective at the end of the school year must be filed with the board of trustees or the board's designee. The board's designee, typically the superintendent, may not further delegate the ability to receive these resignations. Therefore, in addition to those positions currently listed in policy as board-authorized to accept resignations, we recommend adding the text *other person designated by board action*.

New recommended text states that if a contract employee provides a resignation to a supervisor who has not been designated by the board to accept such resignations, the supervisor shall instruct the employee to submit the resignation to the superintendent, another employee designated in the policy, or other person designated by board action.

We have also clarified that a superintendent may delegate authority to accept at-will resignations to other administrators.

The *Regulations Resource Manual* includes sample resolutions if the board chooses to designate a district employee, in addition to the superintendent, to accept contract employee resignations.

Please note: We have retained text delegating to the deputy superintendent and assistant superintendent of human resources services the authority to accept resignations from contract employees effective before the end of the school year. Please contact your policy consultant if this text needs adjustment. If the board would like to list positions in the policy authorizing other positions to accept resignations effective at the end of the school year, please call your policy consultant.

DG(LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

As a result of HB 3979, a teacher in a required social studies course may not be compelled to discuss a current event or widely debated and currently controversial issue of public policy or social affairs.

DGC(LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES: IMMUNITY

SB 6 provides that a person is not liable for injury or death caused by exposing an individual to a pandemic disease during a pandemic emergency except as provided by law.

DH(LEGAL) EMPLOYEE STANDARDS OF CONDUCT

HB 375 amends the offense of continuous sexual abuse of a young child or children to include continuous sexual abuse of “a disabled individual.”

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DIA(LEGAL) EMPLOYEE WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

SB 45 clarifies that an employer commits an unlawful employment practice for failing to take immediate and appropriate corrective action regarding sexual harassment that the employer or employer's agents knew or should have known was occurring.

SB 282 prohibits a district from using public money to settle or pay a sexual harassment claim against a board member or an officer or employee of the district.

DMA(LEGAL) PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

Numerous revisions throughout this legally referenced policy on staff development are a result of SB 1267, which amends current requirements and requires SBEC, by June 1, 2022, to create a clearinghouse on continuing education and training requirements that includes recommendations for the frequency of training.

Boards must develop a professional development policy by August 1, 2022, that includes a schedule of training based on the clearinghouse or notes any differences between the board policy and the clearinghouse recommendations. Policy Service will provide local policy recommendations following publication of the clearinghouse.

Other legislation affecting this policy includes:

- HB 159, requiring certain elements be included in educator staff development;
- HB 1525, delaying requirements for teacher literacy achievement academies;
- HB 2681, requiring teachers of elective Bible courses to be certified in one of three areas and complete commissioner-developed training; and
- SB 199, eliminating the requirement for instruction on cardiopulmonary resuscitation and the use of automated external defibrillators to meet guidelines under the Health and Safety Code.

DP(LEGAL) PERSONNEL POSITIONS

SB 179 mandates that the board adopt a policy requiring a school counselor to spend at least 80 percent of the school counselor’s work time on duties that are components of a comprehensive school counseling program (CSCP). See DP(LOCAL), below, for more information.

Provisions in relevant employment contracts cannot conflict with the policy, and a district must annually assess the policy.

DP(LOCAL) PERSONNEL POSITIONS

Revisions regarding school counselors are based on SB 179, which mandates that the board adopt a policy requiring a school counselor to spend at least 80 percent of total work time on duties that are components of a comprehensive school counseling program (CSCP). If the board determines that, because of staffing needs in the district or at a campus, a school counselor cannot spend 80 percent of work time on CSCP components, the policy must address further details regarding the counselor's duties.

The recommended policy text is structured for the administration, rather than the board, to make the initial administrative determination about a counselor's job duties. If the board approves that determination, the board shall direct the superintendent to develop a revised job description for that counselor that will address the requirements in law.

The list of principal qualifications has been adjusted to include a reference to the job description.

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In accordance with these revisions, TASB HR Services has revised its model job descriptions available to subscribers in the HR Library at https://www.tasb.org/services/hr-services/mytasb/model-job-descriptions/campus-instruction.aspx.

E(LEGAL) INSTRUCTION

The E Section table of contents has been revised to change the subtitle of EKBA to English Learners/Emergent Bilingual Students to align with changes from SB 2066.

EB(LEGAL) SCHOOL YEAR

A district may receive full ADA if it provides at least 43,200 minutes of instructional time to students enrolled in a school operating an adult high school charter school program in accordance with SB 1615.

EEB(LEGAL) INSTRUCTIONAL ARRANGEMENTS: CLASS SIZE

Class size limits have been extended to prekindergarten by SB 2081.

EEL(LEGAL) INSTRUCTIONAL ARRANGEMENTS: CONTRACTS WITH OUTSIDE AGENCIES

Driver training *schools* are renamed driver training *providers* by HB 1560.

EF(LEGAL) INSTRUCTIONAL RESOURCES

SB 348 clarifies that a parent is entitled to review teaching and instructional materials while a child is participating in virtual or remote learning and to observe virtual instruction.

EHA(LEGAL) CURRICULUM DESIGN: BASIC INSTRUCTIONAL PROGRAM

As provided by SB 6, a district is not liable for damages or monetary relief from a cancellation or modification of a course, program, or activity if the action is due to a pandemic emergency.

EHAA(LEGAL) BASIC INSTRUCTIONAL PROGRAM: REQUIRED INSTRUCTION (ALL LEVELS)

Provisions on required instruction have been added to reflect HB 4509 revisions regarding instruction on American patriotism, Texas history, and the free enterprise system.

HB 1525 imposes several requirements regarding human sexuality curriculum materials, including:

- Revised parental notification and new parental consent provisions;
- Posting of proposed and adopted curriculum materials and options for a parent to purchase copyrighted materials from the publisher; and
- New board policy on adopting curriculum materials [see EHAA(LOCAL), below].

The *Regulations Resource Manual* includes a sample board resolution for convening the SHAC and a sample parental consent form.

SB 123 revises the list of topics that must be addressed in character education programs.

EHAA(LOCAL) BASIC INSTRUCTIONAL PROGRAM: REQUIRED INSTRUCTION (ALL LEVELS)

New provisions are recommended based on HB 1525, which imposes several requirements regarding human sexuality curriculum materials, including a board policy on adopting curriculum materials. The policy follows the steps required by law, including board adoption of a resolution to convene the school health

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advisory council (SHAC) to hold meetings and make recommendations to the board at a public meeting, as well as board confirmation that the recommendations meet the requirements in law before taking action by a record vote.

The *Regulations Resource Manual* includes a sample board resolution for convening the SHAC and a sample parental consent form.

EHAD(LEGAL) BASIC INSTRUCTIONAL PROGRAM: ELECTIVE INSTRUCTION

Driver training *schools* are renamed driver training *providers* by HB 1560.

EHBAB(LEGAL) SPECIAL EDUCATION: ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

SB 89 requires districts to add supplemental information to the individualized education program (IEP) of any child who was enrolled in special education during the 2019–20 or 2020–21 school years.

The admission, review, and dismissal committee of a student who is participating in the new supplemental special education services and instructional materials program created by SB 1716 must provide certain information to parents and cannot consider the supplemental services when developing the IEP.

HB 785 imposes new requirements when a student has a behavioral improvement or intervention plan.

EHBB(LEGAL) SPECIAL PROGRAMS: GIFTED AND TALENTED STUDENTS

HB 1525 eliminates the statutory requirement for a district to annually certify its gifted and talented program to the commissioner.

EHBC(LEGAL) SPECIAL PROGRAMS: COMPENSATORY/ACCELERATED SERVICES

Numerous legislative changes affect this legally referenced policy on compensatory and accelerated services.

- The compensatory education allotment may be used for services of an instructional coach (HB 1525).
- The list of students at risk of dropping out of school excludes students who are retained in prekindergarten (SB 1697) and includes students enrolled in a dropout recovery school (HB 572) and students participating in an adult high school charter school program (SB 1615).
- The term "limited English proficient" has been changed to "emergent bilingual" (SB 2066).
- New provisions have been added on required services after an unsatisfactory performance on state assessments, including accelerated instruction, accelerated learning committees, and parent requests for specific teachers (HB 4545).

EHBC(LOCAL) SPECIAL PROGRAMS: COMPENSATORY/ACCELERATED SERVICES

Recommended revisions to this local policy include references to accelerated instruction and accelerated learning committees as revised by HB 4545 and direct parents to FNG, the district's existing grievance policy, for complaints about educational plans.

The text also explains that parental requests for a student to be assigned to a particular teacher following a student's unsatisfactory performance on a grade 3, 5, or 8 math or reading assessment shall be handled in accordance with the district's administrative procedures. The *Regulations Resource Manual* includes sample procedures and a form for these parental requests.

The *Legal Issues in Update 118* memo describes common legal concerns and best practices specific to this policy topic.

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EHBE(LEGAL) SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

SB 2066 revises the term "limited English proficient" to "emergent bilingual" in several instances and adds a definition of the new term.

EHBF(LEGAL) SPECIAL PROGRAMS: CAREER AND TECHNICAL EDUCATION

In addition to existing career and technology education program notification requirements, SB 1095 adds a requirement for the district to provide parents notification of certain work-based education programs offered by the district.

EHBG(LEGAL) SPECIAL PROGRAMS: PREKINDERGARTEN

Eligibility for free prekindergarten enrollment for three-year-olds has been extended by HB 725 to children who were in foster care in another state.

Subject to certain requirements, a parent may elect for a student to repeat prekindergarten or enroll in prekindergarten for the first time if the student would have been eligible the previous year and has not yet enrolled in kindergarten (SB 1697).

To obtain an exemption from requirements regarding prekindergarten classes for four-year-olds, a district must first solicit proposals for partnerships (HB 1525).

A prekindergarten program provided by a private entity must comply with class size limits (SB 2081).

EHBK(LEGAL) SPECIAL PROGRAMS: OTHER INSTRUCTIONAL INITIATIVES

As revised by HB 3257, instruction required during Holocaust Remembrance Week must include materials developed or approved by the Texas Holocaust, Genocide, and Antisemitism Advisory Commission.

EHDD(LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT: COLLEGE COURSE WORK/DUAL CREDIT

In addition to existing career and technology program notification requirements, SB 1095 adds a requirement for the district to provide notice of work-based education programs offered by the district, such as internships, externships, apprenticeships, or a Pathways in Technology Early College High School (P-TECH) program, and to notify parents of the qualifications for enrolling in these programs. A district must also provide notice regarding subsidies to take college advanced placement tests or international baccalaureate examinations.

An agreement with an institution of higher education must designate an employee of the district or the higher education institution as responsible for providing academic advising to students who will enroll in a dual credit course, as specified by SB 1277.

EI(LEGAL) ACADEMIC ACHIEVEMENT

Revised Administrative Code rules require the academic achievement record to reflect compliance with the requirement to complete a free application for federal student aid (FAFSA) or Texas application for state financial aid (TASFA).

SB 1888 eliminates the Early High School Graduation Scholarship Program.

EIE(LEGAL) ACADEMIC ACHIEVEMENT: RETENTION AND PROMOTION

HB 4545 eliminates grade advancement provisions for students in grades 5 and 8.

SB 1697 creates parental options to retain students in prekindergarten through grade 8 or retake a high school credit course, even if the student has met the promotion standards or passed the course. In addi-

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tion, a parent may enroll a student in prekindergarten or kindergarten as specified if the student was eligible the previous year. The bill includes a process to be followed if the district disagrees with the request. However, if the parent participates in that process, the parent may make the final decision whether the student will be retained. The retention provisions for grades 4–8 and for high school courses expire September 1, 2022.

EIE(LOCAL) ACADEMIC ACHIEVEMENT: RETENTION AND PROMOTION

Outdated provisions on grade advancement testing have been removed as a result of HB 4545, including provisions on assignment of retained students, which were based on Administrative Code provisions addressing grade advancement requirements. The statement about eliminating the practice of retaining students is recommended for deletion, as it is only needed if a district operates an optional extended year program (OEYP) under Education Code 29.082.

Accelerated instruction is now addressed at EHBC.

Please review your policy and contact your policy consultant if the district's grade level promotion standards need revision. The article “Level-Up? Promotion to the Next Grade Depends on Board Policy” (available in the TASB Member Center at https://www.tasb.org/members/enhance-district/local-promotion-standards/) provides additional information on grade level promotion standards.

The *Legal Issues in Update 118* memo describes common legal concerns and best practices specific to this policy topic.

EIF(LEGAL) ACADEMIC ACHIEVEMENT: GRADUATION

SB 369 adds details regarding how a school counselor reports compliance with the requirement for a student to complete a free application for federal student aid (FAFSA) or Texas application for state financial aid (TASFA).

The statutory expiration date for individual graduation committees was repealed by HB 1603.

Provisions on the Texas First Early High School Completion Program are from SB 1888.

Revised Administrative Code rules clarify that the requirement to demonstrate proficiency in specific communication skills for graduation may be satisfied beginning in grade 8.

EK(LEGAL) TESTING PROGRAMS

We have removed TEA obligations regarding reimbursement procedures for college preparation assessments.

EKB(LEGAL) TESTING PROGRAMS: STATE ASSESSMENT

The statutory term "limited English proficient" has been changed to "emergent bilingual" (SB 2066).

SB 1267 permits the district employee who oversees test administration to require other district employees who administer assessments to repeat test administration training.

References to the Texas Success Initiative Assessment, Version 2.0 (TSIA2) have been added as a result of revised Administrative Code rules.

Revisions regarding accelerated instruction are based on HB 4545.

EKBA(LEGAL) STATE ASSESSMENT: ENGLISH LEARNERS/EMERGENT BILINGUAL STUDENTS

The statutory term "limited English proficient" has been changed to "emergent bilingual" (SB 2066).

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EL(LEGAL) CAMPUS OR PROGRAM CHARTERS

HB 3607 revises funding provisions applicable when a district contracts with an open-enrollment charter school to jointly operate a campus.

SBs 1365 and 1697 revise the list of laws applicable to charter campuses or programs.

EMB(LEGAL) MISCELLANEOUS INSTRUCTIONAL POLICIES: TEACHING ABOUT CONTROVERSIAL ISSUES

HB 3979 adds numerous restrictions for a social studies course in the required curriculum.

EMI(LEGAL) MISCELLANEOUS INSTRUCTIONAL POLICIES: STUDY OF RELIGION

HB 2681 permits a district to offer an elective course on the Bible beginning in grade 6, rather than grade 9.

FD(LEGAL) ADMISSIONS

A statement has been added for new provisions from HB 4545 regarding enrollment in prekindergarten and kindergarten under certain circumstances. A cross-reference has also been added to EIE(LEGAL).

SB 746 requires a parent to provide to the district in writing the parent's contact information.

In accordance with SB 1615, a student enrolled in an adult high school charter school program is entitled to the benefits of the available school fund if the student is under 50 years of age.

FDA(LEGAL) ADMISSIONS: INTERDISTRICT TRANSFERS

SB 481 allows a student to transfer to another district if the student's current district will offer only virtual instruction for more than one grading period during the school year.

A cross-reference to CNA has been added for provisions on operating a transportation system outside the district to transport interdistrict transfer students.

FDAA(LEGAL) INTERDISTRICT TRANSFERS: PUBLIC EDUCATION GRANTS

SB 1365 revises public education grants to make a student eligible if the student is assigned to a campus with any unacceptable performance rating.

FDB(LEGAL) ADMISSIONS: INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

SB 1365 revises public education grants to make a student eligible if the student is assigned to a campus with any unacceptable performance rating.

FDE(LEGAL) ADMISSIONS: SCHOOL SAFETY TRANSFERS

HB 375 amends the offense of continuous sexual abuse of a young child or children to include continuous sexual abuse of "a disabled individual."

FDE(LOCAL) ADMISSIONS: SCHOOL SAFETY TRANSFERS

Recommended revisions are to reflect a change from HB 375, which amends the offense of continuous sexual abuse of a young child or children to include continuous sexual abuse of "a disabled individual."

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FEA(LEGAL) ATTENDANCE: COMPULSORY ATTENDANCE

HB 699 requires a school district to excuse a student's absence resulting from a serious or life-threatening illness or related treatment that makes the student's attendance infeasible, if proper documentation is provided.

SB 289 creates an optional excused absence for a student who is at least 15 years old to be absent for one day to obtain a learner license and for one day to obtain a driver's license.

HB 3165 provides an affirmative defense to truant conduct if absences were due to a child's voluntary absence from home because of abuse.

FEA(LOCAL) ATTENDANCE: COMPULSORY ATTENDANCE

We have added text to address SB 289, which creates an optional excused absence for a student who is at least 15 years old to be absent for one day to obtain a learner license and for one day to obtain a driver's license. **Contact the district's policy consultant if your district will not permit these excused absences.** The *Regulations Resource Manual* includes at FEA a sample form for students to verify an absence to visit a driver's license office and, at FEB, a chart listing acceptable documentation for absences, including for learner permits and driver's licenses.

Various references about providing verification of the absences addressed in the policy have been consolidated into a single statement.

The *Legal Issues in Update 118* memo describes common legal concerns and best practices specific to this policy topic.

FEC(LEGAL) ATTENDANCE: ATTENDANCE FOR CREDIT

HB 699 prohibits a district from considering excused absences resulting from a serious or life-threatening illness or related treatment in determining whether a student has satisfied attendance requirements for a final grade or credit.

FEC(LOCAL) ATTENDANCE: ATTENDANCE FOR CREDIT

Numerous revisions are recommended to this local policy on attendance for credit.

- As reflected in the revision at Absences Considered, in calculating whether a student has met the 90 percent attendance requirement, HB 699 creates an exception for absences resulting from a serious or life-threatening illness or related treatment. The *Regulations Resource Manual* includes sample letters to notify parents of student absences, which have been updated to reflect this exception.
- Administrative details on documentation of student illnesses have been included in the *Model Student Handbook* and are recommended for deletion.
- Provisions on the attendance committee's consideration of the best interest of the student, extenuating circumstances, and conditions for awarding credit or a final grade have been revised and reordered to emphasize a student's mastery of the essential knowledge and skills and maintaining a passing grade rather than assigning a student to attend programs for an amount of time equivalent to the student's absences.

The *Legal Issues in Update 118* memo describes common legal concerns and best practices specific to this policy topic.

FED(LEGAL) ATTENDANCE: ATTENDANCE ENFORCEMENT

HB 699 prohibits a district from referring a student to truancy court and requires a district to provide counseling to a student who is absent due to a severe or life-threatening illness or related treatment.

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The sample Truancy Prevention Measures Checklist in the *Regulations Resource Manual* has been updated to reflect this change.

FFAC(LEGAL) WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

SB 1267 requires that training on unassigned epinephrine auto-injectors be in accordance with the district's professional development policy, which must be adopted by August 1, 2022, following publication of the SBEC clearinghouse on continuing education and training requirements. See DMA(LEGAL) above for information.

SB 6 addresses immunity of certain medical professionals for injury or death caused by care, treatment, or failure to provide care or treatment relating to a pandemic disease.

FFB(LEGAL) STUDENT WELFARE: CRISIS INTERVENTION

HB 3597 provides flexibility regarding the requirement for a district's threat assessment team to include a variety of members with extensive expertise and now requires the superintendent to ensure, *to the greatest extent practicable*, that the members have the required expertise.

FFBA(LEGAL) CRISIS INTERVENTION: TRAUMA-INFORMED CARE

SB 1267 requires that training on trauma-informed care be in accordance with the district's professional development policy, which must be adopted by August 1, 2022, following publication of the SBEC clearinghouse on continuing education and training requirements. See DMA(LEGAL) above for information.

The bill also repeals the requirement to report on training compliance to TEA.

FFEB(LEGAL) COUNSELING AND MENTAL HEALTH: MENTAL HEALTH

As required by SB 279, student identification cards must include the contact information for the National Suicide Prevention Lifeline and the Crisis Text Line and may include a local suicide prevention hotline, if available.

FFG(LEGAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

HB 3379 changes the standard of reporting child abuse and neglect from "cause to believe" to "*reasonable* cause to believe."

In addition, we have reordered provisions to better align with the structure of FFG(LOCAL) and have added an existing definition for completeness.

FFG(LOCAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

Recommended revisions to this local policy incorporate HB 3379 changes to the standard of reporting child abuse and neglect from "cause to believe" to "*reasonable* cause to believe."

A reference to the definition of a person responsible for the care, custody, or welfare of a child has been added for clarification.

We have also clarified that training will be as required by law and district policy in anticipation of the new district professional development policy that must be in place by August 2022. See DMA above for more information.

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FFH(LEGAL) STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

Dating violence training is now only required on campuses that instruct students in grade six or higher in accordance with SB 1267.

An adjustment to the Note on Title IX explains that the Office for Civil Rights (OCR) has issued a formal interpretation that discrimination on the basis of sex under Title IX includes discrimination on the basis of sexual orientation and gender identity.

FFI(LEGAL) STUDENT WELFARE: FREEDOM FROM BULLYING

In accordance with SB 2050, district bullying policies must address prevention and mediation of bullying incidents and comply with minimum standards adopted by TEA. Policy Service will recommend local policy revisions following publication of the TEA minimum standards.

FL(LEGAL) STUDENT RECORDS

Changes in federal law prompted revisions regarding access to student information by military recruiters, who may have access to a student's district-provided email address unless a parent has advised the district not to release this information.

FL(LOCAL) STUDENT RECORDS

At Types of Education Records, we have replaced an outdated reference to the "grade placement committee" with a reference to the "accelerated learning committee" in accordance with HB 4545.

The *Legal Issues in Update 118* memo describes common legal concerns and best practices specific to this policy topic.

FM(LEGAL) STUDENT ACTIVITIES

The requirement for the UIL to provide training to extracurricular students in recognizing the symptoms of catastrophic injuries and the risks of using dietary supplements has been removed by SB 1267.

HB 1080 provides that a district may not exclude a student from participating in a UIL activity solely because the student receives outpatient mental health services from a mental health facility or is absent for this purpose.

A district may permit homeschool students to represent the school in UIL activities as provided by HB 547. **If your district will permit homeschool students to participate in UIL activities and you currently have a provision in FD(LOCAL) prohibiting nonenrolled students from participating in curricular or extracurricular activities, please contact your policy consultant for an adjustment to that policy.**

HB 2721 prohibits a student from participating in any future extracurricular activity sponsored by the district or the UIL if the UIL determines that the student caused bodily injury to an extracurricular official in retaliation for the official's performance of duties.

Other provisions have been reordered for better flow.

FNCD(LEGAL) STUDENT CONDUCT: TOBACCO USE AND POSSESSION

SB 248 amends the definition of "e-cigarette" to include the liquid solution or other material used in the device.

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FNCG(LEGAL) STUDENT CONDUCT: WEAPONS

HB 1927 prompted revisions regarding the Penal Code offense of unlawful carrying of weapons and a reference to the appropriate legal source for handgun offenses.

HB 957 removes firearm silencer from the list of prohibited weapons in Texas Penal Code 46.05.

FNG(LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES: STUDENT AND PARENT COMPLAINTS/GRIEVANCES

SB 348 clarifies that a parent is entitled to review teaching and instructional materials while a child is participating in virtual or remote learning and to observe virtual instruction.

FOC(LEGAL) STUDENT DISCIPLINE: PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

HB 375 amends the offense of continuous sexual abuse of a young child or children to include continuous sexual abuse of "a disabled individual."

FOD(LEGAL) STUDENT DISCIPLINE: EXPULSION

HB 375 amends the offense of continuous sexual abuse of a young child or children to include continuous sexual abuse of "a disabled individual."

FOF(LEGAL) STUDENT DISCIPLINE: STUDENTS WITH DISABILITIES

When a district takes disciplinary action that constitutes a change of placement for a student who receives special education services, HB 785 requires the district to take certain actions relating to functional behavior assessments and behavioral intervention plans.

GBA(LEGAL) PUBLIC INFORMATION PROGRAM: ACCESS TO PUBLIC INFORMATION

The name of an employee accused of an improper relationship between an educator and student is confidential until the employee is indicted for the offense, except as specified by HB 246. The *Regulations Resource Manual* includes sample procedures to address release of this information by a campus.

Provisions on the release of personal information have been revised for:

- Board members (HB 1082); and
- Current or honorably retired peace officers and commissioned security officers (SB 841).

Confidentiality of crime victim information has been revised based on HB 2357.

The sample election of confidentiality forms in the *Regulations Resource Manual* have been updated to reflect these changes.

GBAA(LEGAL) INFORMATION ACCESS: REQUESTS FOR INFORMATION

Changes to this policy on requests for information are from SB 1225.

- If a district's physical offices are closed, but staff is working remotely, the district must make a good faith effort to continue responding to Public Information Act (PIA) requests for information.
- Provisions on temporary suspension of the PIA due to a catastrophe apply only when a district is *significantly* impacted and limit extensions of a suspension to only once per catastrophe.

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GKA(LEGAL) COMMUNITY RELATIONS: CONDUCT ON SCHOOL PREMISES

HB 1927 revises the Penal Code's list of places where the possession of weapons is prohibited.

Changes in federal law prompted revisions regarding the use of unmanned aircraft systems.

GKD(LEGAL) COMMUNITY RELATIONS: NONSCHOOL USE OF SCHOOL FACILITIES

HB 525 protects religious organizations from closure by a governmental entity during a disaster.

HB 1239 amends the Texas Religious Freedom Restoration Act to prohibit a government agency or public official from ordering the closure of a place of worship and clarifies that the Act cannot be suspended by the governor during a disaster.

GKE(LEGAL) COMMUNITY RELATIONS: BUSINESS, CIVIC, AND YOUTH GROUPS

Districts may not regulate learning pods in accordance with SB 1955.

GNB(LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES: REGIONAL EDUCATION SERVICE CENTERS

Changes to the provisions on core services provided by education service centers reflect that the gifted and talented allotment was reinstated by HB 1525.

GNC(LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES: COLLEGES AND UNIVERSITIES

Provisions requiring certain districts to develop a plan to increase enrollment in higher education were deleted by SB 1677.

GRB(LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES: INTERLOCAL COOPERATION CONTRACTS

Provisions on entering into intergovernmental support agreements with a branch of the armed forces have been added as a result of SB 780.

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 A: BASIC DISTRICT FOUNDATIONS

AA	DISTRICT LEGAL STATUS
AB	DISTRICT NAME
AC	GEOGRAPHIC BOUNDARIES
AE	EDUCATIONAL PHILOSOPHY
AEA	Educational Equity
AF	INNOVATION DISTRICTS
AG	HOME-RULE DISTRICTS
AH	OPEN-ENROLLMENT CHARTER SCHOOLS
AI	ACCOUNTABILITY
AIA	Accreditation and Performance Indicators
AIB	Performance Reporting
AIC	Interventions and Sanctions
AID	Federal Accountability Standards
AIE	Investigations

Vision Statement and Goals

A board shall adopt a vision statement and comprehensive goals for the district and the superintendent. *Education Code 11.1511(b)(2)*

Public Education Mission, Goals, and Objectives

The mission of the Texas public education system is to ensure that all Texas children have access to a quality education that enables them to achieve their full potential and fully participate now and in the future in the social, economic, and educational opportunities in our state and nation. That mission is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of Texas and for the preservation of the liberties and rights of Texas citizens. It is further grounded on the conviction that a successful public education system is directly related to a strong, dedicated, and supportive family and that parental involvement in the school is essential for the maximum educational achievement of a child.

Objectives

The objectives of public education are:

Objective 1: Parents will be full partners with educators in the education of their children.

Objective 2: Students will be encouraged and challenged to meet their full educational potential.

Objective 3: Through enhanced dropout prevention efforts, all students will remain in school until they obtain a diploma.

Objective 4: A well-balanced and appropriate curriculum will be provided to all students. Through that curriculum, students will be prepared to succeed in a variety of postsecondary activities, including employment and enrollment in institutions of higher education.

Objective 5: Educators shall cultivate in students an informed American patriotism and lead students in a close study of the founding documents of the United States and Texas. The purpose of this objective is to:

1. Increase students' knowledge of the deepest and noblest purposes of the United States and Texas;
2. Enhance students' intellectual independence so that students may become thoughtful, informed citizens who have an appreciation for the fundamental democratic principles of our state and national heritage; and
3. Guide students toward understanding and productively functioning in a free enterprise society.

Objective 6: Qualified and highly effective personnel will be recruited, developed, and retained.

Objective 7: Texas students will demonstrate exemplary performance in comparison to national and international standards.

Objective 8: School campuses will maintain a safe and disciplined environment conducive to student learning.

Objective 9: Educators will keep abreast of the development of creative and innovative techniques in instruction and administration using those techniques as appropriate to improve student learning.

Objective 10: Technology will be implemented and used to increase the effectiveness of student learning, instructional management, staff development, and administration.

Objective 11: The State Board of Education, TEA, and the commissioner shall assist school districts and charter schools in providing career and technology education to students.

Goals

The academic goals of public education are to serve as a foundation for a well-balanced and appropriate education. The students in the public education system will demonstrate exemplary performance in:

Goal 1: The reading and writing of the English language.

Goal 2: The understanding of mathematics.

Goal 3: The understanding of science.

Goal 4: The understanding of social studies.

Education Code 4.001, .002

A district may choose to operate under a home-rule charter. Adoption of a home-rule charter does not affect:

1. The district's boundaries.
2. Taxes or bonds of the district authorized before the effective date of the charter.

Education Code 12.0011, .011

Powers of Home-Rule District

A home-rule district has the powers and entitlements granted to school districts and school district boards, including taxing authority. A home-rule district is subject to federal and state laws and rules governing school districts except:

1. A home-rule district is subject to the Education Code only to the extent a provision of the Education Code specifically provides for the applicability to a home-rule district;
2. A home-rule district is subject to a rule adopted by the State Board of Education (SBOE) or the commissioner of education only if the code provision authorizing the rule specifically applies to a home-rule district; and
3. A home-rule district is subject to all requirements of federal law and applicable court orders relating to eligibility for and the provision of special education and bilingual programs.

Nondiscrimination

The above statements do not permit a home-rule district to discriminate against a student who has been diagnosed as having a learning disability, including dyslexia or attention deficit/hyperactivity disorder. Prohibited discrimination includes denial of placement in a gifted and talented program if the student would otherwise be qualified for the program but for the student's learning disability.

The above statements do not permit a home-rule district to, on the basis of race, socioeconomic status, learning disability, or family support status, place a student in a program other than the highest level program necessary to ensure the student's success.

Education Code 12.012(a), (c)

Charter Commission

A board shall appoint a charter commission to frame a home-rule school district charter if:

1. The board receives a petition requesting the appointment of a charter commission signed by at least five percent of the district's registered voters; or
2. At least two-thirds of the total membership of the board adopts a resolution ordering the appointment of a charter commission.

The board must appoint the commission by the 30th day after receipt of the petition or adoption of the resolution.

The commission must complete the proposed charter not later than the first anniversary of the date of the commission's appointment. After that date, the commission expires and the appointment of the commission is void.

Education Code 12.014, .015(a), (c)

Membership

The charter commission shall consist of 15 district residents. The membership must reflect the racial, ethnic, socioeconomic, and geographic diversity of a district. A majority of the commission members must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by representatives of the professional staff as provided by the planning process under Education Code 11.251(e). [See BQ series] *Education Code 12.015(a)–(b)*

Governmental Body

The charter commission is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.015(d)*

Content of Home-Rule Charter

The home-rule charter must:

1. Describe the educational program to be offered.
2. Provide that continuation of the charter is contingent on:
    a. Acceptable student performance on assessment instruments.
    b. Compliance with other applicable accountability provisions.
3. Specify any basis, in addition to a basis specified at Education Code Chapter 11, Subchapter B, on which the charter may be placed on probation or revoked.
4. Describe the governing structure of the district and campuses.
5. Specify any procedure or requirement, in addition to those at Education Code Chapter 38 [see FF series], the district will follow to ensure the health and safety of students and employees.
6. Describe the process by which the district will adopt an annual budget, including the use of program-weight funds.
7. Describe how the annual audit of the district's financial and programmatic operations will be conducted, including how the district will provide the necessary information to participate in

the Public Education Information Management System (PEIMS).

8. Include any other provision the charter commission considers necessary.

Education Code 12.016

Review by Commissioner of Education

The charter commission shall submit the proposed charter to the commissioner of education. The commissioner shall review the charter for compliance with applicable laws and recommend any necessary modifications. If the commissioner does not act within 30 days after the date the commissioner receives the proposed charter, the charter is approved. *Education Code 12.018*

Charter Elections

As soon as practicable after the commissioner approves the charter, a board shall order an election on the proposed charter. The election shall be held on the first uniform election date that occurs at least 45 days after the date the board orders the election.

At least three copies of the proposed charter must be available in the office at each school campus and at the district's central administrative office between the date of the election order and election day. Notice of the election must include a statement of where and how copies may be obtained or viewed. A summary of the proposed charter shall be attached to each copy. The summary shall also be made available to district employees, parents, community members, and the media.

The ballot shall be written to permit voting for or against the proposition: "Whether the (name of district) shall be governed under the home-rule district charter, which is proposed by a charter commission appointed by the board and under which only certain laws and rules apply to the district."

Education Code 12.019

Minimum Voter Turnout

An election on the adoption of a proposed home-rule charter has no effect unless at least 25 percent of the registered voters of the district vote in the election.

If the required number of voters does not vote in the election, the board shall order another election to be held on the first uniform election date:

1. That occurs at least 45 days after the election is ordered, and
2. On which one or more elections are to be held, the combination of which covers all the territory of the district.

If the required number of voters does not vote in the election, a board may continue to order elections until the required minimum is achieved.

Education Code 12.022

Charter Amendments

A home-rule charter may be amended pursuant to Education Code 12.020 and .022(b).

Adoption of Charter or Amendment

Subject to Education Code 12.022 (minimum voter turnout), the proposed charter or amendment is adopted if approved by a majority of the qualified voters of the district voting in the election. The charter or amendment shall specify an effective date and takes effect according to its terms when the board enters an order declaring the charter or amendment adopted. The board shall enter the order not later than the tenth day after the date the canvass of the election returns is completed.

As soon as practicable after a district adopts the charter or amendment, the board shall notify the commissioner of the outcome of the election.

Education Code 12.021

Certification of Charter

As soon as practicable after the charter or amendment is adopted, the board president shall certify to the secretary of state a copy of the charter or amendment showing voter approval. The secretary of state shall file and record the certification. A recorded charter or amendment is a public act. A court shall take judicial notice of a recorded charter or amendment and proof is not required of its provisions. *Education Code 12.023, .024*

Governance of Home-Rule District

A home-rule district may adopt and operate under any governing structure. The home-rule district may create offices, determine the time and method for selecting officers, and prescribe the qualifications and duties of officers. The term of any officer shall be three or four years, as determined under Education Code 11.059. *Education Code 12.025*

Change in Governing Body

If the adoption, amendment, or revocation of a home-rule school district charter changes the structure of the board, the members serving on the date the adoption, amendment, or revocation takes effect shall continue in office until their successors have been chosen and have qualified for office. *Education Code 12.026*

Requirements Under Education Code

A home-rule district is subject to:

1. Provisions of the Education Code establishing a criminal offense.

2. Provisions of the Education Code relating to limitations on liability.

3. Prohibitions, restrictions, or requirements relating to:

   a. PEIMS, as determined by the commissioner.

   b. Educator certification under Education Code Chapter 21 and educator rights under Education Code 21.407, .408, and 22.001. [See CFEA, DGA]

   c. Criminal history records under Education Code Chapter 22, Subchapter C. [See DBAA]

   d. Student admissions under Education Code 25.001. [See FD]

   e. School attendance under Education Code 25.085–.087. [See FEA]

   f. Interdistrict transfers under Education Code Chapter 25, Subchapter B. [See FDA]

   g. Elementary class-size limits, in the case of any campus that fails to satisfy any standard under Education Code 39.054(e). [See EEB]

   h. High school graduation under Education Code 28.025. [See EIF]

   i. Special education programs under Education Code Chapter 29, Subchapter A. [See EHBA series]

   j. Bilingual education under Education Code Chapter 29, Subchapter B. [See EHBE]

   k. Prekindergarten programs under Education Code Chapter 29, Subchapter E. [See EEL, EHBG]

   l. Safety provisions relating to the transportation of students under Education Code 34.002–.004 and .008. [See CNA, CNB, CNC]

   m. Computation and distribution of state aid under Education Code Chapters 31, 43, and 48.

   n. Extracurricular activities under Education Code 33.081. [See FM]

   o. Health and safety under Education Code Chapter 38. [See FF series]

p. The provisions of Education Code Chapter 39, Subchapter A. [See AIC]

q. Public school accountability and special investigations under Education Code Chapter 39, Subchapters A, B, C, D, and J, and Chapter 39A. [See AI series]

r. Options for local revenue levels in excess of entitlement under Education Code Chapter 49.

s. Bonds or other obligations or tax rates under Education Code Chapters 43, 45, and 48.

t. Purchasing under Education Code Chapter 44. [See CH]

u. Parental options to retain a student under Education Code 28.02124. [See EIE]

Education Code 12.013(b)

Employees of Home-Rule Districts

An employee who qualifies for membership in the Teacher Retirement System shall be covered in the same manner and to the same extent as a qualified employee employed by an independent school district. *Education Code 12.012(b)*

Rescission of Charter

A board shall order an election on the question of rescinding the home-rule school district charter if:

1. The board receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or

2. At least two-thirds of the board adopts a resolution ordering the election.

Rescission of a home-rule charter does not affect:

1. District boundaries.

2. Taxes or bonds of the district authorized before the effective date of the rescission.

Education Code 12.030(b), (h)

Probation or Revocation of Charter

The SBOE may place a home-rule charter on probation or revoke the charter. *Education Code 12.027, .028; 19 TAC 100.201*

Material Violation

A home-rule district commits a material violation of the district's charter if the district fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under Education Code 22.085 or Education Code 22.092. *Education Code 12.0271(a)* [See DBAA]

Status of District in Case of Annexation or Consolidation

If a district is annexed to another district under Education Code Chapter 13, and only one of the districts is a home-rule district, the status of the receiving district shall be the status of both districts following annexation. The petition under Education Code 13.003 must state the status for the consolidated district. *Education Code 12.029*

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 sta-

tus, the implications of such status, and the steps the district is taking 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 performance 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 ten 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 local accountability plan component, domain, and overall scaled scores and ratings to TEA by the first week of July of the applicable accountability year.

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 select 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 attainment 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

District Annual Report

The board shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner of education. *Education Code 39.306(a)*

Texas Academic Performance Report (TAPR)

The performance report provided by the Texas Education Agency (TEA) under Education Code 39.306 shall be termed the Texas Academic Performance Report (TAPR). The intent of the TAPR is to inform the public about the educational performance of the district and of each campus in the district in relation to the district, the state, and a comparable group of schools. The TAPR will present the campus performance information as well as the student, staff, and financial information required by statute. It will also include any explanations and additional information deemed appropriate to the intent of the report.

The district may not alter the report provided by TEA. However, the district may concurrently provide additional information to the public that supplements or explains information in the TAPR.

19 TAC 61.1022(a)–(b), (e); Education Code 39.306(d)

Other Annual Report Information

The annual report must also include:

1. Campus performance objectives established under Education Code 11.253 and the progress of each campus toward those objectives, which shall be available to the public;
2. Information indicating the district's accreditation status and identifying each district campus awarded a distinction designation or considered an unacceptable campus under Education Code Chapter 39A;
3. The district's current special education compliance status with the agency;
4. A statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g);
5. Information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;
6. The findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

7. Information received under Education Code 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner; and

8. Progress of the district and each campus in the district toward meeting the goals set in the district's early childhood literacy and mathematics proficiency plans and college, career, and military readiness plans [see EA].

Education Code 39.306(a)

The report must include a statement of the amount, if any, of the district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents. *Education Code 39.306(g)*

The report must also include the number of school counselors providing counseling services at each campus. *Education Code 39.306(d-1)*

The report may include the following information:

1. Student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

2. Financial information, including revenues and expenditures;

3. Staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held; teacher and administrator salaries; and teacher turnover;

4. Program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

5. The number of students placed in a disciplinary alternative education program (DAEP) under Education Code Chapter 37.

Education Code 39.306(e)

Supplemental information to be included in the reports shall be determined by the board. *Education Code 39.306(b)*

Public Hearing

The board shall hold a hearing for public discussion of the report. The board shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notice of hearing must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. *Education Code 39.306(c)*

A board shall hold a hearing for public discussion of the TAPR within 90 days after the report is received from TEA. The hearing may take place during a regularly scheduled or special meeting of the board. *19 TAC 61.1022(c)*

Publication

The TAPR must be published within two weeks after the public hearing, in the same format as it was received from TEA. *19 TAC 61.1022(d)*

The board shall disseminate the report by posting it on the district website and in public places, such as each school office, local businesses, and public libraries. *Education Code 39.306(c); 19 TAC 61.1022(f)*

Report Uses

The information in the annual report shall be a primary consideration in district and campus planning. It shall also be a primary consideration of the board in the evaluation of the performance of the superintendent, and of the superintendent in the evaluation of the performance of campus principals. *Education Code 39.307*

Campus Performance Report

Each school year, TEA shall prepare and distribute to each district a report card for each campus. The campus report card distributed by TEA shall be termed the “school” report card (SRC). The intent of the SRC is to inform each student’s parents or guardians about the school’s performance and characteristics. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.

Distribution

The district must disseminate each SRC within six weeks after the SRC is received from TEA. The school may not alter the report provided by TEA; however, it may concurrently provide additional information to the parents or guardians that supplements or explains information in the SRC.

The SRC must be distributed to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, a district shall provide a copy of the SRC to any other party.

The campus administration may provide the SRC in the same manner it would normally transmit official communications to parents and guardians, such as including the SRC in a weekly folder sent home with each student, mailing it to the student’s residence, providing it at a teacher-parent conference, enclosing it with the student report card, or sending it via electronic mail.

Education Code 39.305; 19 TAC 61.1021

Website Notices

Not later than the tenth day after the first day of instruction of each school year, a district that maintains an internet website shall make the following information available:

1. The information in the most recent campus report card for each campus in the district;
2. The information contained in the most recent performance report for the district;
3. The most recent accreditation status and performance rating of the district; and
4. A definition and explanation of each accreditation status, based on commissioner rule.

Education Code 39.362

Student Performance Report

Each year, TEA shall report to a district whether each student fell below, met, or exceeded the necessary target for improvement necessary to be prepared to perform satisfactorily on, as applicable, the grade five assessments, the grade eight assessments, and the end-of-course assessments required for graduation. *Education Code 39.034, .302*

Notice to Parents

The district a student attends shall provide a record of the annual improvement information from TEA in a written notice to the student's parent or other person standing in parental relationship. If a student failed to perform satisfactorily on a state assessment, the district shall include in the notice specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources and assessment instrument questions and released answers. *Education Code 39.303*

Notice to Teachers and Students

A district shall prepare a report of the annual improvement information and provide the report at the beginning of the school year to:

1. Each teacher for all students, including incoming students, who took a state assessment; and
2. All students who were provided instruction by that teacher in the subject for which the assessment instrument was administered.

The report shall indicate whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement.

Education Code 39.304

Quality of Learning Indicators

The commissioner shall also adopt indicators of the quality of learning for the purpose of preparing performance reports. Performance on the indicators shall be evaluated in the same manner provided for evaluation of the achievement indicators under Education Code 39.053(c) [see Achievement Indicators, AIA].

The quality of learning indicators must include:

1. The percentage of graduating students who meet the course requirements for the foundation high school program, the distinguished level of achievement under the foundation high school program, and each endorsement described by Education Code 28.025(c-1) [see EIF];
2. The results of the SAT, ACT, and certified workforce training programs;
3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;
4. For each campus, the number of students, disaggregated by major student subpopulations, who take courses under the foundation high school program and take additional courses to earn an endorsement, disaggregated by type of endorsement;
5. The percentage of students, aggregated by grade level, provided accelerated instruction under Education Code 28.0211 [see EHBC] after unsatisfactory performance on a state assessment; the results of assessment instruments administered under the accelerated instruction program; the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard; and the performance of those students in the subsequent school year on the state assessments;
6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;

10. The percentage of students who are not educationally disadvantaged;

11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

12. The percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

Education Code 39.301

Results Driven Accountability (RDA)

In accordance with Education Code 7.028(a), the purpose of the Results Driven Accountability (RDA) framework is to evaluate and report annually on the performance of districts for certain populations of students included in selected program areas. The performance of a district is included on the RDA report through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner. *19 TAC 97.1005; Education Code 7.028(a)*

Federal Report Card

A district that receives Title I funding shall prepare and disseminate an annual federal report card that includes information on the district as a whole and each school within the district.

Implementation

The federal report card shall be concise; presented in an understandable and uniform format, and to the extent practicable, in a language that parents can understand; and accessible to the public, which shall include placing the report card on the district's website. If the district does not operate a website, the information in the report card must be provided to the public in another manner determined by the district.

Minimum Requirements

The federal report card shall include the information required in the annual state report card described at 20 U.S.C. 6311(h)(1)(C), as applied to the district and each school served by the district, including:

1. In the case of the district, information that shows how students served by the district achieved on state academic assessments compared to students in the state as a whole;

2. In the case of a school, information that shows how the school's students' achievement on state academic assessments compared to students served by the district and the state as a whole; and

3. Any other information that the district determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the district, whether or not such information is included in the annual state report card.

20 U.S.C. 6311(h)(2)

District Data on Academic Achievement

On request by the board, TEA shall create a website that members of the board may use to review campus and district academic achievement data. The website must also be made available to campuses in a similar manner that access is provided to the board.

The website must:

1. Include district information, disaggregated by campus, grade, sex, race, academic quarter or semester, as applicable, and school year, regarding the following:
    a. Student academic achievement and growth;
    b. Teacher and student attendance; and
    c. Student discipline records; and
2. Be updated at least once each quarter of the school year.

The commissioner shall provide information that permits a board member to compare the district's academic performance with the academic performance of other districts of similar size and racial and economic demographics.

A district must provide requested information to the commissioner for the creation of the website. Confidential information received by the commissioner remains confidential. The commissioner shall design the website to ensure that public information is made available to the public, and information submitted by districts noted as confidential is not made available to the public.

A request for public information under this provision shall be submitted to the district that provides the agency with the information. TEA may not release information submitted by a district that is noted as confidential information.

Education Code 11.1516

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Interventions and Sanctions for School Districts

The commissioner of education shall take any of the actions authorized by Education Code, Chapter 39A, Subchapter A, to the extent the commissioner determines necessary if:

Grounds for Commissioner Action

1. A district does not satisfy:
    a. The accreditation criteria under Education Code 39.052 [see AIA];
    b. The academic performance standards under Education Code 39.053 or 39.054 [see AIA]; or
    c. Any financial accountability standard as determined by commissioner rule [see CFA]; or
2. The commissioner considers the action to be appropriate on the basis of a special investigation under Education Code 39.003.

Education Code 39A.001

Authorized Commissioner Actions

If a district is subject to commissioner action, the commissioner may:

1. Issue public notice of the deficiency to the board;
2. Order a hearing to be conducted by the board to notify the public of:
    a. The insufficient performance;
    b. The improvements in performance expected by the Texas Education Agency (TEA); and
    c. The interventions and sanctions that may be imposed if the performance does not improve;
3. Order the preparation of a student achievement improvement plan that addresses each academic achievement indicator under Education Code 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and the implementation of the plan;
4. Order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board and the district's superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;
5. Arrange a monitoring review of the district;
6. Appoint a TEA monitor to participate in and report to TEA on the activities of the board or superintendent;

7. Appoint a conservator to oversee the operations of the district;

8. Appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person;

9. Authorize the district to enter into a memorandum of understanding with an institution of higher education that provides for the assistance of the institution of higher education in improving the district's performance; or

10. Order the use of the board improvement and evaluation tool as provided by Education Code 11.182 [see BG].

Education Code 39A.002

Regardless of whether the commissioner lowers a district's status or rating, the commissioner may take action under Education Code Chapters 39 and 39A or 19 Administrative Code 97.1057 if the commissioner determines that the action is necessary to improve any area of performance by the district or campus.

Subject to 19 Administrative Code 97.1057(h)–(k), once the commissioner takes action under 19 Administrative Code Subchapter EE (accreditation status, standards, and sanctions), the commissioner may impose on the district or campus any other sanction under Education Code Chapter 39 or 39A, or Subchapter EE, singly or in combination, to the extent the commissioner determines is reasonably required to achieve the purposes specified in 19 Administrative Code 97.1053.

19 TAC 97.1057(c), (e)

In making a determination to impose district and campus accreditation sanctions under 19 Administrative Code Chapter 97, Subchapter EE, the commissioner shall meet the requirements of 19 Administrative Code 97.1059. *19 TAC 97.1059*

Conservator or Management Team

The commissioner shall clearly define the powers and duties of a conservator or management team appointed to oversee the operations of a district.

At least every 90 days, the commissioner shall review the need for the conservator or management team and shall remove the conservator or management team unless the commissioner determines that continued appointment is necessary for effective governance of the district or delivery of instructional services.

A conservator or management team, if directed by the commissioner, shall prepare a plan for the implementation of the appointment of a board of managers or the revocation of accreditation.

The conservator or management team may:

1. Direct an action to be taken by the principal of a campus, the superintendent of the district, or the board; and

2. Approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board.

The conservator or management team may not:

1. Take any action concerning a district election, including ordering or canceling an election or altering the date of or the polling places for an election;

2. Change the number of or method of selecting the board;

3. Set a tax rate for the district; and

4. Adopt a budget for the district that provides for spending a different amount, exclusive of required debt service, from that previously adopted by the board.

A conservator or management team may exercise the powers and duties defined by the commissioner or described above regardless of whether the conservator or management team was appointed to oversee the operations of a district in its entirety or the operations of a certain campus within the district.

Education Code 39A.003

Regardless of whether a district has satisfied the accreditation criteria, if for two consecutive school years, including the current school year, a district has had a conservator or management team assigned to the district or campus for any reason, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees. For purposes of this subsection, a school year begins on the first day of instruction and includes any portion of the school year. This applies to an appointed conservator or management team, regardless of the scope or any changes to the scope of the conservator's or team's oversight. *19 TAC 97.1057(d); Education Code 39A.006(a)–(b)*

Board of Managers

The commissioner may appoint a board of managers to exercise the powers and duties of a district's board if the district is subject to commissioner action and:

1. Has a current accreditation status of accredited-warned or accredited-probation;
2. Fails to satisfy any standard under Education Code 39.054(e); or
3. Fails to satisfy financial accountability standards as determined by commissioner rule.

Education Code 39A.004

Revocation of Accreditation

The commissioner may revoke the accreditation of a district if the district is subject to commissioner action, and for two consecutive school years, including the current school year, the district has:

1. Received an accreditation status of accredited-warned or accredited-probation;
2. Failed to satisfy any standard under Education Code 39.054(e); or
3. Failed to satisfy financial accountability standards as determined by commissioner rule.

In addition to revoking a district's accreditation, the commissioner may:

1. Order closure of the district and annex the district to one or more adjoining districts under Education Code 13.054; or
2. In the case of a home-rule school district, order closure of all programs operated under the district's charter.

Education Code 39A.005

Intervention to Improve High School Completion Rate

If a district is subject to commissioner action and the district has failed to satisfy any standard under Education Code 39.054(e) because of the district's dropout rates, the commissioner may impose sanctions against a district designed to improve high school completion rates, including:

1. Ordering the development of a dropout prevention plan for approval by the commissioner;
2. Restructuring the district or appropriate campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Education Code 29.081;
3. Ordering lower student-to-counselor ratios on campuses with high dropout rates; and

4. Ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

Education Code 39A.007

Interventions after Certain D Ratings

Until another performance rating is issued, TEA may not implement the following intervention or sanctions to a D-rated district or campus, if the D rating is considered acceptable [see AIA]. The following interventions and sanctions are subject to a pause:

1. Revocation of a charter under Education Code 12.115(c);
2. Annexation under Education Code 13.054;
3. Change in accreditation status under rules adopted for accreditation under Education Code 39.052; and
4. Interventions or sanctions under Education Code 39A.101(a), 39A.107(a) or (c), or 39A.111.

A performance rating of D that is considered acceptable may not be included in calculating consecutive school years of unacceptable performance ratings and is not considered a break in consecutive school years of unacceptable performance ratings.

Interventions or sanctions implemented prior to a pause shall continue during a school year for which interventions or sanctions listed above are paused.

Education Code 39A.118

Campus Intervention Team and Targeted Improvement Plan

Actions Based on Campus Performance

If the performance of a campus is below any standard under Education Code 39.054(e), the commissioner shall:

1. Take actions, to the extent the commissioner determines necessary, as provided by Education Code, Chapter 39A; and
2. Assign a campus intervention team.

To the extent the commissioner determines necessary, the commissioner may:

1. Order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement;
2. Establish a school community partnership team composed of members of the campus-level planning and decision-making

committee and additional community representatives as determined appropriate by the commissioner;

3. If applicable under the strong foundations intervention under Education Code 39A.064, require the district to comply with all requirements of the strong foundations grant program under Education Code 29.0881 for the campus; or

4. Any combination of the actions described by items 1 through 3 above.

Education Code 39A.051

Texas Accountability Intervention System

If a campus's performance is below any standard under Education Code 39.054(e), the campus shall engage in interventions as described by TEA. The commissioner shall assign members to a campus intervention team as outlined in 19 Administrative Code 97.1063 and Education Code 39A.052. The campus shall establish a campus leadership team (CLT) that includes the campus principal and other campus leaders responsible for the development, implementation, and monitoring of the targeted improvement plan.

If a campus is assigned an unacceptable rating under Education Code 39.054(e):

1. For a second consecutive year, the campus must engage in the processes outlined in this provision, and the campus must develop a campus turnaround plan to be approved by the commissioner.

2. For a third or fourth consecutive year, the campus must engage in the processes outlined in this provision, and the campus must implement the commissioner-approved campus turnaround plan as described in 19 Administrative Code 97.1064.

3. For a fifth consecutive year, the commissioner shall order the appointment of a board of managers to govern the district or the closure of the campus.

Based on a campus's progress toward improvement, the commissioner may order a hearing if a campus's performance is below any standard under Education Code 39.054(e).

Interventions and sanctions listed under this provision begin upon release of preliminary ratings and may be adjusted based on final accountability ratings.

19 TAC 97.1061(a)–(c), (e)–(i)

Campus Intervention Team

The campus intervention team shall follow the requirements of 19 Administrative Code 97.1061 and Education Code 39.106.

A campus intervention team assigned by the commissioner may include teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner to serve as members of a team. *Education Code 39A.052*

A campus intervention team must include a district coordinator of school improvement (DCSI) and the campus principal's direct supervisor, if the DCSI is not the campus principal's direct supervisor. The DCSI must submit qualifications to TEA for approval.

An education professional, approved through an application either by TEA or TEA's technical assistance provider, who is not an employee of the campus or district, shall assist with the needs assessment.

19 TAC 97.1063(b)–(c)

On-Site Needs Assessment

A campus intervention team shall:

1. Conduct, with the involvement and advice of the school community partnership team, if applicable:
    a. If the commissioner determines necessary, a comprehensive on-site needs assessment; or
    b. A targeted on-site needs assessment relevant to an area of insufficient performance of the campus; and
2. Recommend appropriate actions as provided by Education Code 39A.054.

An on-site needs assessment must determine the factors resulting in the campus's low performance and lack of progress, including the contributing education-related factors.

In conducting a comprehensive on-site needs assessment, the campus intervention team shall use each of the guidelines and procedures at Education Code 39A.053(c) and 19 Administrative Code 97.1061(d).

In conducting a targeted on-site needs assessment, the campus intervention team shall use the appropriate guidelines and procedures described above relevant to each area of insufficient performance.

Education Code 39A.053

Recommendations

On completing the on-site needs assessment, the campus intervention team shall, with the involvement and advice of the school community partnership team, if applicable, recommend actions relating to any area of insufficient performance, including:

1. Reallocation of resources;
2. Technical assistance;
3. Changes in school procedures or operations;
4. Staff development for instructional and administrative staff;
5. Intervention for individual administrators or teachers;
6. Waivers from state statutes or rules;
7. Teacher recruitment or retention strategies and incentives provided by the district to attract and retain appropriately certified and experienced teachers; or
8. Other actions the campus intervention team considers appropriate.

Education Code 39A.054

Targeted Improvement Plan

In addition to the duties relating to the on-site needs assessment, the campus intervention team shall:

1. Assist the campus in developing a targeted improvement plan;
2. Conduct a public meeting at the campus with the campus principal, the members of the campus-level planning and decision-making committee, parents of students attending the campus, and community members residing in the district to review the campus performance rating and solicit input for the development of the targeted improvement plan [see Notice of Public Meeting, below];
3. Assist the campus in submitting the targeted improvement plan to the board for approval and presenting the plan in a public hearing [see Public Hearing, below]; and
4. Assist the commissioner in monitoring the progress of the campus in executing the targeted improvement plan.

Education Code 39A.055; 19 TAC 97.1061(d)(3)–(4)

Notice of Public Meeting

The campus intervention team must provide written notice of the public meeting to the parents of students attending the campus and post notice of the meeting on the campus's internet website.

The notice must include the date, time, and place of the meeting. *Education Code 39A.056*

The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers or other media that reach the general public, and the parent liaison, if present on the campus. *19 TAC 97.1061(d)(3)(A)(ii)*

Public Hearing

After a targeted improvement plan or an updated targeted improvement plan is submitted to the board, the board shall conduct a hearing to:

1. Notify the public of:
    a. The insufficient performance of the campus;
    b. The improvements in performance expected by TEA; and
    c. The intervention measures or sanctions that may be imposed under Education Code, Chapter 39A if the performance does not improve within a designated period; and
2. Solicit public comment on the targeted improvement plan or updated targeted improvement plan.

The board must post the targeted improvement plan on the district's internet website before the hearing.

The board may conduct one hearing relating to one or more campuses subject to a targeted improvement plan or an updated targeted improvement plan.

Education Code 39A.057

Submission to Commissioner

The board shall submit the targeted improvement plan or updated targeted improvement plan to the commissioner for approval. The campus intervention team shall assist the campus in submitting the targeted improvement plan to the commissioner. *Education Code 39A.058*

Executing Plan

In executing the targeted improvement plan, the campus intervention team shall, if appropriate:

1. Assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, and financial management;

2. Provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and

3. Require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus.

Education Code 39A.059

Continuing Duties of the Campus Intervention Team

For each year a campus is assigned an unacceptable performance rating, the campus intervention team shall:

1. Assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; and

2. Submit each updated targeted improvement plan to the board.

Education Code 39A.060

Local Improvement Plan

A district or campus that is assigned a rating of D that is considered acceptable [see AIA] shall develop and implement a local improvement plan.

A local improvement plan must be presented to the board.

Education Code 39A.0659(a)–(b)

Campus Planning and Site-Based Decision-Making

The commissioner may authorize a school community partnership team established under Education Code 39A.051 to supersede the authority of and satisfy the requirements of establishing and maintaining a campus-level planning and decision-making committee.

The commissioner may authorize a targeted improvement plan, an updated targeted improvement plan, or a local improvement plan to supersede the provisions of and satisfy the requirements of developing, reviewing, and revising a campus improvement plan.

Education Code 39A.061

Submission of Campus Improvement Plan

If the performance of a campus satisfies performance standards under Education Code 39.054(e) for the current school year but would not satisfy the performance standards if the standards to be used for the following school year were applied to the current school year, on the request of the commissioner, the campus-level planning and decision-making committee shall revise and submit to the commissioner the portions of the campus improvement plan that are relevant to those areas for which the campus would not

satisfy performance standards. The revised portions of the improvement plan must be submitted in an electronic format. *Education Code 39A.062*

Compliance Through Federal Accountability

Notwithstanding the provisions of Education Code Chapter 39A, if the commissioner determines that a campus subject to interventions or sanctions has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with Education Code Chapter 39A. *Education Code 39A.063*

Campus Turnaround Plan

If a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the campus to prepare and submit a campus turnaround plan.

Updated Targeted Improvement Plan

A campus intervention team shall assist the campus in:

1. Developing an updated targeted improvement plan, including a campus turnaround plan to be implemented by the campus;
2. Submitting the updated targeted improvement plan to the board for approval and presenting the plan in a public hearing as provided by Education Code 39A.057;
3. Obtaining approval of the updated plan from the commissioner; and
4. Executing the updated plan on approval by the commissioner.

The updated targeted improvement plan submitted to the board must include all plans and details that are required to execute the campus turnaround plan without any additional action or approval by the board.

Education Code 39A.101

Public Notice

Within 60 days of receiving a campus's preliminary accountability rating, the district must notify parents, community members, and stakeholders that the campus received an unacceptable rating for two consecutive years and request assistance in developing the campus turnaround plan in accordance with 19 Administrative Code 97.1064. *19 TAC 97.1064(d)*

Submission and Approval

Upon approval of the board, the district must submit the campus turnaround plan electronically to TEA by March 1 unless otherwise specified. Not later than June 15 of each year, the commissioner must either approve or reject any campus turnaround plan prepared and submitted by a district. *19 TAC 97.1064(g)–(h); Education Code 39A.103–.104*

Implementation

A campus may implement, modify, or withdraw its campus turnaround plan with board approval if the campus receives an academically acceptable rating for the school year following the development of the campus turnaround plan.

A campus that has received an unacceptable rating for the school year following the development of the campus turnaround plan must implement its commissioner-approved campus turnaround plan with fidelity until the campus operates for two consecutive school years without an unacceptable rating.

The commissioner may appoint a monitor, conservator, management team, or board of managers for a school district that has a campus that has been ordered to implement an updated targeted improvement plan. The commissioner may order any of the interventions as necessary to ensure district-level support for the low-performing campus and the implementation of the updated targeted improvement plan. The commissioner may make the appointment at any time during which the campus is required to implement the updated targeted improvement plan.

19 TAC 97.1064(j)–(k)

Required Contents

A campus turnaround plan must include:

1. Details on the method for restructuring, reforming, or reconstituting the campus;
2. A detailed description of the academic programs to be offered at the campus, including:
    a. Instructional methods;
    b. Length of school day and school year;
    c. Academic credit and promotion criteria; and
    d. Programs to serve special student populations;
3. If a district charter is to be granted for the campus under Education Code 12.0522:
    a. The term of the charter; and
    b. Information on the implementation of the charter;
4. Written comments from:
    a. The campus-level committee established under Education Code 11.251, if applicable;
    b. Parents; and

c. Teachers at the campus;

5. A detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources; and

6. A detailed description for developing and supporting the oversight of academic achievement and student performance by the board of trustees under Education Code 11.1515.

Education Code 39A.105(a) [Acts of the 85th Legislative Session, Senate Bill 1566, amended former Education Code 39.107(b-1) to include the information provided at Subsection (6)]

Implementing Entities

A campus ordered to prepare a campus turnaround plan shall implement the updated targeted improvement plan as approved by the commissioner.

The commissioner may appoint a monitor, conservator, management team, or board of managers to the district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan.

The commissioner shall appoint a conservator to a district unless and until each campus in the district for which a campus turnaround plan has been ordered receives an acceptable performance rating for the school year or the commissioner determines a conservator is not necessary.

In making appointments, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

Education Code 39A.102, .108

Effective Date

A campus turnaround plan must take effect not later than the school year following the third consecutive school year that the campus has received an unacceptable performance rating. *Education Code 39A.106*

Commissioner Approval or Rejection

Not later than June 15 of each year, the commissioner shall, in writing, either approve or reject any campus turnaround plan prepared and submitted to the commissioner by a district. If the commissioner rejects a campus turnaround plan, the commissioner must also send the district an outline of the specific concerns regarding the turnaround plan that resulted in the rejection. *Education Code 39A.107(a-1)*

If the commissioner rejects a campus turnaround plan, the district must create a modified plan with assistance from TEA staff and submit the modified plan to the commissioner for approval not later than the 60th day after the date the commissioner rejects the campus turnaround plan. The commissioner shall notify the district in writing of the commissioner's decision regarding the modified plan not later than the 15th day after the date the commissioner receives the modified plan. *Education Code 39A.107(a-2)*

The commissioner may approve a campus turnaround plan only if the commissioner determines that the campus will satisfy all student performance standards required under Education Code 39.054(e) not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan.

Education Code 12.0522(b) does not apply to a district charter approved by the commissioner. An approved district charter may be renewed or continue in effect after the campus is no longer subject to the commissioner's order under Education Code 39A.101.

If the commissioner does not approve a campus turnaround plan, the commissioner shall order:

1. Appointment of a board of managers to govern the district;
2. Alternative management of the campus; or
3. Closure of the campus.

Education Code 39A.107; 19 TAC 97.1065

Implementation

Following approval of a campus turnaround plan by the commissioner, the district, in consultation with the campus intervention team, may take any actions needed to prepare for the implementation of the plan. *Education Code 39A.108*

Assistance and Partnerships

A district may:

1. Request that a regional education service center provide assistance in the development and implementation of a campus turnaround plan; or
2. Partner with an institution of higher education to develop and implement a campus turnaround plan.

Education Code 39A.109

Modification in Campus Turnaround Plan

If a campus for which a campus turnaround plan has been ordered receives an acceptable performance rating for the school year following the order, the board may:

1. Implement the campus turnaround plan;

2. Implement a modified version of the campus turnaround plan; or

3. Withdraw the campus turnaround plan.

A district required to implement a campus turnaround plan may modify the plan if the campus receives an acceptable performance rating for two consecutive school years following implementation of the plan.

The commissioner may authorize modification of an approved campus turnaround plan if the commissioner determines that due to a change in circumstances occurring after the plan's approval, a modification of the plan is necessary to achieve the plan's objectives.

Education Code 39A.110

Continued Unacceptable Performance Rating

If a campus is considered to have an unacceptable performance rating for five consecutive school years, the commissioner shall order:

1. Appointment of a board of managers to govern the district; or

2. Closure of the campus.

Education Code 39A.111

Parent Petition for Action

"Parent" means the parent who is indicated on the student registration form at that campus and the signature of only one parent of a student is required.

If the commissioner is presented, in the time and manner specified by commissioner rule, with a written petition signed by the parents of a majority of the students enrolled at a campus with an unacceptable performance rating for three consecutive school years, specifying an authorized action that the parents request the commissioner to order, the commissioner shall order the specific action requested.

If the board presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order specific authorized action other than the specific action requested in the parents' petition and a written explanation of the basis for the board's request, the commissioner may order the action requested by the board.

Education Code 12.051, 39A.112; 19 TAC 97.1065(d)

Repurposing of Closed Campus

If the commissioner orders the closure of a campus, that campus may be repurposed to serve students at that campus location only if the commissioner finds that the repurposed campus offers a distinctly different academic program and approves a new campus identification number for the repurposed campus. A campus may be repurposed if the campus:

1. Serves a majority of grade levels not served at the original campus; or
2. Is operated under a contract, approved by the school board, with a nonprofit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986 that:
    a. Has a governing board that is independent of the district;
    b. Has a successful history of operating school district campuses or open-enrollment charter schools:
        (1) That cumulatively serve 10,000 or more students; and
        (2) A majority of which have been assigned an overall performance rating of B or higher under Education Code 39.054 for the preceding school year; and
    c. Has been assigned an overall performance rating of B or higher under Education Code 39.054 for the preceding school year.

Student Enrollment and Assignment

Any student assigned to a campus that has been closed must be allowed to transfer to any other campus in the district that serves that student's grade level and on request must be provided transportation to the other campus.

The commissioner may grant an exemption allowing students assigned to a closed campus to attend the repurposed campus if there is no other campus in the district at which the students may enroll.

Noncontracted Repurposed Campus

The majority of students assigned to a campus that has been closed and repurposed may not have attended that campus in the previous school year if the campus was repurposed to serve a majority of grade levels not served at the original campus.

Enrollment Provision in Contract

A contract approved by the school board with a nonprofit organization must provide that a student residing in the attendance zone of the campus immediately before the campus was repurposed shall be admitted for enrollment at the repurposed campus.

Education Code 39A.113

Targeted Technical Assistance

If the commissioner determines that the basis for the unacceptable performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance. *Education Code 39A.114*

Alternative Management

The commissioner shall appoint a monitor, conservator, management team, or board of managers whenever such action is required, as determined by 19 Administrative Code 1073. Action under any other section of 19 Administrative Code Chapter 97, Subchapter EE is not a prerequisite to acting under this section. *19 TAC 97.1073*

Solicitation of Proposals

If the commissioner orders alternative management of a campus, the commissioner shall solicit proposals from qualified nonprofit entities to assume management of the campus or appoint a school district as provided below. The commissioner may solicit proposals from qualified for-profit entities if a nonprofit entity has not responded to the commissioner's request for proposals.

The commissioner may appoint a school district to assume management of the campus if the district:

1. Is not the district in which the campus is located; and
2. Is located within the boundaries of the same regional education service center as the campus.

If a school district is appointed, the district shall assume management of the campus in the same manner as a qualified entity or in accordance with commissioner rule.

The commissioner may annually solicit proposals for the alternative management of a campus. The commissioner shall notify a qualified entity that has been approved as a provider under this section.

Education Code 39A.151

Qualifications of Managing Entity

To qualify for consideration as a managing entity, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals who have:

1. Documented success in whole school interventions that increased the educational and performance levels of students in campuses considered to have an unacceptable performance rating;

2. A proven record of effectiveness with programs assisting low-performing students;

3. A proven ability to apply research-based school intervention strategies;

4. A proven record of financial ability to perform under the management contract; and

5. Any other experience or qualifications the commissioner determines necessary.

In selecting a managing entity, the commissioner shall give preference to a qualified entity that:

1. Meets any of the commissioner's qualifications; and

2. Has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus to be operated by the managing entity.

Education Code 39A.152

Contract with Managing Entity

If the commissioner has ordered alternative management of a campus, the district shall execute a contract with an approved provider to serve as a managing entity for the campus. The term of the contract may not exceed five years with an option to renew the contract. The district must execute the contract and relinquish control of the campus before January 1 of the school year.

The management contract must include:

1. A provision describing the district's responsibilities in supporting the operation of the campus; and

2. Provisions approved by the commissioner requiring the managing entity to demonstrate improvement in campus performance, including negotiated performance measures.

Performance measures must be consistent with the priorities of Education Code Chapters 39 and 39A.

The management contract must be approved by the commissioner before the contract is executed. As appropriate, the commissioner may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the contract.

Education Code 39A.153; 19 TAC 97.1067

Extension of Management Contract

The commissioner may require a district to extend the term of a management contract with a managing entity if the commissioner determines that extending the contract on expiration of the initial term is in the best interest of the students attending the campus. The terms of the contract must be approved by the commissioner. *Education Code 39A.154*

Evaluation of Managing Entity

The commissioner shall evaluate a managing entity's performance on the first and second anniversaries of the date of the management contract.

If the evaluation fails to demonstrate improvement as negotiated under the management contract by the first anniversary of the date of the contract, the district may:

1. Terminate the contract, with the commissioner's consent, for nonperformance or breach of contract; and
2. Select another provider from an approved list provided by the commissioner.

If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall:

1. Terminate the contract; and
2. Select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner.

If the commissioner approves the district's resumed operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

Education Code 39A.155

Cancellation of Management Contract

If a campus receives an unacceptable performance rating for two consecutive school years after a managing entity assumes management of the campus, the commissioner shall cancel the contract with the managing entity. *Education Code 39A.156*

Return of Management to District

Unless a campus has an unacceptable performance rating for three consecutive school years [see Continued Unacceptable Performance Rating, above], at the end of a management contract term or on the cancellation of a management contract, the board shall resume management of the campus. *Education Code 39A.157*

Applicability of Accountability Provisions

Each campus operated by a managing entity is subject to Education Code Chapters 39 and 39A in the same manner as any other campus in the district. *Education Code 39A.158*

Funding

The funding for a campus operated by a managing entity may not be less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received. *Education Code 39A.159*

Open Meetings and Public Information

With respect to the management of a campus by a managing entity:

1. A managing entity is considered to be a governmental body for purposes of the Texas Open Meetings Act and Public Information Act; and

2. Any requirement in the Texas Open Meetings Act or Public Information Act that applies to a school district or the board of trustees of a district applies to a managing entity.

Education Code 39A.160

Board of Managers

General Powers and Duties

Notwithstanding Education Code 11.151(b) or 11.1511(a) or any other provision of the Education Code, a board of managers may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation.

A board of managers appointed by the commissioner is required to take appropriate actions to resolve the conditions that caused a campus to be subject to the commissioner's order, including amending the district's budget, reassigning staff, or relocating academic programs. The commissioner may adopt rules necessary to implement this subsection.

Education Code 39A.201

Board of Managers of District

Notwithstanding Education Code 11.151(b) or 11.1511(a) or any other provision of the Education Code, if the commissioner appoints a board of managers to govern a district:

1. The powers of the board are suspended for the period of the appointment; and

2. The commissioner shall appoint a district superintendent.

A board of managers appointed to govern a school district may amend the budget of the district.

Education Code Chapter 39A applies to a school district governed by a board of managers in the same manner it applies to any other district.

Education Code 39A.202

Composition of Board of Managers

A board of managers appointed by the commissioner must, if possible, include community leaders, business representatives who have expertise in leadership, and individuals who have knowledge or expertise in the field of education. *Education Code 39A.204*

Training of Board of Managers

The commissioner must provide each individual appointed to a board of managers with training in effective leadership strategies. *Education Code 39A.205*

The training in effective leadership strategies shall be provided by TEA-approved authorized providers of board training to each individual appointed by the commissioner to a board of managers, and, following the expiration of the appointment of the board of managers, to the board of trustees of the school district. *19 TAC 97.1073(h)*

Compensation

The commissioner may authorize payment of a board of managers from TEA funds.

A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner.

Education Code 39A.206

Replacement of Member of Board of Managers

The commissioner may at any time replace a member of a board of managers. The commissioner may adopt rules necessary to implement this section. *Education Code 39A.207*

Expiration of Appointment

A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the school district in accordance with the law. The members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires.

Not later than the second anniversary of the date the board of managers of a school district was appointed, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire. Following each of the last three years of the period of the appointment, one-third of the members of the board of managers shall be replaced by the number of members of the board of trustees who were elected at an election that constitutes, as closely as possible, one-third of the membership of the board of trustees.

If, before the second anniversary of the date the board of managers of a school district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the board of managers for a period of up to two additional years.

On the expiration of the appointment of the board of managers, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

Following the expiration of the period of appointment of a board of managers for a school district, the commissioner shall provide training in effective leadership strategies to the board of trustees.

Education Code 39A.208; 19 TAC 97.1073

Removal of Board of Managers

The commissioner may remove a board of managers appointed to govern a school district only if the campus that was the basis for the appointment of the board of managers receives an acceptable performance rating for two consecutive school years.

If a campus that was the basis for the appointment of a board of managers receives an unacceptable performance rating for two additional consecutive years following the appointment of the board of managers, the commissioner may remove the board of managers and, in consultation with the local community, may appoint a new board of managers to govern the district.

Following the removal of a board of managers, or at the request of a managing entity to oversee the implementation of alternative management, the commissioner may appoint a conservator or monitor for the district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan.

Education Code 39A.209; 19 TAC 97.1073

Challenge of Intervention or Sanction

Review of Sanctions by SOAH

A district must appeal under this provision if the district intends to challenge the commissioner's decision to close the district or a campus, pursue alternative management of a campus, appoint a board of managers to the district, or appoint a conservator or management team to the district.

A challenge is under the substantial evidence rule [see Government Code, Chapter 2001, Subchapter G]. The commissioner shall adopt procedural rules for a challenge under this section.

Notwithstanding other law:

1. The State Office of Administrative Hearings (SOAH) shall conduct an expedited review of a challenge;
2. The administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed;
3. The decision of the administrative law judge is final and may not be appealed; and
4. The decision of the administrative law judge may set an effective date for an action under this section.

Education Code 39A.301

Appeals

If an order, decision, or determination is described as final in Education Code Chapter 7, 11, 12, 39, or 39A, an interlocutory or intermediate order, decision, report, or determination made or reached before the final order, decision, or determination may be appealed only as specifically authorized by the Education Code or a rule adopted under the Education Code. *Education Code 5.003*

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*

Annual Review

The commissioner shall annually review the performance of a district or campus subject to intervention and sanction to determine the appropriate actions to be implemented.

The commissioner must review at least annually the performance of a district for which the accreditation status or performance rating has been lowered due to insufficient student performance and may not raise the accreditation status or performance rating until the district has demonstrated improved student performance.

If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

Education Code 39A.901

Increasing Intensity

If a district or campus does not exhibit improvement in student performance, the commissioner may increase the intensity of intervention and sanction that would otherwise be required by statute or rule, including ordering campus closure, district annexation, or appointment of a board of managers.

For purposes of this section, improvement means an increase in the scaled score for the overall academic performance rating under Education Code Chapter 39.

19 TAC 97.1070(a)–(b)

Intervention Programs

ACE Turnaround Plan

A campus may submit an accelerated campus excellence (ACE) turnaround plan. The plan must meet the requirements of Education Code 39A.105(b). *Education Code 39A.105(b)–(c)*

Resource Campus

An eligible campus may apply to the commissioner to be designated as a resource campus that provides quality education and enrichment for campus students. To apply to be designated as a resource campus, the campus must have received an overall performance rating of F for four years over a ten-year period of time. *Education Code 29.934(a)–(b)*

Strong Foundations Intervention

Notwithstanding when a D rating is considered acceptable or any other law, the commissioner may require a district to comply with all requirements of the strong foundations grant program under Education Code 29.0881 at a campus that:

1. Includes students at any grade level from prekindergarten through fifth grade;
2. Is assigned an overall performance rating of D or F; and
3. Is in the bottom five percent of campuses in the state based on student performance on the grade three state reading assessment during the previous school year, as determined by the commissioner.

Education Code 39A.065(a)

Miscellaneous Provisions

Acquisition of Professional Services

In addition to other authorized interventions and sanctions, the commissioner may order a district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The commissioner's order may require the district or campus to:

1. Select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or
2. Provide for or participate in the appropriate training of district staff or board members in the case of a district, or campus staff, in the case of a campus.

Education Code 39A.902

Costs Paid by District

The costs of providing a monitor, conservator, management team, campus intervention team, technical assistance team, managing entity, or service provider shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

1. Pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or
2. Recover the amount of the costs in the manner provided for recovery of an over allocation of state funds under Education Code 48.272.

Education Code 39A.903

Immunity from Civil Liability

An employee, volunteer, or contractor acting on behalf of the commissioner, or a member of a board of managers appointed by the commissioner, is immune from civil liability to the same extent as a professional employee of a district under Education Code 22.051. *Education Code 39A.904*

Campus Name Change

In reconstituting, repurposing, or imposing any other intervention or sanction on a campus, the commissioner may not require that the name of the campus be changed. *Education Code 39A.905*

Special Program Performance Determination

The commissioner shall assign districts an annual determination level based on performance levels of certain special populations student groups under 19 Administrative Code 97.1005 (Results Driven Accountability) [see AIB] according to the criteria and requirements in 19 Administrative Code 97.1071.

The commissioner shall notify in writing each district identified for review under this section as a result of assigned determination level or cyclical selection prior to requiring a district to implement or participate in any activities included in 19 Administrative Code 97.1071(f)(1)–(6).

Actions taken under this section are intended to assist the district in raising its performance and/or achieving compliance under 19 Administrative Code 97.1005 and 74.28 and Education Code sections 28.006 and 38.003 and do not preclude or substitute for a sanction under another provision of Chapter 97, Subchapter EE.

19 TAC 97.1071(c), (g), (h)

Intervention Pause

Except as otherwise provided by 19 Administrative Code 97.1062 and unless extended by the commissioner, TEA will cease to enforce the interventions under Education Code 39A.101-39A.111 until conclusion of the second consecutive school year of operation under:

1. A partnership as defined by 19 Administrative Code 97.1077(a)(2), (b), or (c) of this title [see ELA]; or

2. Designation as a mathematics innovation zone under Education Code 28.020 and applicable rules.

Any intervention or sanction not covered by the provision above shall continue.

If a campus ceases to qualify for the intervention pause at any point during a school year, TEA will resume previously ordered interventions and sanctions, order interventions and sanctions based on the rating from that school year, and count that rating for purposes of consecutive years of performance.

19 TAC 97.1062

Failure to Submit Emergency Operations Plan

If TEA receives notice from the Texas School Safety Center of a district's failure to submit a multihazard emergency operations plan [see CKC], the commissioner may appoint a conservator for the district under Education Code Chapter 39A. The conservator may order the district to adopt, implement, and submit a multihazard emergency operations plan. If a district fails to comply with a conservator's order to adopt, implement, and submit a multihazard emergency operations plan within the time frame imposed by the commissioner, the commissioner may appoint a board of managers under Education Code Chapter 39A to oversee the operations of the district. *Education Code 37.1082(a)–(b)*

Note: The following provisions apply to a district with a central administrative office that is located in a county with a population of more than two million and that has a student enrollment that is more than 125,000 and less than 200,000, and that is operating under a turnaround plan.

Student Board Member

Notwithstanding Education Code 11.051(b) (number of trustees on a school board), the board may adopt a resolution establishing as a nonvoting member a student trustee position. If a board adopts such a resolution, the board shall adopt a policy addressing the topics specified in statute. A student trustee may not participate in a closed session of a board meeting [see BEC] in which any issue related to a personnel matter is considered. *Education Code 11.0511(a)–(f)*

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 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 ten 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 concerning imposition of excessive paperwork requirements on classroom teachers; or
18. As the commissioner otherwise determines necessary.

The commissioner may authorize special investigations to be conducted in response to repeated complaints submitted to the agency concerning imposition of excessive paperwork requirements on classroom teachers.

Education Code 39.003(a), (c)

TEA shall adopt written procedures for conducting special accreditation 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*

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)*

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 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 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 39.057 (redesignated to Education Code 39.003, special investigations).

Activities described in item 1, above, are applicable for compliance with requirements for reading diagnosis in Education Code 28.006 [see EKC] and dyslexia and related disorders in Education Code 38.003 and 19 Administrative Code 74.28 [see EHB].

19 TAC 97.1071(a)–(b)

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]

Note: This policy addresses many of the powers and duties of the board set forth in Education Code Chapter 11, Subchapter D. For other powers and duties of the board not listed below, see the applicable policy codes.

Governance

A district is governed by a board of trustees who, as a body corporate, shall oversee the management of the district and ensure that the superintendent implements and monitors plans, procedures, programs, and systems to achieve appropriate, clearly defined, and desired results in the major areas of district operations. *Education Code 11.051(a)*

General Powers and Duties

The trustees constitute a body corporate and in the name of the district may acquire and hold real and personal property, sue and be sued, and receive bequests and donations or other moneys or funds coming legally into their hands.

Except as provided by Education Code 39A.201 and 39A.202 [see AIC], the trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. All powers and duties not specifically delegated by statute to the Texas Education Agency (TEA) or the State Board of Education are reserved for the board, and TEA may not substitute its judgment for the lawful exercise of those powers and duties by the trustees.

The trustees may adopt rules and bylaws necessary to carry out these powers and duties.

Education Code 11.151(a), (b), (d)

Specific Powers and Duties

In addition to powers and duties under Education Code 11.151 above or other law, the board has the powers and duties provided by Education Code 11.1511(b) below, except as otherwise provided by Education Code 39A.201 or 39A.202. *Education Code 11.1511(a)*

The board shall:

1. Seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community.
2. Adopt a vision statement and comprehensive goals for the district and the superintendent, and monitor progress toward those goals. [See AE]
3. Establish performance goals for the district concerning the academic and fiscal performance indicators under Education

Code Chapter 39, Subchapters C, D, and J, and any performance indicators adopted by the district. [See AI series]

4. Provide oversight regarding student academic achievement and strategic leadership for maximizing student performance. *Education Code 11.1515* [See AIB]

5. Ensure that the superintendent is accountable for achieving performance results, recognizes performance accomplishments, and takes action as necessary to meet performance goals. [See BJA]

6. Collaborate with the superintendent as set forth at Education Code 11.1512(b). *Education Code 11.1512* [See BJA]

7. Adopt a policy to establish a district- and campus-level planning and decision-making process as required under Education Code 11.251. [See BQ series]

8. Publish an annual educational performance report as required under Education Code 39.306. [See AIB, BQ series]

9. Adopt an annual budget for the district as required under Education Code 44.004. [See CE]

10. Adopt a tax rate each fiscal year as required by Tax Code 26.05. [See CCG]

11. Monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records. [See CF series]

12. Ensure that district fiscal accounts are audited annually as required by Education Code 44.008. [See CFC]

13. Publish an end-of-year financial report for distribution to the community. [See CFA]

14. Conduct elections as required by law. [See BBB series]

15. By rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint. [See DGBA, FNG, and GF]

16. Make decisions relating to terminating the employment of district employees employed under a contract to which Education Code Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies. [See DF series]

17. Select the internal auditor if a district employs an internal auditor. The internal auditor shall report directly to the board. *Education Code 11.170* [See DC]

18. Adopt a policy providing for the employment and duties of district personnel. *Education Code 11.1513* [See BJ series, DC series, and DEA series]

19. Limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. The board shall review paperwork requirements imposed on classroom teachers and transfer to existing non-instructional staff a reporting task that can reasonably be accomplished by that staff. *Education Code 11.164* [See DLB]

20. Adopt a cybersecurity policy. *Education Code 11.175* [See CQB]

21. Adopt early childhood literacy and mathematics proficiency plans. *Education Code 11.185* [See EA]

22. Adopt college, career, and military readiness plans. *Education Code 11.186* [See EA]

23. Conduct an efficiency audit before seeking voter approval to adopt a tax rate for the maintenance and operations of the district at an election held for that purpose. *Education Code 11.184* [See CCG]

24. Carry out other powers and duties as provided by the Education Code or other law.

Education Code 11.1511(b), except as noted

Discretionary Powers and Duties

The board may:

1. Issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Education Code 45.001 and 45.003. *Education Code 11.1511(c)(1)* [See CCA]

2. Levy, assess, and collect an annual ad valorem tax for maintenance and operation of a district as authorized under Education Code 45.002 and 45.003. *Education Code 11.1511(c)(2)* [See CCG]

3. Employ a person to assess or collect the district's taxes as authorized under Education Code 45.231. *Education Code 11.1511(c)(3)* [See CCG and BDAF]

4. Enter into contracts as authorized under the Education Code or other law and delegate contractual authority to a superintendent as appropriate. *Education Code 11.1511(c)(4)*

5. Require a district's chief business official or curriculum director or a person holding an equivalent position to appear at an executive session of the board or to testify at a public hearing held by the board. *Education Code 11.1511(d)* [See BJA regarding prohibition of superintendent interference]

6. Contract with a public or private entity for that entity to provide educational services for the district. *Education Code 11.157* [See EEL]

7. Charge fees as set forth at Education Code 11.158. *Education Code 11.158* [See FP]

8. Change the name of the district. *Education Code 11.160* [See AB]

9. Adopt rules that require students at a school in the district to wear school uniforms as set forth at Education Code 11.162. *Education Code 11.162* [See FNCA]

10. Adopt rules to keep school campuses, including school libraries, open for recreational activities, latchkey programs, and tutoring after school hours. *Education Code 11.165*

11. Operate a school or program or hold a class on the campus of an institution of higher education as set forth at Education Code 11.166. *Education Code 11.166* [See GNC]

12. Operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district. *Education Code 11.167* [See GNA]

13. Use the board evaluation tool developed by the commissioner of education. *Education Code 11.182* [See BG]

Note: For restrictions on a board's authority to use district resources for certain purposes, see CE(LEGAL).

For the board's authority related to district property, see CDB and CI.

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Eligibility

To be eligible to be a candidate for, or elected or appointed to, the office of school board member, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.
4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities [but see Ineligibility below].
5. Have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
    a. For an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot.
    b. For a write-in candidate, the date of the election at which the candidate's name is written in.
    c. For an appointee to an office, the date the appointment is made.
6. Be registered to vote in the territory from which the office is elected on the date described at item 5, above.

Election Code 1.020, 141.001(a); Education Code 11.066; Gov't Code 601.009; Tex. Const. Art. XVI, Sec. 14

Qualified Voter

A person may not be elected trustee of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

1. Is 18 years of age or older;

2. Is a United States citizen;

3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote;

4. Has not been finally convicted of a felony or, if so convicted, has fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or been pardoned or otherwise released from the resulting disability to vote;

5. Is a resident of this state; and

6. Is a registered voter.

Election Code 1.020, 11.002 [See *Atty. Gen. Op. KP-0251 (2019)* (concluding that the restoration of a convicted felon's qualification to vote under Election Code 11.002(a)(4)(A) after fully discharging a sentence does not restore the person's eligibility to hold public office under Election Code 141.001(a)(4))]

Residency

"Residence" Defined

In the Election Code, "residence" means domicile, that is, one's home and fixed place of habitation to which one intends to return after any temporary absence. A person may not establish residence for the purpose of influencing the outcome of a certain election. A person does not lose the person's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. A person may not establish a residence at any place the person has not inhabited. A person may not designate a previous residence as a home and fixed place of habitation unless the person inhabits the place at the time of designation and intends to remain. *Election Code 1.015*

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism'd w.o.j.)*

Intent to Return

For purposes of satisfying the continuous residency requirement, a person who claims an intent to return to a residence after a temporary absence may establish that intent only in accordance with Election Code 141.001(a-1), which does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster. *Election Code 141.001(a-1)–(a-2)*

Single-Member Districts	A candidate for board member representing a single-member district must be a resident of the district the candidate seeks to represent. *Education Code 11.052(g)*
Ineligibility	A person is ineligible to serve as a member of the board of a district if the person has been convicted of a felony or an offense under Penal Code 43.021 (solicitation of prostitution). *Education Code 11.066*

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Notice of Polling Place

Any written notice of a polling place location must state the building name, if any, and the street address, including the suite or room number, if any, of the polling place. *Election Code 1.021*

Election Order

The board shall order an election. An election to be held on a uniform election date shall be ordered not later than the 78th day before election day. *Election Code 3.004, .005*

Each election order must state:

1. The date of the election;
2. The offices or measures to be voted on;
3. The early voting clerk's official mailing address or street address at which the clerk may receive delivery by common or contract carrier, if different, phone number, email address, and internet website, if the early voting clerk has an internet website;
4. The location of the main early voting polling place;
5. The dates and hours for early voting; and
6. The dates and hours of any Saturday and Sunday early voting.

Election Code 3.006, 83.010, 85.004, .007

A board shall preserve the election order for the period for preserving the precinct election records. The date and nature of each election shall be entered in the official records of the board. For an election on a measure, the entry must include a description of the measure. *Election Code 3.008*

Failure to Order an Election

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

Election Notice

Contents

Notice of the election must state:

1. The nature and date of the election;
2. The location of each polling place;

3. The hours the polls will be open;

4. The internet website of the authority conducting the election;

5. The early voting clerk's official mailing address or street address at which the clerk may receive delivery by common or contract carrier, if different, phone number, email address, and internet website, if the early voting clerk has an internet website;

6. The location of the main early voting polling place; and

7. The dates and hours for early voting, including the dates and hours of any Saturday and Sunday early voting.

Election Code 4.004(a), 83.010, 85.004, .007

Notice of Special Election

The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. *Election Code 4.004(b)*

Publication

Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within the district's boundaries or in a newspaper of general circulation in the district if none is published within the district's boundaries. The board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. *Election Code 4.003(a)(1), (c), .005(a)*

Posting

In addition to the notice described above, not later than the 21st day before election day, a county shall post a copy of a notice of election provided to the county [see Notice to County Clerk and Voter Registrar, below], which must include the location of each polling place, on the county's internet website, if the county maintains a website. A district may post a copy of the notice on the bulletin board used for posting notices of the meetings of the board. If a county does not maintain a website, the district shall post a copy of the notice of the election on the bulletin board used for posting notice of meetings of the board. The notice must remain posted continuously through election day. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the board after the last posting is made. *Election Code 4.003(b), .005(b)*

A district that maintains a website must post the notice described above on the internet website of the district. *Election Code 85.007(d)*

Note: For additional website posting requirements regarding the date and location of the next election, see CQA.

Notice to County Clerk and Voter Registrar

The board shall deliver notice of the election, including the location of each polling place, to the county clerk and voter registrar of each county in which the district is located not later than the 60th day before election day. The county clerk shall post notice of the election, including the location of each polling place, on the county's internet website, if the county maintains a website, as provided by Election Code 4.003(b). *Election Code 4.008(a)* [See Posting, above]

Notice to Election Judge

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the board shall deliver to the presiding judge of each election precinct in which the election is to be held in the district a written notice of:

1. The nature and date of the election;
2. The location of the polling place for the precinct served by the judge;
3. The hours that the polls will be open;
4. The judge's duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

Failure to Give Notice of Election

Failure to give notice of a general election does not affect the validity of the election. *Election Code 4.006*

Internet Posting

Not later than the 21st day before election day, a district that holds an election and maintains an internet website shall post on the public internet website for the district:

1. The date of the next election;
2. The location of each polling place;
3. Each candidate for an elected office on the ballot; and
4. Each measure on the ballot.

Election Code 4.009(b)

Filing Information

Notice to Candidates

A district shall post notice of the dates of the filing period in a public place in a building in which the district has an office not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot. A district shall designate an email address in the notice for the purpose of filing an application for a place on the ballot under Election Code 143.004, below. *Election Code 141.040*

Note: For additional website posting requirements regarding the requirements and deadline for filing for candidacy of board member, see CQA.

Application

To be entitled to a place on the ballot, a candidate must make an application for a place on the ballot. An application, other than an application required to be accompanied by fee, may be filed through email transmission of the completed application in a scanned format to the email address designated by the filing authority in the notice required under Election Code 141.040, above. *Election Code 143.004*

A candidate application for a place on the ballot must:

1. Be in writing;
2. Be signed and sworn to before a person authorized to administer an oath in this state by the candidate and indicate the date that the candidate swears to the application;
3. Be timely filed with the appropriate authority; and
4. Include all statutorily required information.

Election Code 141.031, .039

Deadline

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline.

An application must be filed not later than 5:00 p.m. of the 78th day before the date of the election for an election to be held on a uniform election date.

Education Code 11.055(a); Election Code 144.005(a), (d)

Death of Candidate

If a candidate dies on or before the deadline for filing an application for a place on the ballot:

1. The authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and
2. If the authority omits the candidate's name under item 1, the filing deadline for an application for a place on the ballot for

the office sought by the candidate is extended until the fifth day after the filing deadline.

Election Code 145.098(b)

Write-in Candidate

A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 74th day before election day for an election to be held on a uniform election date. *Education Code 11.056(b); Election Code 146.054*

Special Election

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or
2. 5:00 p.m. of the 40th day before election day if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

Exception

For a special election to be held on the date of the general election for state and county officers (the first Tuesday after the first Monday in November in even-numbered years under Election Code 41.002), the day of the filing deadline is 6:00 p.m. of the 75th day before election day.

Write-in Candidate

A declaration of write-in candidacy for a special election must be filed not later than the filing deadline.

Election Code 201.054

Delivery or Submission of Documents

When the Election Code provides for the delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under that code, a delivery, submission, or filing with an employee of the district at the district's usual place for conducting official business constitutes filing with the district. The district may accept the document or paper at a place other than the district's usual place for conducting official business.

A delivery, submission, or filing of a document or paper under the Election Code may be made by personal delivery, mail, telephonic facsimile machine, email, or any other method of transmission.

Election Code 1.007

Election of Unopposed Candidate

The board may declare each unopposed candidate elected to office in accordance with the provisions below. *Election Code 2.053(a)*

A special election is considered to be a separate election with a separate ballot from a general election for board members or another special election held at the same time. *Election Code 2.051(a)*

Single-Member Districts

If any members of a board are elected from single-member districts, Election Code Chapter 2, Subchapter C (election of unopposed candidate) applies to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that single-member district is unopposed and no opposed at-large race is to appear on the ballot. *Election Code 2.051(b)*

Procedure for Canceling Election

The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted. The certification shall be delivered to the board as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

A certification may be made following the filing of a withdrawal request by a candidate after the deadline prescribed by Election Code 145.092 if:

1. The withdrawal request is valid except for the untimely filing;
2. Ballots have not been prepared; and
3. The other conditions for certification are met.

A certification under these circumstances shall be delivered to the board as soon as possible.

Election Code 2.052

On receipt of the certification, the board by order may declare each unopposed candidate elected to office. If a declaration is made, no election is held.

If no election is to be held by the district on election day, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected shall include the offices and names of the candidates declared elected listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall

be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053

[See BBBB regarding issuance of a certificate of election to an unopposed candidate declared elected and qualification for office.]

Ballot

The ballot shall be prepared in accordance with Election Code Chapter 52.

Drawing

The district shall conduct a drawing to determine the order of the candidates' names in an election at which the names of more than one candidate for the same office are to appear on the ballot. The district shall post in the district's office a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing. The district shall provide notice of the date, hour, and place of the drawing to each candidate by:

1. Written notice:
    a. Mailed to the address stated on the candidate's application for a place on the ballot, not later than the fourth day before the date of the drawing; or
    b. Provided at the time the candidate files an application with the district;
2. Telephone, if a telephone number is provided on the candidate's application for a place on the ballot; or
3. Email, if an email address is provided on the candidate's application for a place on the ballot.

Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing.

Election Code 52.093–.094 [See BBBB regarding ballot order in a runoff election or election to resolve a tie.]

Ballots for an election by position must clearly show the position for which each person is a candidate. A board shall arrange by lot the names of the candidates for each position. *Education Code 11.058(g)*

Election Services Contract

The county election officer, as defined by Election Code 31.091(1), may contract with the board of a district situated wholly or partly in the county served by the officer to perform election services, as provided by Election Code Chapter 31, Subchapter D, in any one or more elections ordered by the board.

If requested to do so by a district, the county elections administrator, as defined under Election Code Chapter 31, Subchapter B, shall enter into a contract to furnish the election services requested in accordance with a cost schedule agreed on by the contracting parties. A county elections administrator is not required to enter into a contract to furnish elections services for an election held on the first Saturday in May in an even-numbered year.

Election Code 31.092, .093, 41.001(d)

Election Judges and Clerks

By written order, a board shall appoint a presiding election judge and an alternate presiding judge for each election precinct in which an election is held. A board shall prescribe the maximum number of clerks that each presiding judge may appoint for each election. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. *Election Code 32.001(a), .008, .033*

Polling Places

A board shall designate polling places for election day and early voting. Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. *Election Code 43.004, .034, Ch. 85 (early voting by personal appearance)*

In an election held on the November uniform election date, a district shall use the regular county election precincts. The district shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district. *Election Code 42.002(a)(5), .0621, 43.004(b)*

Electioneering

A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

A district that owns or controls a public building being used as a polling place or early voting polling place may not, at any time during the voting period or early voting period, as applicable, prohibit electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Definitions

"Electioneering" includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114.

"Voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

"Early voting period" means the period prescribed by Election Code 85.001.

Election Code 61.003, 85.036

Early Voting

In each election, early voting shall be conducted by personal appearance at an early voting polling place and by mail, in accordance with Election Code Title 7, Chapters 81–114. *Election Code 81.001*

November Early Voting Polling Places

In an election on the November uniform election date in which the district is not holding a joint election with a county and has not executed a contract with a county elections officer under which the district and the county share early voting polling places, the district:

1. Shall designate as an early voting polling place for the election an eligible county polling place located in the district; and
2. May not designate as an early voting polling place a location other than an eligible county polling place unless each eligible county polling place located in the district is designated as an early voting polling place by the district.

"Eligible county polling place" means an early voting polling place, other than a polling place established under Election Code 85.062(e), established by a county.

Election Code 85.010(a), (a-1), (b)

Temporary Branch Days and Hours

County with 100,000 or More

Election Code 85.064 applies only to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, that section applies if the sum of the populations of the counties is 100,000 or more.

Early voting by personal appearance at each temporary branch polling place shall be conducted on the days that voting is required to be conducted at the main early voting polling place under Election Code 85.005 and remain open for at least:

1. Eight hours each day; or
2. Three hours each day if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters.

The authority authorized under Election Code 85.006 to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday

or Sunday at any one or more of the temporary branch polling places.

Election Code 85.064

County with Less than 100,000

Election Code 85.065 applies only to an election in which the territory served by the early voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is under 100,000.

Except as provided below, voting at a temporary branch polling place may be conducted on any days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch. The authority authorized under Election Code 85.006 to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places.

Voting at a temporary branch polling place must be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days.

The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

Election Code 85.065

Records

Branch Daily Register

The early voting clerk shall provide, in a downloadable database format, a current copy of the register for posting on the internet website of the district, if the district maintains a website, each day early voting is conducted. At a minimum, the voter registration number for each voter listed in the register must be posted. *Election Code 85.072*

Early Voting Rosters

The early voting clerk shall maintain for each election a roster listing each person who votes an early voting ballot by personal appearance and a roster listing each person to whom an early voting ballot to be voted by mail is sent. Information on the roster for a person who votes an early voting ballot by personal appearance shall be made available for public inspection as provided below not later than 11 a.m. on the day after the date the information is entered on the roster. Information on the roster for a person who votes an early voting ballot by mail shall be made available for public inspection as provided below not later than 11 a.m. on the day following the day the early voting clerk receives any ballot voted by mail.

The information must be made available:

1. For an election in which the county clerk is the early voting clerk:
    a. On the publicly accessible internet website of the county; or
    b. If the county does not maintain a website, on the bulletin board used for posting notice of meetings of the commissioners court; or
2. For an election not described by item 1:
    a. On the publicly accessible internet website of the district; or
    b. If the district does not maintain a website, on the bulletin board used for posting notice of board meetings.

Election Code 87.121(a), (g)–(i)

Conducting Elections

Elections shall be conducted in accordance with Election Code Title 6, Chapters 61–68.

Bilingual Materials

Spanish

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions. *Election Code 272.002*

Other Languages

If the director of the census determines that a district must provide election materials in a language other than English or Spanish, the district shall provide election materials in that language in the same manner in which the district would be required to provide materials in Spanish, to the extent applicable. *Election Code 272.011; 52 U.S.C. 10503*

Voting Systems

A voting system shall be adopted and utilized in accordance with Election Code Title 8.

Accessible Voting Stations

Except as provided below, each polling place must provide at least one voting station that complies with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments, Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments, and the requirements for accessibility under 52 U.S.C. Section 21081(a)(3) [formerly 42 U.S.C. Section 15481(a)(3)] and its subsequent amendments, and that provides a practical and effective

means for voters with physical disabilities to cast a secret ballot. *Election Code 61.012*

Electronic Voting System Exceptions

For an election other than an election of a district that is held jointly with another election in which a federal office appears on the ballot, a district is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the district is located in a county that meets certain population and other requirements set forth in Election Code 61.013(a). A district that intends to use this provision to provide fewer voting stations that meet the requirements for accessibility than required must provide notice under Election Code 61.013(d). *Election Code 61.013*

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Tie Votes

Second Election

In an election requiring a plurality, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held in accordance with the deadlines and other requirements of Election Code 2.002.

Other Options

Casting Lots

The tying candidates may agree to cast lots to resolve the tie. The agreement must be filed with the board. The board president shall supervise the casting of lots.

Withdrawal

A tying candidate may resolve the tie by filing with the board a signed and acknowledged written statement of withdrawal. On receipt of the statement, the remaining candidate is the winner, and a second election or casting of lots is not held.

Automatic Recount

If the tie is not resolved by casting lots or withdrawal, an automatic recount shall be conducted under Election Code Chapter 216 before the second election is held. If the recount resolves the tie, the second election is not held.

If the recount does not resolve the tie, the tied candidates may cast lots not later than the day before the date the board must order the second election under Election Code 2.002(b) or withdraw from the election not later than 5:00 p.m. of the day after the date the automatic recount is held.

Election Code 2.002

Runoff Election

In a district in which trustees are elected by majority vote under Education Code 11.057(c) [see BBB], if no candidate for a particular office receives the vote necessary to be elected, a runoff election for that office is required. *Election Code 2.021 et seq.*

If the candidates in a runoff election tie, an automatic recount shall be conducted under Election Code Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine the winner. The board president shall supervise the casting of lots. A tying candidate may resolve the tie by filing with the board president a signed and sworn to written statement of withdrawal. If the statement of withdrawal is received before the automatic recount is conducted, the remaining candidate is the winner, and the automatic recount is not conducted. If the statement of withdrawal

is received not later than 5:00 p.m. the day after the date the automatic recount is conducted, the remaining candidate is the winner, and a casting of lots is not held. *Election Code 2.028*

Ballot Order

The order of the candidates' names on the ballot of any resulting runoff election or election held to resolve a tie vote shall be the relative order of names on the original election ballot. *Election Code 2.002(d), 52.094(a)*

Recounts

The district shall conduct an authorized recount in accordance with Election Code Title 13. *Election Code 211.001*

A candidate in a board election may obtain an initial recount in an election if the difference in the number of votes received by the candidate and any candidate for the office who is shown by the election returns to be elected, tied, or entitled to a place on a runoff ballot, if applicable, is less than ten percent of that candidate's number of votes, or the total number of votes received by all candidates for the office is less than 1,000. *Election Code 212.022*

A ground for obtaining an initial recount is not required to obtain an initial recount of electronic voting system results. A candidate may obtain an initial recount of electronic voting system results in an election only if the candidate is shown by the election returns not to be elected. *Election Code 212.0241*

An initial recount may not be conducted unless an authorized candidate submits a petition for the recount to the presiding officer of the local canvassing authority in accordance with Election Code Chapter 212, Subchapter B, accompanied by a deposit to cover the costs of the recount in accordance with Subchapter E. *Election Code 212.025, .026, .111*

Effect of Petition

The submission of a recount petition before a board completes its canvass does not delay the canvass for the office involved in the recount. The board shall make a notation on the tabulation of any office involved in a recount. The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. This provision does not affect a candidate who has received a certificate of election and qualified for office before the submission of a recount petition involving the office. *Election Code 212.033, .0331*

Canvass Returns

General Rule

Except as provided below, a board shall convene to conduct the local canvass at the time set by the presiding officer not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;

2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

Election Code 67.003(b)

November Election—Even-Numbered Years

For an election held on the date of the general election for state and county officers (the first Tuesday after the first Monday in November in even-numbered years under Election Code 41.002), the time for the canvass may be set not later than the 14th day after election day. *Election Code 65.051(a-1), 67.003(c)*

Quorum for Canvass

Two members of a board constitute a quorum for purposes of canvassing an election.

At the time set for convening the board for the local canvass, the presiding officer shall deliver the sealed precinct returns to the board. The board shall open the returns for each precinct and canvass them as provided by Election Code 67.004.

Minutes

The presiding officer shall note the completion of the canvass in the minutes or in the recording required by the Open Meetings Act (Government Code 551.021). [See BE]

Election Code 67.004(a), (g)

Internet Posting of Election Results

A district that holds an election and maintains an internet website shall post on its public internet website:

1. The results of each election;

2. The total number of votes cast;

3. The total number of votes cast for each candidate or for or against each measure;

4. The total number of votes cast by personal appearance on election day;

5. The total number of votes cast by personal appearance or mail during the early voting period; and

6. The total number of counted and uncounted provisional ballots cast.

The information described above must be:

1. Posted as soon as practicable after the election; and

2. Accessible without having to make more than two selections or view more than two network locations after accessing the internet website home page of the district.

Election Code 65.016(b), (c)

Qualifying for Office

Certificate of Election

After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by the board's canvass. A certificate of election must contain:

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition. [See Effect of Petition, above]

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

Election Code 67.016

Certificate for Unopposed Candidate

A certificate of election shall be issued to each unopposed candidate declared elected in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(e)* [See BBBA regarding the election of an unopposed candidate.]

Officer's Statement

All elected and appointed board members, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b), (c)*

Oath of Office

All elected and appointed trustees, before they enter upon the duties of the office, shall take the official oath or affirmation of office. Newly elected trustees shall file their official oaths with the board president. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061(a)*

The oath may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A justice of the peace or clerk of a justice court.
4. A notary public.

Gov't Code 602.002

Election Records

Except as otherwise provided by the Election Code, a district shall preserve the precinct election records distributed to it for at least 22 months after election day. *Election Code 66.058(a)* [See CPC]

Destruction of Records

After expiration of the prescribed period for preserving election records under the Election Code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding connected with the election is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final. *Election Code 1.013*

Electioneering

The board may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

Political Advertising

An officer or employee of a district may not knowingly spend or authorize the spending of public funds for the purpose of political advertising. This does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

An officer or employee of a district may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense to prosecution for an offense under these provisions or the imposition of a civil penalty for conduct under these provisions that the officer or employee reasonably relied on a court order, or an interpretation of these provisions in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of the board that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure does or does not comply with these provisions.

Election Code 255.003 [See CPAB regarding use of the internal mail system for political advertising.]

Definition

“Political advertising” means a communication that supports or opposes a political party, a public officer, a measure, or a candidate for nomination or election to a public office or office of a political party, and:

1. Is published in a newspaper, magazine, or other periodical in return for consideration;
2. Is broadcast by radio or television in return for consideration;
3. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or
4. Appears on an internet website.

“Political advertising” does not include an individual communication made by email or text message but does include mass emails and

text messages involving an expenditure of funds beyond the basic cost of hardware, messaging software, and bandwidth.

1 TAC 20.1(11); Election Code 251.001(16)

Newsletters

A newsletter of a public officer of a district is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
    a. Is informational rather than self-promotional;
    b. Does not advocate passage or defeat of a measure; and
    c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

Disclosure Statement

A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:

1. That it is political advertising; and
2. The full name of the:
    a. Person who paid for the political advertising;
    b. Political committee authorizing the political advertising; or
    c. Candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under Election Code Title 15 shall be deemed to contain express advocacy.

These requirements do not apply to tickets or invitations to political fundraising events; campaign buttons, pins, hats, or similar campaign materials; or circulars or flyers that cost in the aggregate less than $500 to publish and distribute.

Election Code 255.001(a), (b), (d)

A required disclosure statement must contain the words “political advertising” or any recognizable abbreviation and comply with 1 Administrative Code 26.1. *1 TAC 26.1*

Note: For specific information regarding political advertising and campaign communications by candidates, including offenses, see Election Code 255.001–.006. For information regarding political signs, see Election Code Chapter 259.

Nepotism

A candidate may not take affirmative action to influence a district employee or current trustee regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE] This prohibition does not apply to a candidate’s actions taken regarding a bona fide class or category of employees or prospective employees. *Gov’t Code 573.042*

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 (Texas 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). 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 Public Information Act. [See GBAA regarding public information coordinator training] *Gov't Code 552.012*

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, in-

cluding 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 ten 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.

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 ten 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)

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 achievement, 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 Texas 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).

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 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)(7)

School Safety

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

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).

Note: For information regarding conflicts of interest and depository contracts, see BDAE.

See also CBB for conflict of interest requirements when federal funds are involved.

Substantial Interest Affidavit

If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The affidavit must be filed with the official recordkeeper of the district.

Local Gov't Code 171.004(a)–(b)

Abstention Exception

If a trustee is required to file and does file an affidavit, that trustee shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the trustees are likewise required to file and do file affidavits of similar interests on the same official action. *Local Gov't Code 171.004(c)*

Definitions

Local Public Official

"Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. *Local Gov't Code 171.001(1)*

Substantial Interest

Business Entity

A person has a substantial interest in a business entity if:

1. The person owns:
   a. Ten percent or more of the voting stock or shares of the business entity, or
   b. Either ten percent or more or $15,000 or more of the fair market value of the business entity; or

2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

Local Gov't Code 171.002(a)

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. *Local Gov't Code 171.001(2)*

Real Property — A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more. *Local Gov't Code 171.002*

First-Degree Relatives — A local public official is considered to have a substantial interest under Local Government Code 171.002 if a person related in the first degree by consanguinity or affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE], has a substantial interest under that section. *Local Gov't Code 171.002(c)*

Separate Vote on Budget — The board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a trustee has a substantial interest. Except as provided at Abstention Exception above, the affected trustee may not participate in that separate vote. The trustee may vote on a final budget if the trustee has complied with Local Government Chapter 171 and the matter in which the trustee is concerned has been resolved. *Local Gov't Code 171.005*

Violations — A local public official commits an offense if the official knowingly:

1. Violates Local Government Code 171.004.
2. Acts as surety for a business entity that has work, business, or a contract with the district.
3. Acts as surety on any official bond required of a trustee.

Local Gov't Code 171.003

Voidable Actions — The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of the board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov't Code 171.006*

Private Corporation — It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the

nonprofit corporation or other nonprofit entity. *Local Gov't Code 171.009*

Conflicts Disclosure Statement

A local government officer shall file a conflicts disclosure statement with respect to a vendor if the vendor enters into a contract with the district or the district is considering entering into a contract with the vendor; and the vendor:

1. Has an employment or other business relationship with the local government officer or a family member of the officer, and the business relationship results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:
    a. A contract between the district and the vendor has been executed; or
    b. The district is considering entering into a contract with the vendor;
2. Has given to the local government officer or a family member of the officer one or more gifts, and the gift or gifts have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:
    a. A contract between the district and the vendor has been executed; or
    b. The district is considering entering into a contract with the vendor; or
3. Has a family relationship with the local government officer.

Gifts—Exception

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. A political contribution as defined by Election Code Title 15; or
2. Food accepted as a guest.

Local Gov't Code 176.003(a)–(a-1)

Filing Date

A local government officer shall file the conflicts disclosure statement with the records administrator of the district not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement. *Local Gov't Code 176.003(b)*

Vendor Questionnaire

A person who is both a local government officer and a vendor of a district is required to file the required vendor questionnaire only if

the person enters or seeks to enter into a contract with the district or is an agent of a person who enters or seeks to enter into a contract with the district. [See CHE] *Local Gov't Code 176.006(e)*

Definitions

Agent — "Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee. *Local Gov't Code 176.001(1)*

Business Relationship — "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
2. A transaction conducted at a price and subject to terms available to the public; or
3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Gov't Code 176.001(1-a)

Contract — "Contract" means a written agreement for the sale or purchase of real property, goods, or services. *Local Gov't Code 176.001(1-d)*

Family Member — "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B. [See DBE] *Local Gov't Code 176.001(2)*

Family Relationship — "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Government Code Chapter 573, Subchapter B. [See DBE] *Local Gov't Code 176.001(2-a)*

Gift — "Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. *Local Gov't Code 176.001(2-b)*

Investment Income — "Investment income" means dividends, capital gains, or interest income generated from:

1. A personal or business checking or savings account, share draft or share account, or other similar account;

2. A personal or business investment; or

3. A personal or business loan.

Local Gov't Code 176.001(2-d)

Local Government Officer

"Local government officer" means a member of the board, the superintendent, or an agent of the district who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Local Gov't Code 176.001(4)*

Records Administrator

"Records administrator" means the director, superintendent, or other person responsible for maintaining the records of the district or another person designated by the district to maintain statements and questionnaires filed under Local Government Code Chapter 176 and perform related functions. *Local Gov't Code 176.001(5)*

Vendor

"Vendor" means a person who enters or seeks to enter into a contract with a district. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Local Gov't Code 176.001(7)*

Duties of Records Administrator

A records administrator shall:

1. Maintain a list of local government officers of the district and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Local Government Code 176.006; and

2. Maintain the statements and questionnaires that are required to be filed under Government Code Chapter 176 in accordance with the district's records retention schedule. [See CPC]

Local Gov't Code 176.0065

Internet Posting

A district that maintains an internet website shall provide access to the statements and to questionnaires required to be filed under Local Government Code Chapter 176 on that website. *Local Gov't Code 176.009*

Violations

A local government officer commits an offense if the officer is required to file a conflicts disclosure statement under Local Government Code 176.003 and knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement. It is an exception to the application of this provision that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after

the date the officer received notice from the district of the alleged violation.

A board may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under Local Government Code 176. [See DF series]

Local Gov't Code 176.013(a), (d), (f)

[See CHE for violations by a vendor.]

Affidavit Disclosing Interest in Property

A public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within ten days before the date on which the property is to be acquired by purchase or condemnation.

The affidavit must be filed with the county clerk of the county in which the public servant resides and the county clerk of each county in which the property is located.

The affidavit must:

1. State the name of the public servant and the public servant's office, public title, or job designation;
2. Fully describe the property;
3. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
4. State the date when the person acquired an interest in the property;
5. Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and
6. Contain an acknowledgment of the same type required for recording a deed in the deed records of the county.

Gov't Code 553.002

Definition

"Public servant" means a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office, or
2. An officer of government.

Gov't Code 553.001

Violations

A person commits an offense if the person violates Government Code 553.002 and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property. A person who violates Government Code 553.002 by not filing the required affidavit is presumed to have the intent to commit an offense. *Gov't Code 553.003*

Trustee Financial Statement

The board by resolution adopted by majority vote may require each member of the board to file the financial statement required of state officers under Government Code Chapter 572, Subchapter B with the board and the Texas Ethics Commission.

Not later than the 15th day after the date a board adopts this resolution, the board shall deliver a certified copy of the resolution to the Texas Ethics Commission. A resolution applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board that has adopted a resolution is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

The commissioner by order shall require the members of the board to file the financial statement required of state officers under Government Code Chapter 572, Subchapter B in the same manner as the members of a board that have adopted a resolution if the commissioner determines that:

1. A board member has failed to comply with filing and recusal requirements applicable to the member under Local Government Code Chapter 171;

2. The district financial accounting practices are not adequate to safeguard state and district funds; or

3. The district has not met a standard set by the commissioner in the financial accountability rating system.

The commissioner may require filing financial statements covering not more than three fiscal years and beginning on January 1 of the second year following the date of the commissioner's order. A member of a board subject to an order issued by the commissioner is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the order is issued. The commissioner may renew the requirement if the commissioner determines that a condition described above continues to exist.

Government Code Chapter 572, Subchapter B applies to a trustee subject to these provisions as if the trustee were a state officer,

and governs the contents, timeliness of filing, and public inspection of a statement filed under these provisions.

Education Code 11.064

Violations

A trustee serving in a district that has adopted a resolution or that is subject to an order issued by the commissioner commits an offense if the trustee fails to file the statement required by the resolution or order. *Education Code 11.064(c)*

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)

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 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 Foundation School Program 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 Foundation School Program 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 Foundation School Program maintenance and operations costs for all accredited school districts in this state constitutes the total maintenance and operations cost of the Foundation School Program.

The Foundation School Program 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 Foundation School Program 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” has the meaning assigned by Education Code 46.001. *Education Code 48.152(a)(1)* [See CCA]

“New instructional facility” includes:

1. A newly constructed instructional facility;
2. A repurposed instructional facility; or
3. A leased facility operating for the first time as an instructional facility with a minimum lease term of not less than ten years.

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

The Texas Education Agency (TEA) may enter into an agreement with a federal agency concerning a project related to education, including provision of school lunches and construction of school buildings. TEA, or another state agency designated by the governor, shall coordinate the actions of a district participating in a federal financial assistance program. *Education Code 7.021(b), (c); Gov't Code 742.003*

Retirement and Insurance Contributions

Under the Texas Public School Retired Employees Group Benefits Act, Insurance Code Chapter 1575, a district that applies for money provided by the United States or a privately sponsored source shall, if any of the money will pay part or all of an active employee's salary, also apply for any legally available money to pay state contributions required by Insurance Code Chapter 1575, Subchapter E. *Insurance Code 1575.252*

Such district must comply with the requirements of Insurance Code Chapter 1575, Subchapter F. *Insurance Code 1575.252(2)–.257*

Under the Teacher Retirement System, Government Code, Title 8, Subtitle C, if a district applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the district shall apply for any legally available money to pay state contributions required by Government Code 825.404 or 830.201. *Gov't Code 825.406(a)*

Such district must comply with the requirements of Government Code 825.406.

Block Grant Funds

If a district receives more than $5,000 in block grant funds to be used as the district determines is appropriate, it shall provide evidence to TEA that a public meeting or hearing was held in a timely manner solely to seek public comment on the needs or uses of block grant funds received by the district. The board may hold this meeting or hearing in conjunction with another board meeting or hearing if the meeting or hearing to consider block grant funds is clearly noted in an announcement of the other meeting or hearing. *Gov't Code 2105.058*

Education Department General Administrative Regulations (EDGAR)

Note: For information regarding procurement under state law, see the CH policy series regarding Purchasing and Acquisition and the CV series regarding Facilities Construction.

For additional legal requirements applicable to school nutrition procurement, see COA.

EDGAR means the Education Department General Administrative Regulations (34 C.F.R. 75, 76, 77, 79, 81, 82, 84, 86, 97, 98, and 99). *34 C.F.R. 77.1(c)*

Uniform Guidance (2 C.F.R. 200)

The Department of Education (ED) adopts the Office of Management and Budget (OMB) Guidance in 2 C.F.R. Part 200 Uniform Guidance, except for 2 C.F.R. 200.102(a) and 2 C.F.R. 200.207(a). Thus, 2 C.F.R. Chapter XXXIV, Part 3474 gives regulatory effect to the OMB guidance and supplements the guidance as needed for the ED. *2 C.F.R. 3474.1*

The Uniform Guidance establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, including school districts, as described in 2 C.F.R. 200.101 (Applicability). *2 C.F.R. 200.1 (Definitions), .100*

Note: The Uniform Guidance applies to all new grant awards and non-competing continuations (NCCs) made on or after December 26, 2014 (see 2 C.F.R. 200.110).

For more information on EDGAR, the Uniform Guidance, and the federal regulations that apply to federal education grant awards, visit TEA's EDGAR Materials and Resources[1] and the ED's EDGAR website[2] and Uniform Guidance website.[3]

General Compliance

A district is responsible for complying with all requirements of the federal award. *2 C.F.R. 200.300(b)*

Throughout 2 C.F.R. Part 200 when the word "must" is used it indicates a requirement. Whereas, use of the word "should" or "may" indicates a best practice or recommended approach rather than a requirement and permits discretion. *2 C.F.R. 200.101(b)(1)*

Disclosures

Conflicts

A district must disclose in writing any potential conflict of interest to the federal awarding agency (e.g., ED) or pass-through entity (e.g., TEA) in accordance with applicable federal awarding agency policy. *2 C.F.R. 200.112*

Crimes

A district must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.339 (Remedies for Noncompliance), including suspension or debarment. *2 C.F.R. 200.113*

Procurement Standards

District Procedures

The district must have and use documented procurement procedures, consistent with state, local, and tribal laws and regulations and the standards of 2 C.F.R. 200.318, for the acquisition of property or services required under a federal award or subaward. The district's documented procurement procedures [see Competition, below] must conform to the procurement standards identified in 2 C.F.R. 200.317 through 200.327.

Oversight

The district must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Conflicts of Interest

The district must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the district may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, districts may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the district. [See BBFA, CAA(LOCAL), CB(LOCAL), DBD]

Records

The district must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. [See Pre-procurement Review and Contract Cost and Price, below]

2 C.F.R. 200.318(a), (b), (c)(1), (i)

[See 2 C.F.R. 200.334 for record retention requirements.]

Financial Management

The district's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been

used according to the federal statutes, regulations, and the terms and conditions of the federal award. [See also 2 C.F.R. 200.450 (Lobbying)]

The district's financial management system must comply with 2 C.F.R. 200.302(b). [See also 2 C.F.R. 200.334 (Retention requirements for records), .335 (Requests for transfer of records), .336 (Methods for collection, transmission and storage of information), and .337 (Access to records)]

2 C.F.R. 200.302

Internal Controls

The district must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the district is managing the award in compliance with federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
2. Comply with the U.S. Constitution, federal statutes, regulations, and the terms and conditions of the award.
3. Evaluate and monitor the district's compliance with statutes, regulations and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the district considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and responsibility over confidentiality.

2 C.F.R. 200.303

"Internal controls" for districts means processes designed and implemented by districts to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;
2. Reliability of reporting for internal and external use; and

3. Compliance with applicable laws and regulations.

2 C.F.R. 200.1

Competition

All procurement transactions for the acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319 and 200.320 (Methods of procurement to be followed).

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

The district must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this provision preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The district must have written procedures for procurement transactions. These procedures must ensure that all solicitations meet the requirements of 2 C.F.R. 200.319(d). [See Procurement Standards, above]

The district must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the district must not preclude potential bidders from qualifying during the solicitation period.

Noncompetitive procurements can only be awarded in accordance with 2 C.F.R. 200.320(c).

2 C.F.R. 200.319

Procurement Methods

The district must have and use documented procurement procedures, consistent with the standards of 2 C.F.R. 200.320 and 200.317 (Procurements by states), 200.318 (General procurement standards), and 200.319 (Competition) for any of the following methods of procurement used for the acquisition of property or services required under a federal award or sub-award. *2 C.F. R. 200.320*

Informal Procurement Methods

When the value of the procurement for property or services under a federal award does not exceed the simplified acquisition threshold, as defined in 2 C.F.R. 200.1, or a lower threshold established by a district, formal procurement methods are not required. The district may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the simplified acquisition threshold include:

Micro-Purchases—Definitions

"Micro-purchase" means a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchases comprise a subset of a district's small purchases as defined in 2 C.F.R. 200.320.

"Micro-purchase threshold" means the dollar amount at or below which a district may purchase property or services using micro-purchase procedures. Generally, the micro-purchase threshold for procurement activities administered under federal awards is not to exceed the amount set by the Federal Acquisition Regulations (FAR) at 48 C.F.R. Part 2, Subpart 2.1 [see below], unless a higher threshold is requested by the district and approved by the cognizant agency for indirect costs.

2 C.F.R. 200.1

Micro-purchase threshold means $10,000, except as provided by 48 C.F.R. 2.101. *48 C.F.R. 2.101*

Micro-Purchase Distribution

The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. [See the definition of "micro-purchase" above.] To the maximum extent practicable, the district should distribute micro-purchases equitably among qualified suppliers. *2 C.F.R. 200.320(a)(1)(i)*

Micro-Purchase Awards

Micro-purchases may be awarded without soliciting competitive price or rate quotations if the district considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the district. *2 C.F.R. 200.320(a)(1)(ii)*

Micro-Purchase Thresholds

The district is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the district must be authorized or not prohibited under state, local, or tribal laws or regulations. Districts may establish a threshold higher than the federal

threshold established in the FAR in accordance with 2 C.F.R. 200.320(a)(1)(iv) and (v). *2 C.F.R. 200.320(a)(1)(iii)*

Districts may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of 2 C.F.R. 200.320. The district may self-certify a threshold up to $50,000 on an annual basis and must maintain documentation to be made available to the federal awarding agency and auditors in accordance with 2 C.F.R. 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

1. A qualification as a low-risk auditee, in accordance with the criteria in 2 C.F.R. 200.520 for the most recent audit.
2. An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
3. For public institutions, a higher threshold consistent with state law.

2 C.F.R. 200.320(a)(1)(iv)

Micro-purchase thresholds higher than $50,000 must be approved by the cognizant agency for indirect costs. The district must submit a request with the requirements included in 2 C.F.R. 200.320(a)(1)(iv). The increased threshold is valid until there is a change in status in which the justification was approved. *2 C.F.R. 200.320(a)(1)(v)*

Small Purchases—Procedures

The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the district. *2 C.F.R. 200.320(a)(2)(i)*

Small Purchases—Simplified Acquisition Thresholds

“Simplified acquisition threshold” means the dollar amount below which a district may purchase property or services using small purchase methods. Districts adopt small purchase procedures in order to expedite the purchase of items at or below the simplified acquisition threshold. The simplified acquisition threshold for procurement activities administered under federal awards is set by the FAR at 48 C.F.R. Part 2, Subpart 2.1 [see below]. The district is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. However, in no circumstances can this threshold exceed the dollar value established in the FAR

(48 C.F.R. Part 2, Subpart 2.1) for the simplified acquisition threshold. Recipients should determine if local government laws on purchasing apply. *2 C.F.R. 200.1, .320(a)(2)(ii)*

Simplified acquisition threshold means $250,000, except as provided by 48 C.F.R. 2.101. *48 C.F.R. 2.101*

Formal Procurement Methods

When the value of the procurement for property or services under a federal financial assistance award exceeds the simplified acquisition threshold, or a lower threshold established by a district, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with 2 C.F.R. 200.319 or 200.320(c). The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the district determines to be appropriate:

Sealed Bids

A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions [*sic*].

In order for sealed bidding to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available.
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

1. Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local governments, the invitation for bids must be publicly advertised;
2. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

3. All bids will be opened at the time and place prescribed in the invitation for bids, and for local governments, the bids must be opened publicly.

4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

5. Any or all bids may be rejected if there is a sound documented reason.

2 C.F.R. 200.320(b)(1)

Proposals A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

2. The district must have a written method for conducting technical evaluations of the proposals received and making selections;

3. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the district, with price and other factors considered; and

4. The district may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

2 C.F.R. 200.320(b)(2)

Noncompetitive Procurement

There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
2. The item is available only from a single source;
3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
4. The federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the district; or
5. After solicitation of a number of sources, competition is determined inadequate.

2 C.F.R. 200.320(c)

Cooperative Purchasing

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the district is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements. *2 C.F.R. 200.318(e)*

Minority, Small, and Women's Businesses

The district must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in items 1 through 5 above.

2 C.F.R. 200.321

Domestic Preference

As appropriate and to the extent consistent with law, the district should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 C.F.R. 200.322 must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this provision:

1. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

2. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2 C.F.R. 200.322

Pre-procurement Review

The district must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The district’s procurement procedures or operation fails to comply with the procurement standards in 2 C.F.R. Part 200;

2. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

3. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “brand name” product;

4. The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

2 C.F.R. 200.325(b)

Contract Cost and Price

The district must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the district must make independent estimates before receiving bids or proposals.

The district must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the district under 2 C.F.R. Part 200, Subpart E. The district may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 C.F.R. 200.324

Contract Provisions

The district's contracts must contain the applicable provisions described in appendix II to 2 C.F.R. Part 200. *2 C.F.R. 200.327*

Suspension and Debarment

Districts are subject to the non-procurement debarment and suspension regulations at 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.214*

Remedies for Noncompliance

If a district fails to comply with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.208 (Specific Conditions). If the federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the district or more severe enforcement action by the federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency).
5. Withhold further federal awards for the project or program.
6. Take other remedies that may be legally available.

2 C.F.R. 200.339

Travel Costs

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the district. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the district's non-federally funded activities and in accordance with the district's written travel reimbursement policies.

In the absence of an acceptable, written district policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11 (Travel and Subsistence Expenses; Mileage Allowances), or by the administrator of general services, or by the president (or his or her designee) pursuant to any provisions of such subchapter

must apply to travel under federal awards [48 C.F.R. 31.205–46(a)].

2 C.F.R. 200.475(a), (d)

Property Standards

Federally Owned Property

Title to federally owned property remains vested in the federal government. The district must submit annually an inventory listing of federally owned property in its custody to the federal awarding agency. Upon completion of the federal award or when the property is no longer needed, the district must report the property to the federal awarding agency for further federal agency utilization.

Exempt property means property acquired under a federal award where the federal awarding agency has chosen to vest title to the property to the district without further responsibility to the federal government, based upon the explicit terms and conditions of the federal award. The federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the federal award, title to exempt property acquired under the federal award remains with the federal government.

2 C.F.R. 200.312(a), (c)

Property Trust Relationship

Real property, equipment, and intangible property that are acquired or improved with a federal award must be held in trust by the district as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The federal awarding agency may require the district to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. *2 C.F.R. 200.316*

Real Property

Subject to the requirements and conditions set forth in 2 C.F.R. 200.311, title to real property acquired or improved under a federal award will vest upon acquisition in the district.

Except as otherwise provided by federal statutes or by the federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the district must not dispose of or encumber its title or other interests.

When real property is no longer needed for the originally authorized purpose, the district must obtain disposition instructions from the federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

1. Retain title after compensating the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(1).

2. Sell the property and compensate the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(2).

3. Transfer title to the federal awarding agency or to a third party designated/approved by the federal awarding agency. The district is entitled to be paid an amount calculated by applying the district's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

2 C.F.R. 200.311

Equipment

Title and Use

Subject to the requirements and conditions set forth in 2 C.F.R. 200.313, title to equipment acquired under a federal award will vest upon acquisition in the district. Unless a statute specifically authorizes the federal agency to vest title in the district without further responsibility to the federal government, and the federal agency elects to do so, the title must be a conditional title. Title must vest in the district subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.

2. Not encumber the property without approval of the federal awarding agency or pass-through entity.

3. Use and dispose of the property in accordance with the provisions below.

Equipment must be used by the district in the program or project for which it was acquired in accordance with 2 C.F.R. 200.313(c).

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a federal award, until disposition takes place will, as a minimum, meet the requirements of 2 C.F.R. 200.313(d).

Disposition

If the district is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

When original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, except as otherwise provided in federal statutes, regulations, or federal awarding agency disposition instructions, the district must request disposition instructions from the federal awarding agency if required by the terms and conditions of the fed-

	eral award. Disposition of the equipment will be made as prescribed in 2 C.F.R. 200.313(e), in accordance with federal awarding agency disposition instructions. *2 C.F.R. 200.313*
Supplies	Title to supplies will vest in the district upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the district must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment under 2 C.F.R. 200.313(e)(2). *2 C.F.R. 200.314(a)*
Intangible Property	Title to intangible property acquired under a federal award vests upon acquisition in the district. The district must use that property for the originally authorized purpose, and must not encumber the property without approval of the federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. 200.313(e). *2 C.F.R. 200.315(a)*
Prohibition on Foreign Telecommunications Equipment	Recipients and subrecipients are prohibited from obligating or expending loan or grant funds in violation of 2 C.F.R. 200.216(a).
Direct Grant Programs	The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the ED. *34 C.F.R. 75.1*
State-Administered Programs	The regulations in 34 C.F.R. Part 76 apply to each state-administered program of the ED. *34 C.F.R. 76.1*
General Education Provision Act	The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the ED and implement Part E of the General Education Provisions Act (GEPA). *34 C.F.R. 81.1*

[1] TEA EDGAR Materials and Resources: https://tea.texas.gov/Finance_and_Grants/Grants/EDGAR_Materials_and_Resources/
[2] ED EDGAR website: https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html
[3] ED Uniform Guidance website: https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html

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Tax Rate Adoption

Maintenance Taxes

The board may levy, assess, and collect annual ad valorem taxes for the maintenance of the district's schools. Taxes may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election called for that purpose. *Education Code 45.002, .003(a)*

Restriction on Maintenance Tax Levy

A district may not levy the district's maintenance taxes at a rate intended to create a surplus in maintenance tax revenue for the purpose of paying the district's debt service. *Education Code 45.0021(a)* [See Taxpayer Injunction, below]

Note: For information on the consequences of violating this restriction, see Education Code 45.0021(c)-(e). See also Taxpayer Injunction below.

Exceptions

Education Code 45.0021 does not prohibit a district from:

1. Using a surplus in maintenance tax revenue to pay the district's debt service if the district's interest and sinking fund tax revenue is insufficient to pay the district's debt service due to circumstances beyond the district's control and the use of the surplus maintenance tax revenue to pay the district's debt service is necessary to prevent a default on the district's debt;
2. Paying a portion of the district's maintenance tax revenue into the tax increment fund for a reinvestment zone under Tax Code Chapter 311; or
3. Using money disbursed from the tax increment fund for a reinvestment zone under Tax Code Chapter 311 in accordance with the agreement entered into by the district with the governing body of the municipality or county that designated the zone under Tax Code 311.013(f).

Education Code 45.0021(f)

Maintenance Tax Rate Components

A district's tier one maintenance and operations tax rate is the number of cents levied by the district for maintenance and operations that does not exceed the maximum compressed rate, as determined under Education Code 48.2551.

Tier One

Maximum Compressed Rate

"MCR" is the district's maximum compressed rate, which is the tax rate for the current tax year per $100 of valuation of taxable property at which the district must levy a maintenance and operations tax to receive the full amount of the tier one allotment to which the district is entitled under Education Code Chapter 48. The Texas Education Agency (TEA) shall calculate and make available school districts' maximum compressed rates.

Local appraisal districts, school districts, and the comptroller shall provide any information necessary to TEA to implement Education Code 48.2551.

Education Code 48.2551(a-3), (d), (d-1)

School districts' maximum compressed maintenance and operations tax rates shall be calculated using locally certified property values and adjusted to estimate for exclusions under Government Code 403.302(d).

TEA will open a data collection from 12:01 a.m. on July 18 through 11:59 p.m. on August 1 for districts. Districts must submit the data specified in 19 Administrative Code 61.1000(c). TEA will use any available data to calculate MCR absent data collection submissions from a school district.

19 TAC 61.1000(b), (c), (h)

TEA will calculate and make available preliminary maximum compressed tier one tax rates to each district on or before August 5. If TEA receives an appeal of a preliminary MCR, TEA will issue a final determination to the district no later than August 31. If TEA does not receive an appeal of a preliminary MCR, the preliminary MCR automatically becomes a final MCR ten calendar days following TEA's approval of the district's preliminary MCR. *19 TAC 61.1000(d)–(f)*

A district may appeal its preliminary MCR through the following process:

1. The TEA division responsible for MCRs must receive a written appeal no later than ten calendar days after TEA's approval of the district's preliminary MCR. The appeal must include adequate evidence and additional information that supports the position of the district. Appeals received 11 calendar days or more after TEA approves a district's preliminary MCR will not be considered.
2. TEA will only consider appeals that would result in a change of the preliminary MCR.

19 TAC 61.1000(g); Education Code 48.2551(d-2)

Tier Two

A district's enrichment tax rate consists of:

1. Any cents of additional maintenance and operations tax effort, not to exceed eight cents over the maximum tier one tax rate; and

2. Any cents of additional maintenance and operations tax effort that exceeds the sum of the maximum tier one tax rate and the maximum number of cents permitted under item 1 above.

Education Code 45.0032(a), (b)

Districts Subject to Disaster Exception

For a district to which Tax Code 26.042(e) [see Disaster Exception to Election Requirement, below] applies, the amount by which the district's maintenance tax rate exceeds the district's voter-approval tax rate, excluding the district's current debt rate under Tax Code 26.08(n)(3) for the preceding year is not considered in determining a district's tier one maintenance and operations tax rate or the district's enrichment tax rate for the current tax year. *Education Code 45.0032(d)*

Maximum Tax Rate

For any year, the maintenance tax rate per $100 of taxable value adopted by the district may not exceed the rate equal to the sum of $0.17 and the district's maximum compressed rate, as determined under Education Code 48.2551.

A rate that exceeds the maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this provision may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.

Education Code 45.003(d), (e)

Districts with 2005 Tax Rate over $1.50

Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than $1.50 per $100 of taxable value in the district as permitted by special law [Art. 2784g Tex. Rev. Civ. Stat.] may not levy a maintenance tax at a rate that exceeds the rate per $100 of taxable value that is equal to the sum of $0.17 and the product of 66.67 percent multiplied by the rate of the maintenance tax levied by the district for the 2005 tax year, minus any amount by which $1.00 exceeds the product of the state compression percentage, as determined under Education Code 48.255, multiplied by $1.00. *Education Code 45.003(f)*

For a district described above, any cents of maintenance and operations tax effort that exceeds the maximum rate described at Maximum Tax Rate are not included in the district's tier one maintenance and operations tax rate or the district's enrichment tax rate and the district is not entitled to the guaranteed yield amount of state funds under Education Code 48.202 for those cents of tax effort. *Education Code 45.0032(c)*

Assessor and Collector

The board may employ a person to assess or collect the district's taxes and may compensate the person as the board considers appropriate. This provision does not prohibit a district from providing

for the assessment or collection of the district's taxes under a method authorized by Tax Code Chapter 6, Subchapter B. *Education Code 45.231*

A district that used a method of selection for the 1994 tax year that was authorized by former Education Code Chapter 23, Subchapter F, may continue to use that method until the district uses another method authorized above. *Education Code 45.232*

The assessor and collector shall assess, collect, or assess and collect taxes, as applicable. *Tax Code 6.23(b)*

Collector's Bond

A district that has its own collector shall require the collector to give bond conditioned on the faithful performance of duties. The bond must be made payable to and be approved by the board in an amount determined by the board. The board may require a new bond at any time, and failure to give new bond within a reasonable time after demand is a ground for removal from office. The board may prescribe additional requirements for the bond.

A district whose taxes are collected by a person other than the district's own collector may require that person to give bond conditioned on the faithful performance of duties. The bond must be payable to, approved by, and paid for by the board in an amount determined by the board. The board may prescribe additional requirements for the bond.

A district shall pay the premium for a required bond from its general fund or as provided by intergovernmental contract.

Tax Code 6.29

Certified Estimate of Values

By April 30, the chief appraiser shall prepare and certify to the district's assessor an estimate of the taxable value of district property. *Tax Code 26.01(e)*

Appraisal Roll

By July 25, the chief appraiser shall prepare and certify to the assessor for the district that part of the appraisal roll that lists the property taxable by the district. The part certified to the assessor is the appraisal roll for the district.

If by July 20 the appraisal review board has not approved the appraisal records as required under Tax Code 41.12, the chief appraiser shall not later than July 25 prepare and certify to the assessor for a school district an estimate of the taxable value of property in the school district.

Tax Code 26.01(a)–(a-1)

By August 1 or as soon thereafter as practicable, the district's assessor shall submit to the board the district's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.

By August 1 or as soon thereafter as practicable, a district's collector shall certify to the board the anticipated collection rate for the current year. If the collector certified an anticipated collection rate in the preceding year and the actual collection rate in that year exceeded the anticipated rate, the collector shall also certify the amount of debt taxes collected in excess of the anticipated amount in the preceding year.

Tax Code 26.04(b)

Designated Employee/Officer to Calculate Rates

After the district's assessor submits the appraisal roll to the board, an officer or employee designated by the board shall calculate the no-new-revenue tax rate and the voter-approval tax rate for the district.

Required Calculation Forms

The designated officer or employee shall use the tax rate calculation forms prescribed by the comptroller under Tax Code 5.07 in calculating the no-new-revenue tax rate and the voter-approval tax rate.

Calculation Forms to County Tax Assessor-Collector

As soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate of the district, the designated officer or employee shall submit the tax rate calculation forms used in calculating the rates to the county assessor-collector for each county in which all or part of the territory of the district is located.

Tax Code 26.04(c), (d-1), (d-3)

[See CE regarding the requirement to attach tax rate calculation forms as an appendix to a district's budget.]

Truth-in-Taxation Requirements

Note: The *Truth in Taxation* website maintained by the Texas comptroller of public accounts offers detailed guidance on setting local property tax rates for school districts.[1]

Meeting to Adopt Budget

When the budget has been prepared under Education Code 44.002, the board president shall call a meeting of the board for the purpose of adopting a budget for the succeeding tax year. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. *Education Code 44.004(a), (g)* [See CE]

Published Notice

The board president shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or bi-weekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.

Form and Contents

The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type and contain the information set out in Education Code 44.004(c) and (c-1).

The notice must include a statement that a district may not increase its maintenance and operations tax rate to create a surplus in maintenance and operations tax revenue for the purpose of paying the district's debt service.

A notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.

Education Code 44.004(b)–(d)

Debt Service Rate Decrease

If the published interest and sinking fund (debt service) rate decreases after the publication of the required notice, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate. *Education Code 44.004(g-1)*

Districts with July 1 Fiscal Year

Notwithstanding the provisions above, a district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property in preparing the required notice if the district does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district.

After receipt of the certified appraisal roll, a district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

1. The rate proposed in the notice prepared using the estimate; or

2. The district's voter-approval rate determined under Tax Code 26.08 using the certified appraisal roll.

Education Code 44.004(h), (i)

Tax Rate Adoption Requirements

Deadline

The board shall adopt a tax rate for the current tax year and shall notify the assessor of the tax rate adopted. [See Adoption of Tax Roll, below] The board must adopt a tax rate before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the district, except that the board must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the next uniform election date that occurs in November of that year. [Note that Election Code 3.005(c) requires that an election to be held on a uniform date be ordered not later than the 78th day before election day; see Time for Election, below.]

The tax rate consists of two components, each of which must be approved separately. The components are:

1. The interest and sinking fund (debt service) rate calculated under Education Code 44.004(c)(5)(A)(ii)(b); and

2. The rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the district for the next year.

Tax Code 26.05(a)

Tax Date for Certain Districts

A district that before January 1, 1989, has for at least ten years followed a practice of adopting its tax rate at a different date than as provided by Tax Code Chapter 26 and of billing for and collecting its taxes at different dates than as provided by Chapters 31 and 33 may continue to follow that practice. This does not affect the dates provided by the Property Tax Code (Tax Code Title 1) for other purposes, including those relating to the appraisal and taxability of property, the attachment of tax liens and personal liability for taxes, and administrative and judicial review under Chapters 41 and 42. *Tax Code 26.135*

Vote

A board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The vote on the ordinance, resolution, or order setting a tax rate that exceeds the sum of the district's no-new-revenue maintenance and operations tax rate and the district's current debt rate must be a record vote, and at least 60 percent of the members of the board must vote in favor of the ordinance, resolution, or order.

Motion

A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the no-new-revenue tax rate must be made in the following form: “I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the no-new-revenue tax rate) percent increase in the tax rate.”

Language and Internet Posting

If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the district that exceeds the amount of taxes imposed for that purpose in the preceding year the district must:

1. Include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document:

    a. The following statement: “THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE”; and

    b. If the tax rate exceeds the no-new-revenue maintenance and operations rate, the following statement: “THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount).”; and

2. Include on the home page of any internet website operated by the district:

    a. The following statement: “(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE”; and

    b. If the tax rate exceeds the no-new-revenue maintenance and operations rate, the following statement: “THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount).”

Tax Code 26.05(b)

Adoption of Tax Roll	On receipt of notice of the tax rate for the current tax year, the assessor for a district shall calculate the tax imposed on each property included on the appraisal roll for the district. The assessor shall enter the amount of tax in the appraisal roll and submit it to the board for approval. The appraisal roll with amounts of tax entered as approved by the board constitutes the district's tax roll. *Tax Code 26.09(a), (e)*
Failure to Adopt Tax Rate	If the board does not adopt a tax rate before the date required at Deadline above, the tax rate for the district for that tax year is the lower of the no-new-revenue tax rate calculated for that tax year or the tax rate adopted by the district for the preceding tax year. A tax rate established by this provision is treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate by this provision, the board must ratify the applicable tax rate in the manner set out at Tax Rate Adoption Requirements above. *Tax Code 26.05(c)*
Taxpayer Injunction	A person who owns taxable property in a district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements of Education Code 44.004(b), (c), (c-1), (c-2), and (d), and, if applicable, (i) [see above at Published Notice, including Form and Contents, and Districts with July 1 Fiscal Year, if applicable] and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date a district delivers substantially all of its tax bills. *Education Code 44.004(e)* A person who owns taxable property is entitled to an injunction prohibiting the district in which the property is taxable from adopting a tax rate if the assessor or designated officer or employee of the district, the chief appraiser of the applicable appraisal district, or the district, as applicable, has not complied with the computation, publication, or posting requirements of Tax Code 26.04 or 26.16, 26.17, or 26.18 [see below at Tax Information to County, Appraisal District Property Tax Database, and Internet Posting of Tax Rate and Budget Information]. It is a defense in an action for an injunction under this provision that the failure to comply was in good faith. *Tax Code 26.04(g)* A person who owns taxable property is entitled to an injunction restraining the collection of taxes by a district in which the property is taxable if the district has not complied with the requirements of Tax Code 26.04 and 26.05 [see above at Designated Employee/Officer to Calculate Rates and Tax Rate Adoption Requirements]. It is a defense in an action for an injunction under this provision that the failure to comply was in good faith. An action to enjoin the collection of taxes must be filed not later than the 15th day after the date

the district adopts a tax rate. A property owner is not required to pay the taxes imposed by a district on the owner's property while an action filed by the property owner to enjoin the collection of taxes imposed by the district on the owner's property is pending. If the property owner pays the taxes and subsequently prevails in the action, the property owner is entitled to a refund of the taxes paid, together with reasonable attorney's fees and court costs. The property owner is not required to apply to the collector for the district to receive the refund. *Tax Code 26.05(e)*

A person who owns taxable property in a district is entitled to an injunction restraining the collection of taxes by the district if the district adopts a maintenance tax in violation of Education Code 45.0021(a) [see above at Restriction on Maintenance Tax Levy]. An action to enjoin the collection of taxes must be filed before the date a district delivers substantially all of its tax bills. *Education Code 45.0021(b)*

Tax Information to County

A district shall provide to the county assessor-collector for each county in which all or part of district territory is located the district's adopted tax rate, maintenance and operations rate, debt rate, no-new-revenue tax rate, no-new-revenue maintenance and operations rate, and voter-approval tax rate for posting on the county's internet website. The district shall provide the information annually following the adoption of a tax rate by the district for the current tax year. *Tax Code 26.16(a)–(b)*

Appraisal District Property Tax Database

The officer or employee designated by the board to calculate the no-new-revenue tax rate and the voter-approval tax rate for the district must electronically incorporate into the database created and maintained by the chief appraiser under Tax Code 26.17 the information required by Tax Code 26.17(e). *Tax Code 26.17(e)*

Internet Posting of Tax Rate and Budget Information

Each district shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of this provision. Each district shall post or cause to be posted on the internet website the information required by Tax Code 26.18 in a format prescribed by the comptroller. *Tax Code 26.18* [See CE for required information]

Election to Approve Tax Rate

If the board adopts a tax rate that exceeds the district's voter-approval tax rate, the registered voters of the district at an election held for that purpose must determine whether to approve the adopted tax rate. *Tax Code 26.08(a), (n)*

[For information on conducting elections, see the BBB series.]

Voter-Approval Tax Rate

For purposes of Tax Code 26.08, the voter-approval tax rate of a district is the sum of the following:

1. The rate per $100 of taxable value that is equal to the district's maximum compressed tax rate for the current year;

2. The greater of:

   a. The district's enrichment tax rate for the preceding tax year, less any amount by which the district is required to reduce the district's enrichment tax rate under Education Code 48.202(f) in the current tax year; or

   b. The rate of $0.05 per $100 of taxable value; and

3. The district's current debt rate.

Tax Code 26.08(n)

Efficiency Audit

"Efficiency audit" means an investigation of the operations of a district to examine fiscal management, efficiency, and utilization of resources.

The board shall conduct an efficiency audit before seeking voter approval to adopt a tax rate for the maintenance and operations of the district at an election held for that purpose and may not hold an election without complying with this requirement.

The board may select the auditor that conducts the district's annual audit under Education Code 44.008 and may include the efficiency audit as part of the district's annual audit. [See CFC] A district must pay for the costs associated with an efficiency audit required under this provision. A district shall provide all documents, records, and personnel requested by the auditor as needed to conduct the audit in an efficient manner.

The board must select an auditor to conduct an efficiency audit not later than four months before the date on which the district proposes to hold an election to adopt a maintenance and operations tax rate. An auditor selected by the board must maintain independence from the district and complete the efficiency audit not later than three months after the date the auditor was selected.

Before an election at which a district seeks voter approval to adopt a tax rate, the board must hold an open meeting to discuss the results of the efficiency audit. Not later than 30 days before the date of the election, the results of an efficiency audit must be posted on the district's internet website.

Education Code 11.184

Legislative Budget Board Guidelines

The Legislative Budget Board (LBB) shall establish guidelines identifying the scope and areas of investigation of an efficiency audit, including identification of resources being used effectively and

efficiently and identification of cost savings or reallocations. The auditor selected by the board of a district must follow the guidelines established by the LBB under this provision. *Education Code 11.184(f)*

Efficiency Audit Guidelines[2] are found on the LBB website.

Disaster Exception

To Efficiency Audit Requirement

The board of a district all or part of which is located in an area declared a disaster area by the governor may hold an election to seek voter approval to adopt a maintenance and operations tax rate during the two-year period following the date of the declaration without conducting an efficiency audit otherwise required above. *Education Code 11.184(b-1)*

To Election Requirement

When increased expenditure of money by a district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, that has impacted a district and the governor has requested federal disaster assistance for the area in which the district is located, an election is not required under Tax Code 26.08 to approve the tax rate adopted by the board for the year following the year in which the disaster occurs. A tax rate adopted under this provision applies only in the year for which the rate is adopted. *Tax Code 26.042(e)*

If a district adopts a tax rate under Tax Code 26.042(e) above, the amount by which that rate exceeds the district's voter-approval tax rate for that tax year may not be considered when calculating the district's voter-approval tax rate for the tax year following the year in which the district adopts the rate.

A district that in a tax year elects to adopt a tax rate that exceeds the district’s voter-approval tax rate for that tax year without holding an election under Tax Code 26.042(e) above must specify the disaster declaration that provides the basis for authorizing the district to calculate or adopt a tax rate under that provision. A district that in a tax year specifies a disaster declaration as providing the basis for authorizing the district to adopt a tax rate under Tax Code 26.042(e) above may not in a subsequent tax year specify the same disaster declaration as providing the basis for authorizing the district to adopt a tax rate under that provision if in an intervening tax year the taxing unit specifies a different disaster declaration as the basis for authorizing the taxing unit to adopt a tax rate under that provision.

Tax Code 26.042(f)–(g)

Time for Election

The board shall order that the election be held in the district on the next uniform election date prescribed by Election Code 41.001 that

occurs after the date of the election order and that allows sufficient time to comply with the requirements of other law. *Tax Code 26.08(b)*

Uniform Election Date

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. *Election Code 3.005(c)* [See BBBA for other election procedures and requirements.]

Proposition

At the election, the ballots shall be prepared to permit voting for or against the proposition: "Ratifying the ad valorem tax rate of _____ (insert adopted tax rate) in (name of school district) for the current year, a rate that will result in an increase of _____ (insert percentage increase in maintenance and operations tax revenue under the adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year) percent in maintenance and operations tax revenue for the district for the current year as compared to the preceding year, which is an additional $_____ (insert dollar amount of increase in maintenance and operations tax revenue under the adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year).". *Tax Code 26.08(b)*

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the imposition or increase of a tax shall specifically state the amount of or maximum tax rate of the tax or tax increase for which approval is sought. *Election Code 52.072(e)(1)*

Each proposition on the ballot must identify the name of the authority ordering the election on the measure. *Election Code 52.095(c)*

Election Outcome

If a majority of the votes cast in an election favor the proposition, the tax rate for the current year is the rate that was adopted by the board. If the proposition is not approved, a board may not adopt a tax rate for the current year that exceeds the district's voter-approval tax rate. *Tax Code 26.08(c)–(d)*

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[1] Truth-in-Taxation: Tax Rate Adoption: https://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/index.php
[2] LBB Efficiency Audit Guidelines: https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6365_HB3_Efficiency_Audit_Guidelines.pdf

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Note: For more information on property tax exemptions, see the Texas Comptroller's Property Tax Exemptions[1] website.

Exemptions

Homestead

Mandatory

An adult is entitled to exemption from taxation by a district of $25,000 of the appraised value of the adult's residence homestead, as defined by Tax Code 11.13(j), except that only $5,000 of the exemption applies to an entity operating under former Education Code Chapters 17, 18, 25, 26, 27, or 28, as those chapters existed on May 1, 1995, as permitted by Education Code 11.301. *Tax Code 11.13(b)*

Persons 65 or Older or Disabled

In addition to the mandatory exemption above, an adult who is disabled, as defined by Tax Code 11.13(m)(1), or 65 or older is entitled to an exemption of $10,000 of the appraised value of the individual's residence homestead. *Tax Code 11.13(c)*

Tax Limitation

A district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older, or on the residence homestead of an individual who is disabled, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for an applicable exemption. *Tax Code 11.26(a)*

Improvements

If an individual subject to a tax limitation makes improvements to the individual's residence homestead, other than improvements required to comply with governmental requirements or repairs, the district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. A limitation then applies to the increased amount of tax until more improvements, if any, are made. *Tax Code 11.26(b)*

Exception

An improvement to property that would otherwise constitute an improvement discussed above is not treated as an improvement if it is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement, the replacement structure is considered to be an improvement only if the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred or the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure. *Tax Code 11.26(o)*

Portability of Tax Limitation

If an individual who receives a tax limitation, including a surviving spouse, discussed below, subsequently qualifies a different residence homestead for the same exemption, a district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes calculated in accordance with Tax Code 11.26(g). *Tax Code 11.26(g)*

Surviving Spouse

If an individual who qualifies for the exemption at Persons 65 or Older or Disabled, above, dies, the surviving spouse of the individual is entitled to the limitation applicable to the residence homestead of the individual if the surviving spouse is 55 years of age or older when the individual dies, and the residence homestead of the individual is the residence homestead of the surviving spouse on the date that the individual dies and remains the residence homestead of the surviving spouse. *Tax Code 11.26(i)*

Local Options

All Taxpayers

In addition to other exemptions in Tax Code 11.13, an individual is entitled to an exemption from taxation by a district of a percentage of the appraised value of the individual's residence homestead if the exemption is adopted by the board before July 1 in the manner provided by law for official action by the board. If the percentage set by the district produces an exemption in a tax year of less than $5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of $5,000 of the appraised value. The percentage adopted by the district may not exceed 20 percent. *Tax Code 11.13(n)*

Disabled or 65 or Older

An individual who is disabled or 65 or older is entitled to an exemption from taxation by a district of a portion of the appraised value of the individual's residence homestead if the exemption is adopted either by the board or by a favorable vote of a majority of the qualified voters of the district at an election called by the board, and the board shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the district.

Amount

The amount of an exemption adopted as provided at Disabled or 65 or Older is $3,000 of the appraised value of the residence homestead unless a larger amount is specified by the board if the board authorizes the exemption or the petition for the election if the exemption is authorized through an election. Once authorized, an exemption adopted may be repealed or decreased or increased in amount by the board or by the petition and election procedure. In the case of a decrease, the amount of the exemption may not be reduced to less than $3,000 of the market value.

Tax Code 11.13(d)–(f)

Continuation of Exemption during Construction

If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land in accordance with Tax Code 11.135. *Tax Code 11.135(a), .26(n); 34 TAC 9.416*

Surviving Spouse of First Responder

The surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead if the surviving spouse is an eligible survivor for purposes of Government Code Chapter 615 as determined by the Employees Retirement System of Texas and has not remarried since the first responder's death. *Tax Code 11.134*

Veteran Exemptions

100 Percent Disabled

A disabled veteran who has been awarded by the U.S. Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran's residence homestead. *Tax Code 11.131(b)*

Partially Disabled with Donated Residence

A disabled veteran who has a disability rating of less than 100 percent is entitled to an exemption from taxation of a percentage of the appraised value of the disabled veteran's residence homestead equal to the disabled veteran's disability rating if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the disabled veteran, or at some cost to the disabled veteran in the form of a cash payment, a mortgage, or both in an aggregate amount that is not more than 50 percent of the good faith estimate of the market value of the residence homestead made by the charitable organization as of the date of the donation. *Tax Code 11.132(b)*

Surviving Spouse of Veteran

The surviving spouse of a disabled veteran, as defined by Tax Code 11.22(h)(3), is entitled to the same exemption from taxation of the same property to which the disabled veteran's exemption applied or would have applied if it had been in effect on the date of death if:

1. The surviving spouse has not remarried since the death of the disabled veteran; and

2. The property was the residence homestead of the surviving spouse when the disabled veteran died and remains the residence homestead of the surviving spouse.

Tax Code 11.131, .132

Surviving Spouse of Individual Killed in Action

The surviving spouse of a member of the armed services of the United States who is killed in action is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services. *Tax Code 11.133*

Tex. Const. Art. VIII, Sec. 1-b (Residence Homestead Tax Exemptions and Limitations)

Disabled Veteran

A disabled veteran is entitled to an exemption from taxation of a portion of the assessed value of a property the veteran owns and designates under Tax Code 11.22(f). *Tax Code 11.22*

Exemption for Subsequent Residence

The surviving spouse of a first responder, disabled veteran, or armed services member killed in action who receives an exemption for a residence homestead is entitled to receive an exemption from taxation of a different property that the surviving spouse subsequently qualifies as the surviving spouse's residence homestead in an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption in the last year in which the surviving spouse received that exemption if the surviving spouse has not remarried. *Tax Code 11.131(d), .132(d), .133(c), .134(d)*

Temporary Exemption for Property Damaged by Disaster

A person is entitled to an exemption from taxation by a district of a portion of the appraised value of qualified property, as defined by Tax Code 11.35(a), that the person owns in an amount determined by the chief appraiser under Tax Code 11.35(h). *Tax Code 11.35(b)*

A person who qualifies for an exemption under this provision must apply for the exemption not later than the 105th day after the date the governor declares the area in which the person's qualified property is located to be a disaster area. *Tax Code 11.43(s)*

"Damage" means physical damage. *Tax Code 11.35(a)(1)*

Optional Exemptions

Among others, a board may grant additional tax exemptions in accordance with applicable law for:

1. Residential property owned by the United States or an agency of the United States and used to provide transitional housing for the indigent under a program operated or directed by the

U.S. Department of Housing and Urban Development. *Tax Code 11.111*

2. Land and housing units on the land owned by a community land trust. *Tax Code 11.1827*

3. Certain historic structures or archeological sites and the land necessary to access and use the structure or archeological site. The board may not repeal or reduce the amount of an exemption for a property that otherwise qualifies for the exemption unless the property owner consents to the repeal or reduction or the district provides written notice of the repeal or reduction to the owner not later than five years before the date the board repeals or reduces the exemption. *Tax Code 11.24*

4. Property on which approved water conservation initiatives, desalination projects, or brush control initiatives have been implemented. *Tax Code 11.32*

If a district adopts, amends, or repeals an exemption that the district by law has the option to adopt or not, the district shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action. *Tax Code 6.08*

Goods-in-Transit *Exemption*

A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit, as defined in Tax Code 11.253(a)(2). *Tax Code 11.253(b)*

[For information on the board's option in a district located in a disaster area to extend the date by which goods-in-transit must be transported, see Tax Code 11.253(l).]

Option to Tax

A board, by official action, may provide for the taxation of goods-in-transit exempt under Tax Code 11.253(b) and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the board proposes to tax goods-in-transit. Before acting to tax the exempt property, a board must conduct a public hearing as required by Texas Constitution Article VIII, Section 1-n(d). If the board provides for the taxation of the goods-in-transit as provided by this provision, the exemption stated above does not apply to that district. The goods-in-transit remain subject to taxation by the district until the board, by official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption will apply to that district.

Notwithstanding official action that was taken before October 1, 2011, to tax goods-in-transit, a district may not tax such goods-in-

transit in a tax year that begins on or after January 1, 2012, unless the board takes official action on or after October 1, 2011, to provide for the taxation of the goods-in-transit.

Exception

If a board, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the district, the district tax officials may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

Tax Code 11.253(j)–(j-2)

Payment Options

The board may adopt, by official action, one or both of the discount options below. *Tax Code 31.05(a)*

Discounts

Option 1

A district may adopt the following discounts to apply regardless of the date on which the district mails its tax bills:

1. Three percent if the tax is paid in October or earlier.
2. Two percent if the tax is paid in November.
3. One percent if the tax is paid in December.

Tax Code 31.05(b)

This discount does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*

Option 2

A district may adopt the following discounts to apply when the district mails its tax bills after September 30:

1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.
2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

Tax Code 31.05(c)

Both Options

If a board adopts both discounts, the discounts described at Option 1 apply unless the tax bills for the district are mailed after September 30, in which case only the discounts described at Option 2 apply. *Tax Code 31.05(a)*

Rescission

The board may rescind a discount lawfully adopted by the board. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded. *Tax Code 31.05(d)*

Split Payments

The board of a district that collects its own taxes may provide, by official action, that a person who pays one-half of the district's taxes before December 1 may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year.

If a board contracts with the appraisal district for collection of taxes, the split-payment option does not apply to taxes collected by the appraisal district unless approved by resolution adopted by a majority of the governing bodies of the taxing units whose taxes the appraisal district collects and filed with the secretary of the appraisal district board of directors. The split-payment option may be revoked in the same manner as provided for adoption.

Tax Code 31.03

This payment option does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*

In Certain Counties

The board of a district located in a county having a population of not less than 285,000 and not more than 300,000 that borders a county having a population of 3.3 million or more and the Gulf of Mexico that has its taxes collected by another taxing unit that has adopted the split-payment option may provide, by official action, that the split-payment option does not apply to the district's taxes collected by the other taxing unit. *Tax Code 31.03(d)*

Installment Payments

Certain Homesteads

An individual who is disabled or at least 65 years of age and qualified for a homestead exemption under Tax Code 11.13(c), or an individual who is a disabled veteran or the unmarried surviving spouse of a disabled veteran and qualified for an exemption under Tax Code 11.132 or 11.22, may pay district taxes imposed on the person's residence homestead property in four equal installments without penalty or interest if paid by the applicable dates set out in Tax Code 31.031. *Tax Code 31.031*

Disaster or Emergency Area

Property Damaged—Automatic

A person may pay district taxes imposed on certain property the person owns in four equal installments without penalty or interest if paid in accordance with Tax Code 31.032.

This provision applies to real and tangible personal property described in Tax Code 31.032(a) and taxes that are imposed on the property by a district before the first anniversary of the disaster or emergency.

Tax Code 31.032

Property Not Damaged—Board Option

The board may authorize a person to pay district taxes imposed on certain property that the person owns in installments. If the board adopts the installment-payment option under this provision, Tax Code 31.032(b), (b-1), (c), and (d) apply to the payment by a person of district taxes imposed on property that the person owns in the same manner as those subsections apply to the payment of taxes imposed on property to which Tax Code 31.032 applies.

This provision applies to real and tangible personal property described in Tax Code 31.033(b) and taxes that are imposed on the property by a district before the first anniversary of the disaster or emergency.

Tax Code 31.033

Definitions

"Disaster" has the meaning assigned by Government Code 418.004.

"Emergency" means a state of emergency proclaimed by the governor under Government Code 433.001.

Tax Code 31.032(g), .033(a)

Services in Lieu of Paying Taxes

The board by resolution may permit certain individuals or business entities to perform certain services for the district in lieu of paying the district property taxes. While performing services for a district, the individual is not an employee of the district and is not entitled to any benefit, including workers' compensation coverage, that the district provides to its employees. *Tax Code 31.035, .036, .037*

Persons 65 and Over

Subject to the requirements of Tax Code 31.035, the board by order or resolution may permit an individual who is at least 65 years of age to perform service for the district in lieu of paying taxes imposed by a district on property owned by the individual and occupied as the individual's residence homestead. Property owners performing services for a district under this provision may only supplement or complement the regular personnel of the district. A district may not reduce the number of persons the district employs or reduce the number of hours to be worked by employees of the district because the district permits property owners to perform services for the district under this provision. *Tax Code 31.035(a), (g)*

Teaching Services

An individual is qualified to perform teaching services for a district under the provisions below only if the individual holds a baccalaureate or more advanced degree in a field related to each course to be taught and:

1. Is certified as a classroom teacher under Education Code Chapter 21, Subchapter B; or

2. Obtains a school district teaching permit under Education Code 21.055.

Tax Code 31.036(h), .037(i)

By Individual

Subject to the requirements of Tax Code 31.036, the board by resolution may permit qualified individuals to perform teaching services for the district at a junior high school or high school of the district in lieu of paying taxes imposed by the district on property owned and occupied by the individual as a residence homestead. *Tax Code 31.036*

By Employee of Business Entity

Subject to the requirements of Tax Code 31.037, a board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the district in lieu of paying taxes imposed by the district on property owned by the business entity. *Tax Code 31.037*

Delinquent Taxes

Delinquency Date

Except as provided by Tax Code 31.02(b) (payment by certain eligible persons on active duty in the armed forces), 31.03 (split payments), and 31.04 (postponement of delinquency date based on mailing date of tax bills), taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. *Tax Code 31.02*

Note: Delinquent taxes incur penalties and accrue interest in accordance with Tax Code 33.01, subject to any waiver by the board pursuant to Tax Code 33.011.

Delinquent Tax Collection

A board may contract with any competent attorney to represent the district to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. *Tax Code 6.30(c)* [See CH(LEGAL) regarding contingent fee contracts for legal services and Government Code 2254.102(e) for additional requirements.]

Additional Penalties

The board may provide, by official action, that taxes that become delinquent at a certain time incur an additional penalty to defray costs of collection if the board has contracted with an attorney as provided above. *Tax Code 33.07, .08*

[1] Texas Comptroller Property Tax Exemptions website: https://comptroller.texas.gov/taxes/property-tax/exemptions/

Appraisal Function

The county appraisal district is responsible for appraising property in the appraisal district for ad valorem tax purposes of each taxing unit in the appraisal district. *Tax Code 6.01(b)*

Employment Restrictions

An individual may not be employed by an appraisal district if the individual is an officer or employee of a taxing unit that participates in the appraisal district. *Tax Code 6.054(1)–(2)*

The position of school board trustee is an office within the scope of Tax Code 6.054. Thus, an employee of an appraisal district may not serve as a trustee of an independent school district that is a participating taxing entity in the appraisal district. *Atty. Gen. Op. KP-0329 (2020)*

Prohibited Communications

A member of the governing body, officer, or employee of a taxing unit commits an offense if the person directly or indirectly communicates with the chief appraiser or another employee of the appraisal district in which the taxing unit participates for the purpose of influencing the value at which property in the district is appraised unless the person owns or leases the property that is the subject of the communication. *Tax Code 6.155*

Notice of Boundary Change

If a new taxing unit is formed or an existing taxing unit's boundaries are altered, the unit shall notify the appraisal office of the new boundaries within 30 days after the date the unit is formed or its boundaries are altered. *Tax Code 6.07*

Appraisal District Board of Directors

The appraisal district is governed by a board of directors. Five directors are appointed by the taxing units that participate in the appraisal district as provided by Tax Code 6.03.

Eligibility

To be eligible to serve on the appraisal district board, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the appraisal district and must have resided in the appraisal district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the appraisal district board is not ineligible because of membership on the governing body of a taxing unit.

An employee of a taxing unit is not eligible to serve on the appraisal district board unless the employee is also a member of the governing body or an elected official of a taxing unit that participates in the appraisal district.

Tax Code 6.03(a)

Restrictions

An individual is ineligible to serve on an appraisal district board of directors and is disqualified from employment as chief appraiser if the individual:

1. Is related within the second degree by consanguinity or affinity, as determined under Government Code Chapter 573 [see DBE], to an individual who is engaged in the business of appraising property for compensation for use in proceedings under Tax Code Title 1 (the Property Tax Code) or of representing property owners for compensation in proceedings under the Property Tax Code in the appraisal district; or

2. Owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless the delinquent taxes and any penalties and interest are being paid under an installment payment agreement, or a suit to collect the delinquent taxes is deferred or abated.

Tax Code 6.035(a)

An individual is ineligible to serve on the board of directors of an appraisal district if the individual:

1. Has served as a member of the board of directors for all or part of five terms, unless the individual was the county assessor-collector at the time the individual served as a board member or the appraisal district is established in a county with a population of less than 120,000;

2. Has engaged in the business of appraising property for compensation for use in proceedings under the Property Tax Code at any time during the preceding three years;

3. Has engaged in the business of representing property owners for compensation in proceedings under the Property Tax Code in the appraisal district at any time during the preceding three years; or

4. Has been an employee of the appraisal district at any time during the preceding three years.

Tax Code 6.035(a-1)

Conflict of Interest

An individual is not eligible to be appointed to or to serve on an appraisal district board if the individual or a business entity in which the individual has a substantial interest is a party to a contract with the appraisal district or a taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity governed by the Property Tax Code.

A taxing unit may not enter into a contract relating to the performance of an activity governed by the Property Tax Code with a member of the appraisal district board or with a business entity in

which an appraisal district board member has a substantial interest.

An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or shares of the business entity, or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

Tax Code 6.036

Recall

In accordance with Tax Code 6.033, the governing body of a taxing unit, by resolution filed with the chief appraiser, may call for the recall of a member of the appraisal district board for whom the unit cast any of its votes in the appointment of the appraisal district board. *Tax Code 6.033(a)*

Budget and Financing

Each year the chief appraiser shall prepare a proposed budget for the operations of the appraisal district for the following tax year as described in Tax Code 6.06(a) and shall submit copies to each taxing unit and the appraisal district board before June 15.

Public Inspection

Each taxing unit shall maintain a copy of the proposed budget for public inspection at its principal administrative office.

Budget Adoption

The appraisal district board shall hold a public hearing to consider the budget. The secretary of the appraisal district board shall deliver to the presiding officer of the governing body of each taxing unit not later than the tenth day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The appraisal district board of directors shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15.

If governing bodies of a majority of the taxing units adopt resolutions disapproving a budget and file them with the secretary of the appraisal district board within 30 days after its adoption, the budget does not take effect, and the appraisal district board shall adopt a new budget within 30 days of the disapproval.

Amendments

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit not later than the 30th day before the date the appraisal district board acts on it.

Allocation

Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the appraisal district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by each participating unit for that year. Unless the governing body of a unit and the chief appraiser agree to a different method of payment, each taxing unit shall pay its allocation in four equal payments to be made at the end of each calendar quarter, and the first payment shall be made before January 1 of the year in which the budget takes effect.

Tax Code 6.06(a)–(e)

Changes in Method of Financing

The appraisal district board, in accordance with Tax Code 6.061(a), may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit adopts a resolution opposing the different method, and files it with the appraisal district board before September 1.

The taxing units may adopt a different method of allocating the costs of operating the appraisal district in accordance with Tax Code 6.061.

Tax Code 6.061

Disapproval of Appraisal District Board Actions

If the governing bodies of a majority of the taxing units adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. *Tax Code 6.10*

Appraisal Review Board

An appraisal review board is established for each appraisal district. This does not preclude the boards of directors of two or more adjoining appraisal districts from providing for the operation of a consolidated appraisal review board by interlocal contract.

Appointment

Members of the board are appointed by the local administrative law judge under Government Code Chapter 74, Subchapter D in the county in which the appraisal district is established. Members of a consolidated appraisal review board are appointed jointly by the local administrative district judges in the counties in which the appraisal districts that are parties to the contract are established.

Tax Code 6.41(a), (d), (g)

Eligibility Restrictions

Appraisal review board members are subject to the eligibility restrictions described in Tax Code 6.412 and the conflict of interest provisions set forth in Tax Code 6.413.

A person is ineligible to serve on the appraisal review board if the person is a member of the board of directors, an officer, or employee of the appraisal district, an employee of the comptroller, or a member of the governing body, officer, or employee of a taxing unit.

Tax Code 6.412(c)

A person is ineligible to serve on the appraisal review board of an appraisal district established for a county with a population of 120,000 or more if the person served as a member of the governing body or officer of a taxing unit for which the appraisal district appraises property, until the fourth anniversary of the date the person ceased to be a member or officer. *Tax Code 6.412(d)(2)*

Prohibited Contracts

A taxing unit may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the taxing unit participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413(d). *Tax Code 6.413(c)*

Use of Donations

General Rule

A conveyance, devise, or bequest of property for the benefit of the public schools, if not otherwise directed by the donor, vests the property in the board or their successors as trustees for those to be benefited by the donation. Funds or other property donated or the income from the property may be spent by the trustees:

1. For any purpose designated by the donor that is in keeping with the lawful purposes of the schools for the benefit of which the donation was made; or
2. For any legal purpose if a specific purpose is not designated by the donor.

Funds for Staff Positions

A district shall accept from a parent-teacher organization or association recognized by the district a donation designated to fund supplemental educational staff positions at a school campus and spend the donation accepted for the designated purpose at the direction of and within the time period specified by the campus for which the donation was designated. This provision expires September 1, 2025. [See DC]

Education Code 11.156

Prohibited Use

A district may not accept private funding for the purpose of developing a curriculum, purchasing or selecting curriculum materials, or providing teacher training or professional development for a course described by Education Code 28.002(h-3)(3) (prohibited social studies coursework or extra credit). *Education Code 28.002(h-4)* [See EMB]

Charitable Raffles

A district is not a "qualified nonprofit organization" for purposes of the Charitable Raffle Enabling Act (Occupations Code 2002.001 et seq.). *Atty. Gen. Op. JM-1176 (1990)*

"Raffle" means the award of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. *Occupations Code 2002.002(6)* [See also GKB]

Authorized Expenditures

A district shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

A district shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. Nor shall a district pay or authorize the payment of any claim against the district under any agreement or contract made without authority of law. *Tex. Const. Art. III, Sec. 53; Harlingen Indep. Sch. Dist. v. C.H. Page and Bro., 48 S.W.2d 983 (Comm. App. 1932)*

The public school funds may not be spent except as provided by Education Code 45.105. The state and county available funds may be used only for the payment of teachers' and superintendents' salaries and interest on money borrowed on short time to pay those salaries that become due before school funds for the current year become available. Loans for the purpose of payment of teachers may not be paid out of funds other than those for the current year.

Local funds from district taxes, tuition fees, other local sources, and state funds not designated for a specific purpose may be used for the purposes listed above for state and county available funds and for purchasing appliances and supplies; paying insurance premiums; paying janitors and other employees; buying school sites; buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase [see CHG]; and, except as provided below, for other purposes necessary in the conduct of the public schools as determined by the board.

Exception

Funds described above may not be used to initiate or maintain any action or proceeding against the state or an agency or officer of the state arising out of a decision, order, or determination that is final and unappealable under a provision of the Education Code, except that funds may be used for an action or proceeding that is specifically authorized by a provision of the Education Code or a rule adopted under the Education Code and that results in a final and unappealable decision, order, or determination.

Education Code 45.105(a)–(c), (c-1)

Fiscal Year

The fiscal year of a district begins on July 1 or September 1 of each year, as determined by the board. *Education Code 44.0011*

Budget Preparation

On or before the date set by the State Board of Education (SBOE), a superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of a district for the following fiscal year. The budget must be prepared according to generally accepted accounting principles, rules adopted by the SBOE, and adopted policies of the board of trustees. *Education Code 44.002; 19 TAC 109.1(a), .41, .5001*

Funds for Accelerated Instruction

A district that is required to provide accelerated instruction under Education Code 29.081(b-1) [see EHBC] shall separately budget sufficient funds, including funds under Education Code 48.104, for that purpose. *Education Code 29.081(b-2)*

Itemization of Certain Expenditures

The proposed budget of a district must include, in a manner allowing for as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year, a line item indicating expenditures for:

1. Notices required by law to be published in a newspaper by the district or a representative of the district; and
2. Directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action, as those terms are defined in Government Code 305.002.

Local Gov't Code 140.0045

Public Meeting on Budget and Proposed Tax Rate

When the budget has been prepared, the board president shall call a board meeting for the purpose of adopting a budget for the succeeding fiscal year. Any taxpayer of a district may be present and participate in the meeting. *Education Code 44.004(a), (f)* [See CCG for provisions governing tax rate adoption.]

The meeting must comply with the notice requirements of the Open Meetings Act. *Gov't Code 551.041, .043* [See BE]

Published Notice

The board president shall provide for publication of notice of the budget and proposed tax rate meeting in accordance with Education Code 44.004. [For specific requirements regarding the form, contents, and publication of the notice, see CCG(LEGAL).]

Publication of Proposed Budget Summary

Concurrently with the publication of notice of the budget under Education Code 44.004, a district shall post a summary of the proposed budget on the school district's internet website or, if the district has no internet website, in the district's central administrative office.

The budget summary must include a comparison to the previous year's actual spending and information relating to per student and aggregate spending on:

1. Instruction;
2. Instructional support;
3. Central administration;
4. District operations;
5. Debt service; and
6. Any other category designated by the commissioner.

Education Code 44.0041

Budget Adoption

The board, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the succeeding fiscal year. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. *Education Code 44.004(f)–(g)*

Appendix for Tax Rate Calculation Forms

The board shall include as an appendix to the district's budget for a fiscal year the tax rate calculation forms used by the designated officer or employee of the district to calculate the no-new-revenue tax rate and the voter-approval tax rate of the district for the tax year in which the fiscal year begins. *Tax Code 26.04(e-5)* [See CCG]

Districts with July 1 Fiscal Year

A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property [see CCG] in preparing the required notice if the district does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district. *Education Code 44.004(h)–(i)*

Budget Adoption After Tax Rate Adoption

Notwithstanding Education Code 44.004(g), (h), and (i), above, a district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district. If a district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate. Following adoption of the tax rate [see CCG], the district must publish notice and hold another public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to be used in the notices. The district may use the certified

estimate of taxable value in preparing a notice under this provision. *Education Code 44.004(j)*

Publication of Adopted Budget

On final approval of the budget by the board, the district shall post on the district's internet website a copy of the budget adopted by the board. The district's website must prominently display the electronic link to the adopted budget. A district shall maintain the adopted budget on the district's website until the third anniversary of the date the budget was adopted. *Education Code 44.0051*

On or before a date set by the SBOE, the budget must be filed with the Texas Education Agency according to rules established by the SBOE. *Education Code 44.005*

Internet Posting of Tax Rate and Budget Information

Each district shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of these provisions. Each district shall post or cause to be posted on the internet website the following information in a format prescribed by the comptroller:

1. The name of each member of the board;
2. The mailing address, email address, and telephone number of the district;
3. The official contact information for each member of the board, if that information is different from the information described by item 2;
4. The district's budget for the preceding two years;
5. The district's proposed or adopted budget for the current year;
6. The change in the amount of the district's budget from the preceding year to the current year, by dollar amount and percentage;
7. The tax rate for maintenance and operations adopted by the district for the preceding two years;
8. The interest and sinking fund tax rate adopted by the district for the preceding two years;
9. The tax rate for maintenance and operations proposed by the district for the current year;
10. The interest and sinking fund tax rate proposed by the district for the current year; and
11. The most recent financial audit of the district.

Tax Code 26.18

Effect of Adopted Budget and Amendment

Public funds of the district may not be spent in any manner other than as provided for in the budget adopted by the board, but the board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses. Any amendment or supplementary budget must be prepared and filed in accordance with SBOE rules. *Education Code 44.006*

Spending Violation/Offense

A trustee who votes to approve any expenditure of school funds in violation of a provision of the Education Code, for a purpose for which those funds may not be spent, or in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits an offense. *Education Code 44.052(c)*

Certain Donations

A district may donate funds or other property or service to the adjutant general's department, the Texas National Guard, or the Texas State Guard. *Gov't Code 437.111(b), .252, .304(a)*

Commitment of Current Revenue

A contract for the acquisition, including lease, of real or personal property is a commitment of a district's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to a board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best-efforts attempt by the board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

Prohibited Uses of Resources

Improvements to Real Property

Except as provided below or by Education Code 45.109(a-1), (a-2), or (a-3) [see CX], the board may not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

This provision does not prohibit the board from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district. Benefits to real property owned or leased by the district include the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the district.

Education Code 11.168

Hotels	The board may not impose taxes; issue bonds; use or authorize the use of district employees; use or authorize the use of district property, money, or other resources; or acquire property for the design, construction, renovation, or operation of a hotel. The board may not enter into a lease, contract, or other agreement that obligates the board to engage in an activity prohibited by this provision or obligates the use of district employees or resources in a manner prohibited by this provision. "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a motel. *Education Code 11.178*
Electioneering	For restrictions on using district funds for electioneering, see BBBD.

Accounting System

A board must adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles. The accounting system must meet at least the minimum requirements prescribed by the commissioner of education, subject to review and comment by the state auditor. *Education Code 44.007(a), (b)*

Financial Accountability System Resource Guide

The rules for financial accounting are described in the official Texas Education Agency (TEA) publication, *Financial Accountability System Resource Guide*, dated June 2021, which is adopted by reference as TEA's official rule. A copy is available on the TEA website with information related to financial compliance. *19 TAC 109.1, .41, .5001*

Report of Revenues and Expenditures

A record must be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. *Education Code 44.007(c), (d)*

Financial Statement

The board shall prepare an annual financial statement showing for each fund subject to the board's authority during the fiscal year:

1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;
2. The total disbursements of the fund, itemized by the nature of the expenditure; and
3. The balance in the fund at the close of the fiscal year.

Local Gov't Code 140.005

Publication

The board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the district, the financial statement shall be published in a newspaper in each county in which the district or any part of the district is located. If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not published in the county, the financial statement may be published in a newspaper in an adjoining county.

The statement shall be published in accordance with the accounting method required by TEA not later than the 150th day after the date the fiscal year ends.

Local Gov't Code 140.006

Annual Local Debt Report

A district shall annually compile and report certain financial information ("Annual Local Debt Report") in the manner prescribed by Local Government Code 140.008 and 34 Administrative Code 10.1–.6. *Local Gov't Code 140.008(b); 34 TAC 10.2(a)*

The Annual Local Debt Report must include the following financial information:

1. Regarding total authorized debt obligations:
    a. The amount of all authorized debt obligations;
    b. The principal of all outstanding debt obligations;
    c. The combined principal and interest required to pay all outstanding debt obligations on time and in full;
    d. The amount of all authorized debt obligations secured by property taxes;
    e. The principal of all outstanding debt obligations secured by property taxes;
    f. The combined principal and interest required to pay all outstanding debt obligations secured by property taxes on time and in full;
    g. The amount of all authorized debt obligations secured by property taxes expressed as a per capita amount;
    h. The principal of all outstanding debt obligations secured by property taxes expressed as a per capita amount;
    i. The combined principal and interest required to pay all outstanding debt obligations on time and in full for all obligations secured by property taxes expressed as a per capita amount; and
    j. The current credit rating on total debt obligations given by any nationally recognized credit rating organization.
2. Regarding each authorized debt obligation:
    a. The principal of each outstanding debt;

b. The principal of each outstanding debt obligation secured by property taxes expressed as a per capita amount;

c. The combined principal and interest required to pay each outstanding debt obligation on time and in full;

d. The combined principal and interest required to pay each outstanding debt obligation on time and in full expressed as a per capita amount;

e. The issued and unissued amounts, the spent and unspent amounts, the maturity date and the stated purpose for which each debt obligation was authorized; and

f. The current credit rating on each debt obligation given by any nationally recognized credit rating organization.

3. Any other information considered relevant or necessary to explain the above required data elements, such as explanations of payment sources for different kinds of debt or projections of per capita amounts of ad valorem taxation-secured obligations as of the last day of the maximum term of the most recent debt obligation issued by the district.

34 TAC 10.2; Local Gov't Code 140.008(b).

Submission to Comptroller

The comptroller shall provide a location on the comptroller's internet website where a district may submit the financial information described above and any other related information required or requested by the comptroller for the Annual Local Debt Report.

The comptroller shall prescribe the form and manner in which financial information, financial documents, and related information must be submitted under these provisions. These instructions and other information related to local government debt reporting will be provided on the comptroller's internet website.

34 TAC 10.3

Reporting Requirement

On an annual basis and within 180 days of the end of the most recently completed fiscal year, a district shall, in accordance with the reporting requirements set forth under Local Government Code 140.008, either:

1. Submit an Annual Local Debt Report to the comptroller as described at Submission to Comptroller, above, in the form and in the manner prescribed by the comptroller and, if the district maintains an internet website, continually maintain a link from its website to the location on the comptroller's website where the district's financial information may be viewed; or

2. Post its contact information and the information required in an Annual Local Debt Report on the district's own internet website and make the report available for inspection by any person in accordance with other law.

A district that elects to post a report of its financial information on its own internet website as described in item 2 above shall provide upon request an electronic link to the location on the district's website where the information can be viewed to facilitate compliance with the requirements of this provision and to enable the comptroller to maintain a searchable database of local debt information that is comprehensive, accurate, and complete.

34 TAC 10.4; Local Gov't Code 140.008(c), (d), (f)

Definitions

The phrases, words, and terms used in the foregoing provisions shall have the meanings set out in 34 Administrative Code 10.1, unless the context clearly indicates otherwise. *34 TAC 10.1*

Financial Management Report

Each district is required to report information and financial accountability ratings to parents, taxpayers, and other stakeholders by implementing the reporting procedures below. *19 TAC 109.1001(q)*

Report Requirements

Each district must prepare and distribute an annual financial management report in accordance with 19 Administrative Code 109.1001(q). *19 TAC 109.1001(q)(1)*

The annual financial management report for a district must include:

1. A description of its financial management performance based on a comparison, provided by TEA, of its performance on the indicators established by the commissioner and reflected in 19 Administrative Code 109.1001. The report will contain information that discloses:

    a. State-established standards; and

    b. The district's financial management performance under each indicator for the current and previous year's financial accountability ratings [see CFC];

2. Any descriptive information required by the commissioner, including:

    a. A copy of the superintendent's current employment contract or other written documentation of employment if no contract exists. This must disclose all compensation and benefits paid to the superintendent. The district may publish the superintendent's employment contract on its website instead of publishing it in the annual financial management report;

b. A summary schedule for the fiscal year (12-month period) of expenditures paid on behalf of the superintendent and each board member and total reimbursements received by the superintendent and each board member. This includes transactions on the district's credit card(s), debit card(s), stored-value card(s), and any other similar instrument(s) to cover expenses incurred by the superintendent and each board member. The summary schedule must separately report reimbursements for meals, lodging, transportation, motor fuel, and other items. The summary schedule of total reimbursements should not include reimbursements for supplies and materials that were purchased for the operation of the district;

c. A summary schedule for the fiscal year of the dollar amount of compensation and fees received by the superintendent from an outside school district or any other outside entity in exchange for professional consulting or other personal services. The schedule must separately report the amount received from each entity;

d. A summary schedule for the fiscal year of the total dollar amount of gifts that had a total economic value of $250 or more received by the executive officers and board members.

(1) This reporting requirement applies only to:

(a) Gifts received by the district's executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, Relationships by Consanguinity or by Affinity) from an outside entity that received payments from the district in the prior fiscal year, and

(b) Gifts from competing vendors that were not awarded contracts in the prior fiscal year;

(2) This reporting requirement does not apply to reimbursement by an outside entity for travel-related expenses when the purpose of the travel was to investigate matters directly related to an executive officer's or board member's duties or to investigate matters related to attendance at education-related conferences and seminars with the primary purpose of providing continuing education (this exclusion does not apply to trips for entertainment purposes or pleasure trips);

(3) This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had a total economic value of less than $250 per executive officer or board member; and

e. A summary schedule for the fiscal year of the dollar amount received by board members for the total amount of business transactions with the district. This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by board members; and

3. Any other information the board of the district determines to be useful.

19 TAC 109.1001(q)(3)

Public Hearing

Each district must provide the public with an opportunity to comment on the report at a public hearing. *19 TAC 109.1001(q)(2)*

The board must hold a public hearing on the report within two months after receiving a final financial accountability rating. The public hearing must be held at a location in the district's facilities.

At the hearing, the district must provide the annual financial management report to the attending parents and taxpayers.

19 TAC 109.1001(q)(4), (5); Education Code 39.083(d)

Notice

The board must give notice of the hearing to owners of real property in the geographic boundaries of the district and to parents of district students.

In addition to other notice required by law, the board must provide notice of the hearing:

1. To a newspaper of general circulation in the geographic boundaries of the district in one posting prior to holding the public meeting, providing the time and place of the hearing. The notice in the newspaper may not be earlier than 30 days or later than ten days before the date of the hearing. If no newspaper is published in the county in which the district's central administration office is located, then the board must publish the notice in the county nearest to the county seat of the county in which the district's central administration office is located; and

2. Through electronic mail to the mass communication media serving the district, including, but not limited to, radio and television.

19 TAC 109.1001(q)(4); Education Code 39.083(d)

Dissemination — After the hearing, the report shall be disseminated in the district in the manner prescribed by the commissioner. *Education Code 39.083(e)*

Records Retention — The district must retain the annual financial management report for at least three years after the public hearing and make it available to parents and taxpayers upon request. *19 TAC 109.1001(q)(6)*

Corrective Action Plan — Each district that received an F rating must file a corrective action plan with TEA, prepared in accordance with instructions from the commissioner, within one month after the district's public hearing. *19 TAC 109.1001(q)(7); Education Code 39.0824*

Projected Deficit

If the commissioner, based on the indicators adopted under Education Code 39.082 [see CFC], projects a deficit for a district general fund within the following three school years, TEA shall provide the district interim financial reports, including projected revenues and expenditures, to evaluate the district's current budget status.

TEA may require a district to submit additional information needed to produce a financial report. If a district fails to provide information requested or if the commissioner determines that the information submitted by a district is unreliable, the commissioner may order the district to acquire professional services under Education Code 39A.902 [see AIC].

Education Code 39.0823

Annual Audit

The board shall have its district fiscal accounts audited annually at district expense by a certified or public accountant holding a permit from the State Board of Public Accountancy. The audit must be completed following the close of each fiscal year.

The independent audit must meet at least the minimum requirements and be in the format prescribed by the State Board of Education (SBOE), subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System (PEIMS).

Education Code 44.008(a), (b)

Audit Requirements and Procedures

A district must file with the Texas Education Agency (TEA) an annual financial and compliance report and, if applicable, a state compensatory agreed-upon procedures report. These reports must be audited by an independent auditor, and the audit must be reviewed by TEA, including review of auditors' working papers, in accordance with the *Financial Accountability System Resource Guide*, as adopted by reference in 19 Administrative Code 109.41.

The annual financial audit report and state compensatory agreed-upon procedures report are due 150 days after the end of the fiscal year.

Independent Auditor

The district must hire at its own expense an independent auditor to conduct an independent audit of its financial statements and provide an opinion on its annual financial and compliance report.

The independent auditor must:

1. Be associated with a certified public accountancy (CPA) firm that has a current valid license issued by the Texas State Board of Public Accountancy or a state licensing agency from another state;
2. Be a certified public accountant with a current valid license issued by the Texas State Board of Public Accountancy, as required under Education Code 44.008; and
3. Adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the U.S. Government Accountability Office, as amended.

The CPA firm must:

1. Be a member of the AICPA Governmental Audit Quality Center (GAQC);

2. Adhere to GAQC's membership requirements; and

3. Collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of the government auditing requirements and:

   a. Texas public school district environment;

   b. Public sector; or

   c. Nonprofit sector.

If at any time the TEA division responsible for financial compliance reviews an audit firm's working papers and finds that the firm or the quality of the work does not meet the required standards, the division may require the district to change its audit firm.

19 TAC 109.23

Financial Accountability System Resource Guide

The rules for financial accounting are described in the official TEA publication *Financial Accountability System Resource Guide*, dated June 2021, which is adopted by reference as TEA's official rule. A copy is available on the TEA website with information related to financial compliance. *19 TAC 109.41, .5001*

Filing of Report

A copy of the annual audit report, approved by the board, shall be filed with TEA not later than the 150th day after the end of the fiscal year for which the audit was made. If a board declines or refuses to approve its auditor's report, it shall nevertheless file with TEA a copy of the audit report with its statement detailing reasons for failure to approve the report. *Education Code 44.008(d)*

Internet Posting of Audit

Each district shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of this provision. Each district shall post or cause to be posted on the internet website the information required by Tax Code 26.18, including the district's most recent financial audit, in a format prescribed by the comptroller. *Tax Code 26.18* [See CE for other required information that must be posted.]

Note: For information on the efficiency audit required before a district may hold an election to seek voter approval to adopt a maintenance and operations tax rate, see CCG.

Financial Records

Each treasurer receiving or having control of any school fund of any district shall keep a full and separate itemized account with each of the different classes of its school funds coming into the treasurer's hands. The treasurer's records of the district's itemized accounts and records shall be available to audit. *Education Code 44.008(c)*

Financial Accountability Rating System

TEA will assign a financial accountability rating to each district as required by Education Code 39.082.

TEA will base the financial accountability rating of a district on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.

A financial accountability rating remains in effect until replaced by a subsequent rating.

19 TAC 109.1001(b), (e), (l)

Issuance of Ratings

TEA will issue a preliminary financial accountability rating to a district on or before August 8 of each year. TEA will not delay the issuance of a preliminary or final rating if a district fails to meet the statutory deadline under Education Code 44.008 for submitting the annual financial report (AFR). Instead, the district will receive an F rating for substandard achievement.

Appeals

A district may appeal its preliminary financial accountability rating through the appeals process described at 19 Administrative Code 109.1001(n).

If TEA receives an appeal of a preliminary rating, TEA will issue a final rating to the district no later than 60 days after the deadline for submitting appeals. If TEA does not receive an appeal of a preliminary rating, the preliminary rating automatically becomes a final rating 31 days after issuance of the preliminary rating.

A final rating issued by TEA may not be appealed under Education Code 7.057 or any other law or rule.

19 TAC 109.1001(m)–(o)

Fiduciary Responsibility

The Superintendent, principal, and sponsor, or other staff member, as applicable, shall be responsible for the proper administration of District and campus activity funds and student activity funds in accordance with state law and local policy, District accounting practices and procedures, and the Texas Education Agency (TEA) *Financial Accountability System Resource Guide*.

Student Activity Funds

The Superintendent shall ensure that student activity accounts are maintained to manage all class funds and other funds raised and collected by student clubs or organizations for a school-related purpose. The principal or designee shall issue receipts for all funds prior to their deposit into the appropriate District account.

Student activity funds shall be included in the annual audit of the District's fiscal accounts. [See CFC]

Use and Expenditure

Funds collected by student groups shall be used only for purposes authorized by the student club or organization. The principal and sponsor shall manage and approve all disbursements. All funds raised by student organizations must be expended for the benefit of the students.

The principal's designee, who is authorized to approve disbursements, shall not be the sponsor, director, coach, or staff member who supervises or is affiliated with the group associated with the activity account.

District and Campus Activity Funds

The Superintendent shall ensure District accounting practices and procedures address the expenditure of District and campus activity funds generated from vending machines, rentals, gate receipts, concessions, and other local sources of revenue over which the District has direct control. Funds generated from such sources shall be expended for the benefit of the District or its students and shall be related to the District's educational purpose.

Approval

Prior to a disbursement being made to any employee, including the principal, approval from the immediate supervisor or designee shall be obtained.

Carryover Funds

All funds remaining in the account at the end of a fiscal year shall be retained in the account for use in the next fiscal year. If a campus activity fund ceases to function or exist, the unexpended funds of the organization shall be credited to the appropriate administrative activity account, as determined by the principal or administrator with supervisory or administrative authority over the group activity or funds.

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

For required vendor disclosures and contract provisions, including prohibitions, see CHE.

For provisions pertaining to criminal history record information on contractors, see CJA.

For legal requirements related to energy savings performance contracts, see CL.

For information on procuring school buses, see CNB.

For legal requirements applicable to school nutrition procurement, including produce, with federal funds, see COA.

For information regarding construction of school facilities, see CV series.

Board Authority

The board may adopt rules and procedures for the acquisition of goods and services. *Education Code 44.031(d)*

Delegation of Authority

The board may, as appropriate, delegate its authority regarding an action authorized or required by Education Code Chapter 44, Subchapter B, to be taken by a district to a designated person, representative, or committee.

The board may not delegate the authority to act regarding an action authorized or required to be taken by the board by Education Code Chapter 44, Subchapter B.

Disaster Delegation

Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a district, the board may delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under Education Code Chapter 44, Subchapter B if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

Education Code 44.0312

Purchases Valued at or Above $50,000

Methods

Except as provided by Education Code Chapter 44, Subchapter B, all district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at $50,000 or more in the aggregate for each 12-month period, shall be made by the method, of the following methods, that provides the best value for a district:

1. Competitive bidding for services other than construction services.
2. Competitive sealed proposals for services other than construction services.
3. A request for proposals for services other than construction services.
4. An interlocal contract.
5. A method provided by Government Code Chapter 2269 for construction services [see CV series];
6. The reverse auction procedure as defined by Government Code 2155.062(d).
7. The formation of a political subdivision corporation under Local Government Code 304.001 (purchase of electricity).

Education Code 44.031(a)

Exceptions

Emergency Damage or Destruction

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

Sole Source

Without complying with Education Code 44.031(a) above, a district may purchase an item that is available from only one source, including:

1. An item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The exceptions above do not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of $15,000.

Education Code 44.031(j)–(k)

Competitive Bidding

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, a district may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).

A district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see Contract Selection Factors, below].

Except as provided below, Local Government Code Chapter 271, Subchapter B (Competitive Bidding on Certain Public Works Contracts) does not apply to a competitive bidding process under this policy.

Local Government Code Sections 271.026 (Opening of Bids), 271.027(a) (Award of Contract), and 271.0275 (Safety Record of Bidder Considered) apply to a competitive bidding process under Education Code Chapter 44, Subchapter B. [See CVA for these requirements.]

Education Code 44.0351

[For information on additional competitive procedures under the Public Property Finance Act, see CHH.]

Competitive Sealed Proposals

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), a district shall follow the procedures prescribed below.

Request for Proposals

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

Opening Proposals

The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

Selection

The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected

offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

Education Code 44.0352

Interlocal Contracts

"Interlocal contract" means a contract or agreement made under Government Code Chapter 791 (Interlocal Cooperation Act). A district may contract or agree with another local government or a federally recognized Indian tribe, as listed by the U.S. secretary of the interior under 25 U.S.C. 479a-1, whose reservation is located within the boundaries of this state to perform governmental functions and services in accordance with Government Code Chapter 791. A district may agree with another local government and with the state or a state agency, including the comptroller, to purchase goods and services. *Gov't Code 791.003(2), .011(a), .025(a)*

An interlocal contract must:

1. Be authorized by the governing body of each party to the contract;

2. State the purpose, terms, rights, and duties of the contracting parties; and

3. Specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. An interlocal contract may be renewed. Notwithstanding item 2 above, an interlocal contract may have a specified term of years.

Gov't Code 791.011(d)–(f), (i)

A district may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and any services reasonably required for the installation, operation, or

maintenance of the goods. This provision does not apply to services provided by firefighters, police officers, or emergency medical personnel. *Gov't Code 791.025(b)*

A district that purchases goods and services under Government Code 791.025 satisfies the requirement to seek competitive bids for the purchase of the goods and services. *Gov't Code 791.025(c); Atty. Gen. Op. JC-37 (1999)*

Reverse Auction

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the district and fair to vendors. *Local Gov't Code 271.906(b)*

"Reverse auction procedure" means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or

2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

Site-Based Purchasing

If a purchase is made at the campus level in a district with a student enrollment of 180,000 or more that has formally adopted a site-based decision-making plan under Education Code Subchapter F, Chapter 11 [see BQ series], that delegates purchasing decisions to the campus level, Education Code 44.031 applies only to the campus and does not require the district to aggregate and jointly award purchasing contracts. A district that adopts site-based purchasing under this provision shall adopt a policy to ensure that campus purchases achieve the best value to the district and are not intended or used to avoid the requirement that a district aggregate purchases under Education Code 44.031(a). *Education Code 44.031(m)*

Contract Selection Factors

Except as provided by Education Code Chapter 44, Subchapter B, in determining to whom to award a contract, the district shall consider:

1. The purchase price.

2. The reputation of the vendor and of the vendor's goods or services.

3. The quality of the vendor's goods or services.

4. The extent to which the goods or services meet the district's needs.

5. The vendor's past relationship with the district.

6. The impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses.

7. The total long-term cost to the district to acquire the vendor's goods or services.

8. For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.

9. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This provision does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.031(b-1)*

The factors listed above are the only criteria that may be considered by a district in its decision to award a contract. *R.G.V. Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.)*

Preferences

Agricultural Products

A district that purchases agricultural products shall give preference to those produced, processed, or grown in Texas if the cost to the district is equal and the quality is equal. If agricultural products produced, processed, or grown in Texas are not equal in cost and quality to other products, the district shall give preference to agricultural products produced, processed, or grown in other states of the United States, if the cost and quality of the U.S. and foreign products are equal.

"Agricultural products" includes textiles and other similar products.

"Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form.

A district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

Vegetation for Landscaping

A district that purchases vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation if the cost to the district is equal and the quality is equal.

Education Code 44.042

[For legal requirements applicable to school nutrition procurement, including produce and agricultural products, with federal funds, see COA.]

Recycled Products

A district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality and the average price of the product is not more than ten percent greater than the price of comparable nonrecycled products. Preferences will be applied in accordance with state procurement statutes and rules. *30 TAC 328.203*

Subchapter K of 30 Administrative Code (Governmental Entity Recycling and Purchasing of Recycled Materials) does not apply to a district with a student enrollment of less than 10,000 students. *30 TAC 328.204(a)*

A district regularly shall review and revise its procurement procedures and specifications for the purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials;
2. Encourage the use of products made of recycled materials; and
3. Ensure to the maximum extent economically feasible that the district purchases products that may be recycled when they have served their intended use.

In developing new procedures and specifications, the district shall encourage the use of recycled products and products that may be recycled or reused.

Health and Safety Code 361.426(b)–(c)

Bidder's Place of Business

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code Section 271.9051. This provision does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. 153. *Education Code 44.031(b-1)*

Notice Publication

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

Electronic Bids or Proposals

A district may receive bids or proposals under Education Code Chapter 44 through electronic transmission if the board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

Notwithstanding any other provision of Education Code Chapter 44, an electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the board.

Education Code 44.0313

Right to Work

While a district is engaged in procuring goods and services or awarding a contract, or overseeing procurement or construction for a public work or public improvement, a district:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

Contract with Person Indebted to District

The board by resolution may establish regulations permitting the district to refuse to enter into a contract or other transaction with a person indebted to the district. It is not a violation of Education Code Chapter 44, Subchapter B (Purchases; Contracts) for a district, under regulations adopted under this provision, to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the district.

"Person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the district requiring approval by the board.

Education Code 44.044

Out-of-State Bidders

A district may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located, or the state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.002*

This requirement does not apply to a contract involving federal funds. A district shall use the information published by the comptroller under Government Code 2252.003 (Publication of Other State's Laws on Contracts) to evaluate the bid of a nonresident bidder. A district may rely on information published under Government Code 2252.003 to meet the requirements of Government Code 2252.002. *Gov't Code 2252.003–.004*

"Governmental contract" means a contract awarded by a governmental entity, including a public school district, for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

"Resident bidder" refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Gov't Code 2252.001

Professional Services

Education Code 44.031 does not apply to a contract for professional services rendered, including the services of an architect, attorney, certified public accountant, engineer, or fiscal agent. A district may, at its option, contract for professional services rendered

by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003 (Professional Services Procurement Act) (see below), in lieu of the methods provided by Education Code 44.031. *Education Code 44.031(f)*

Professional Services Procurement Act

Selection

A district may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.003(a)*

Definition

"Professional services" means services:

1. Within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, professional nursing, or forensic science;

2. Provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, registered nurse, or a forensic analyst or forensic science expert; or

3. Provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Occupations Code Chapter 1053.

Gov't Code 2254.002

[For specific information on procuring architectural or engineering services, see CV. For information on procuring services of physicians, optometrists, and registered nurses under certain circumstances, see Government Code 2254.008.]

Contingent Fee Contract for Legal Services

"Contingent fee contract" means a contract for legal services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained. The term includes an amendment to a contract for legal services described by this provision if the amendment changes the scope of representation or may result in the filing of an action or the amending of a petition in an existing action. *Gov't Code 2254.101(2)*

Government Code Chapter 2254, Subchapter C provides the manner in which and the situations under which a district may compensate a public contractor under a contingent fee for legal services. That subchapter does not apply to a contract for legal services:

1. Provided to a district under Government Code Chapter 403, Subchapter M; or

2. Entered into by a district for the collection of an obligation, as defined by Government Code 2107.001, that is delinquent [see CCGA(LEGAL) regarding delinquent tax collection] or for services under Government Code 1201.027 [see CCA(LEGAL) regarding issuance of public securities], except that Government Code sections 2254.1032, 2254.1034, 2254.1036, and 2254.1037 do apply to the contract.

Gov't Code 2254.102

A district may select an attorney or law firm to award a contingent fee contract only in accordance with Government Code 2254.003(a) (Professional Services Procurement Act) [see Selection, above] and Government Code 2254.1032.

In procuring legal services under a contingent fee contract, a district shall:

1. Select a well-qualified attorney or law firm on the basis of demonstrated competence, qualifications, and experience in the requested services; and

2. Attempt to negotiate a contract with that attorney or law firm for a fair and reasonable price.

Gov't Code 2254.1032

Specific Purchases

Computers

A district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts entered into in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

Automated Information System

A district may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method described above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*

Automated External Defibrillators

A district that purchases or leases an automated external defibrillator (AED), as defined by Health and Safety Code 779.001, shall ensure that the AED meets standards established by the federal Food and Drug Administration. *Education Code 44.047(a)*

Insurance

A contract for the purchase of insurance is not a contract for professional services. A district must award such a contract using one of the methods in Education Code 44.031. *Atty. Gen. Op. DM-418 (1996)*

Multiyear Contracts

A district may execute an insurance contract for a period longer than 12 months, if the contract complies with Local Government Code 271.903(a) [see Commitment of Current Revenue, below]. If a district executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the district will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

Other Purchasing Methods

The comptroller shall establish a program by which the comptroller performs purchasing services for local governments. The services must include:

State Purchasing Program

1. The extension of state contract prices to participating local governments when the comptroller considers it feasible.
2. Solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller and is desired by the local government.
3. Provision of information and technical assistance to local governments about the purchasing program.

The comptroller may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller in providing purchasing services to the local government under the program.

Local Gov't Code 271.082

District Participation

A district may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the board requesting that the district be allowed to participate on a voluntary basis, and to the extent the comptroller deems feasible, and stating that the district will:

1. Designate an official to act for the district in all matters relating to the program, including the purchase of items from the vendor under any contract, and that the board will direct the decisions of the representative;

2. Be responsible for:

   a. Submitting requisitions to the comptroller under any contract; or

   b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending to the comptroller reports on actual purchases made under this provision that provide the information and are sent at the times required by the comptroller;

3. Be responsible for making payment directly to the vendor;

4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A district that purchases an item under a state contract or under a reverse auction procedure, sponsored by the comptroller satisfies any state law requiring the district to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

Multiple Award Contract Schedule

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state. *Gov't Code 2155.502(a)*

A district may purchase goods or services directly from a vendor under a contract listed on a schedule developed under Government Code Chapter 2155, Subchapter I. A district contracting for the purchase of an automated information system under a contract listed on a schedule shall comply with Government Code 2157.068(e-1) (Purchase of Information Technology Commodity Items) [see Automated Information System, above]. A purchase authorized by this provision satisfies any requirement of state law relating to competitive bids or proposals.

The price listed for a good or service under a multiple award contract is a maximum price. A district may negotiate a lower price for goods or services under a contract listed on a schedule developed under Government Code Chapter 2155, Subchapter I.

Gov't Code 2155.504

Cooperative Purchasing Program

A district may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. A district that is participating in a cooperative purchasing program may sign

an agreement with another participating local government or a local cooperative organization stating that the district will:

1. Designate a person to act under the direction of, or on behalf of, the district in all matters relating to the program;

2. Make payments to another participating local government or local cooperative organization or directly to a vendor under a contract made under these provisions, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and

3. Be responsible for the vendor's compliance relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.

A district that purchases goods or services under these provisions satisfies any state law requiring the district to seek competitive bids for the purchase of the goods or services.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

Cooperative Purchasing Contract Fees

A district that enters into a purchasing contract valued at $25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document a contract-related fee, including a management fee, paid by or to the district and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the board. The written report must appear as an agenda item. The commissioner of education may audit the written report.

Education Code 44.0331

Commitment of Current Revenue

If a contract for the acquisition, including lease, of real or personal property retains to the board the continuing right to terminate at the expiration of each budget period during the term of the contract, is conditioned on a best efforts attempt by the board to obtain and appropriate funds for payment of the contract, or contains both the continuing right to terminate and the best efforts conditions, the contract is a commitment of a district's current revenue only. *Local Gov't Code 271.903*

Change Orders

For provisions regarding change orders, see CV.

Criminal Offenses

An officer, employee, or agent of a district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Education Code 44.031(a) or (b). An offense under this provision is a Class B misdemeanor and is an offense involving moral turpitude.

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be made in one purchase.

Education Code 44.032(a)–(b)

An officer, employee, or agent of a district commits an offense if the person with criminal negligence violates Education Code 44.031(a) or (b) other than by conduct described by Education Code 44.032(b). An offense under this provision is a Class B misdemeanor and is an offense involving moral turpitude. *Education Code 44.032(c)*

An officer or employee of a district commits an offense if the officer or employee knowingly violates Education Code 44.031, other than by conduct described by Education Code 44.032(b) or (c). An offense under this provision is a Class C misdemeanor. *Education Code 44.032(d)*

Removal from Office

The final conviction of a person other than a trustee of a district for an offense under Education Code 44.032(b) or (c) above results in the immediate removal from office or employment of that person. A trustee who is convicted of an offense under Education Code 44.032 is considered to have committed official misconduct for purposes of Local Government Code Chapter 87, and is subject to removal as provided by that chapter and Texas Constitution Article V, Section 24. For four years after the date of the final conviction, the removed person is ineligible to be a candidate for or to be appointed or elected to a public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision of the state, and is ineligible to receive any compensation through a contract with the state or a political subdivision of the state. *Education Code 44.032(e)*

Injunction

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which

the district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this provision is entitled to reasonable attorney's fees as approved by the court. *Education Code 44.032(f)*

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

Required Vendor Disclosures

Disclosure of Interested Parties

A district may not enter into a contract described below with a business entity unless the business entity submits a disclosure of interested parties to the district at the time the business entity submits the signed contract to the district.

The requirement above applies only to a contract of a district that:

1. Requires an action or vote by the board before the contract may be signed;
2. Has a value of at least $1 million; or
3. Is for services that would require a person to register as a lobbyist under Government Code Chapter 305.

Gov't Code 2252.908

A contract does not require an action or vote by the board if the board has legal authority to delegate to its staff the authority to execute the contract, the board has delegated this authority, and the board does not participate in the selection of the business entity with which the contract is entered into. *1 TAC 46.1(c)*

Exclusions

The disclosure requirement does not apply to a contract with:

1. A publicly traded business entity, including a wholly owned subsidiary of the entity;
2. An electric utility, as defined by Utilities Code 31.002; or
3. A gas utility, as defined by Utilities Code 121.001.

Gov't Code 2252.908(c)(4)–(6)

Required Form

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (TEC) that includes a list of each interested party for the contract of which the contracting business entity is aware; and a written, unsworn declaration subscribed by the authorized agent of the contracting business entity as true under penalty of perjury that is in substantially the form set out in Government Code 2252.908(e)(2). *Gov't Code 2252.908(e); 1 TAC 46.5(a)*

The certification of filing and the completed disclosure of interested parties form generated by TEC's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the district that is the party to the contract for which the form is being filed. *1 TAC 46.5(b)*

Deadline

A district that receives a completed disclosure of interested parties form and certification of filing shall notify TEC, in an electronic format prescribed by TEC, of the receipt of those documents not later than the 30th day after the date the board receives the disclosure. *1 TAC 46.5(c); Gov't Code 2252.908(f)*

Contract Changes

The disclosure requirements do not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract except as set out below.

The disclosure requirements apply to a change made to an existing contract, including an amendment, change order, or extension of a contract if:

1. A disclosure of interested parties form was not filed for the existing contract; and either the changed contract requires an action or vote by the board or the value of the changed contract is at least $1 million; or

2. The business entity submitted a disclosure of interested parties form to the district that is a party to the existing contract; and either there is a change to the disclosure; or the changed contract requires an action or vote by the board; or the value of the changed contract is at least $1 million greater than the value of the existing contract.

1 TAC 46.4

Definitions

"Contract" means a contract between a board and a business entity at the time it is voted on by the board or at the time it binds the board, whichever is earlier, and includes an amended, extended, or renewed contract. *1 TAC 46.3(a)*

"Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. The term includes an entity through which business is conducted with a district, regardless of whether the entity is a for-profit or nonprofit entity, and does not include a governmental entity or state agency. *Gov't Code 2252.908(a)(1); 1 TAC 46.3(b)*

"Interested party" means a person who has a controlling interest in a business entity with whom a district contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity. *Gov't Code 2252.908(a)(3); 1 TAC 46.3(d), (e)*

"Controlling interest" means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;

2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or

3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This provision does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

1 TAC 46.3(c)

"Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature. *1 TAC 46.3(f)*

"Value" of a contract is based on the amount of consideration received or to be received by the business entity from the district under the contract. *1 TAC 46.3(g)*

Conflict of Interest Questionnaire

Note: See BBFA for additional information applicable to disclosures under Local Government Code Chapter 176, including:

- Definitions;
- Conflicts disclosure statements required to be filed by certain local government officers, including vendors who are also local government officers; and
- Internet posting requirements for conflicts disclosure statements and questionnaires.

A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with the district and:

1. Has an employment or other business relationship with a local government officer of the district, or a family member of the officer, described by Local Government Code 176.003(a)(2)(A);

2. Has given a local government officer of the district, or a family member of the officer, one or more gifts with the aggregate value specified by Local Government Code 176.003(a)(2)(B), excluding any gift described by Local Government Code 176.003(a-1); or

3. Has a family relationship with a local government officer of the district.

Local Gov't Code 176.006(a)

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

1. The date that the vendor:
    a. Begins discussions or negotiations to enter into a contract with a district;
    b. Submits to the district an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the district; or
2. The date the vendor becomes aware:
    a. Of an employment or other business relationship with a local government officer, or a family member of the officer described by Local Government Code 176.006(a);
    b. That the person has given one or more gifts described by Local Government Code 176.006(a); or
    c. Of a family relationship with a local government officer.

Local Gov't Code 176.006(a-1)

Electronic Filing The requirements of Local Government Code Chapter 176, including signature requirements, may be satisfied by electronic filing in a form approved by the TEC. *Local Gov't Code 176.008*

Updating Incomplete or Inaccurate Questionnaires A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate. *Local Gov't Code 176.006(d)*

Validity of Contract The validity of a contract between a vendor and the district is not affected solely because the vendor fails to comply with these requirements. *Local Gov't Code 176.006(i)*

Violations A vendor commits an offense if the vendor is required to file a conflict of interest questionnaire under Local Government Code 176.003 and either:

1. Knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5:00 p.m. on the

seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or

2. Knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.

It is an exception to the application of this provision that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the district of the alleged violation.

A board may, at its discretion, declare a contract void if the board determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006.

Local Gov't Code 176.013(b), (e), (g)

Required Contract Provisions

Boycott Prohibitions

Israel

A district may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it does not boycott Israel and will not during the term of the contract.

The requirement above applies only to a contract that:

1. Is between a district and a company with ten or more full-time employees; and

2. Has a value of $100,000 or more that is to be paid wholly or partly from public funds of the district.

Gov't Code 2271.002

"Boycott Israel" has the meaning assigned by Government Code 808.001.

"Company" has the meaning assigned by Government Code 808.001, except that the term does not include a sole proprietorship.

Gov't Code 2271.001(1), (2)

Energy Companies

A district may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

The requirement above applies only to a contract that:

1. Is between a district and a company with ten or more full-time employees; and

2. Has a value of $100,000 or more that is to be paid wholly or partly from public funds of the district.

The requirement above does not apply to a district that determines the requirements are inconsistent with the district's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Gov't Code 2274.002

"Boycott energy company" has the meaning assigned by Government Code 808.001.

"Company" has the meaning assigned by Government Code 809.001, except that the term does not include a sole proprietorship.

Gov't Code 2274.001(1), (2)

No Discrimination Against Firearm and Ammunition Industries

A district may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

The requirement above applies only to a contract that:

1. Is between a district and a company with at least ten full-time employees; and

2. Has a value of $100,000 or more that is paid wholly or partly from public funds of the district.

The requirement above does not apply to a district that contracts with a sole-source provider or does not receive bids from a company that is able to provide the required written verification.

Gov't Code 2274.002

[For definitions, see Government Code 2274.001.]

Retention of Contracting Information

Application

These provisions apply to a contract that:

1. Has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the district; or

2. Results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the district in a fiscal year of the district.

A board may not accept a bid for a contract described above or award the contract to an entity that the board has determined has knowingly or intentionally failed to comply with Government Code Chapter 552, Subchapter J (Additional Provisions Relating to Contracting Information) in a previous bid or contract described above unless the board determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of that subchapter. [For additional information and requirements, see GBA and GBAA.]

Requirements

A contract described above must require a contracting entity to:

1. Preserve all contracting information related to the contract as provided by the records retention requirements applicable to the district for the duration of the contract;

2. Promptly provide to the district any contracting information related to the contract that is in the custody or possession of the entity on request of the district; and

3. On completion of the contract, either:

   a. Provide at no cost to the district all contracting information related to the contract that is in the custody or possession of the entity; or

   b. Preserve the contracting information related to the contract as provided by the records retention requirements applicable to the district.

Bid and Contract Language

Except as described at Exception, below, a bid for a contract described above and the contract must include the following statement: “The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include “bid” or “contract” as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.”

Notice of Noncompliance

A board that is the party to a contract described above shall provide notice to the entity that is a party to the contract if the entity fails to comply with a requirement of Government Code Chapter 552, Subchapter J applicable to the entity. The notice must:

1. Be in writing;

2. State the requirement that the entity has violated; and

3. Unless the exception described below applies, advise the entity that the board may terminate the contract without further obligation to the entity if the entity does not cure the violation on or before the tenth business day after the date the board provides the notice.

Contract Termination

Except as provided below, a governmental body may terminate a contract described above if:

1. The board provides the required notice to the entity that is party to the contract;
2. The contracting entity does not cure the violation in the prescribed period;
3. The board determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of Government Code Chapter 552, Subchapter J; and
4. The board determines that the entity has not taken adequate steps to ensure future compliance with the requirements of that subchapter.

An entity has taken adequate steps to ensure future compliance with Government Code Chapter 552, Subchapter J if:

1. The entity produces contracting information requested by the board that is in the custody or possession of the entity not later than the tenth business day after the date the board makes the request; and
2. The entity establishes a records management program to enable the entity to comply with Government Code Chapter 552, Subchapter J.

Exception

A board may not terminate a contract under these provisions if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan.

Gov't Code 552.371(a), .372–.374 [See GBA]

Prohibitions

Entertainment Event Contracts

A person, including a board, may not include a provision in a contract related to a parade, concert, or other entertainment event paid for in whole or in part with public funds that prohibits or would otherwise prevent the disclosure of information relating to the receipt or expenditure of public or other funds by a board for the event. A contract provision that violates Government Code 552.104(c) is void. *Gov't Code 552.104(c)* [See GBA for information related to competition or bidding.]

Taxpayer Resource Transactions

A district may not enter into a taxpayer resource transaction with an abortion provider or an affiliate of an abortion provider. *Gov't Code 2273.003(a)*

"Taxpayer resource transaction" means a sale, purchase, lease, donation of money, goods, services, or real property, or any other transaction between a governmental entity and a private entity that provides to the private entity something of value derived from state or local tax revenue, regardless of whether the governmental entity receives something of value in return.

"Affiliate" means a person or entity who enters into with another person or entity a legal relationship created or governed by at least one written instrument, including a certificate of formation, a franchise agreement, standards of affiliation, bylaws, or a license, that demonstrates:

1. Common ownership, management, or control between the parties to the relationship;
2. A franchise granted by the person or entity to the affiliate; or
3. The granting or extension of a license or other agreement authorizing the affiliate to use the other person's or entity's brand name, trademark, service mark, or other registered identification mark.

Gov't Code 2273.001(3), (5)

Lobbying Restriction—Tobacco Education Grant Funds

A district receiving funds or grants from the Permanent Fund for Health and Tobacco Education and Enforcement may not use the funds to pay:

1. Lobbying expenses incurred by the district;
2. A person or entity that is required to register with the Texas Ethics Commission under Government Code Chapter 305 (Registration of Lobbyists);
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by item 2; or
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Gov't Code 403.1067(a)

Prohibited Contracts

A district may not enter into a governmental contract with a company identified on a list prepared and maintained under Government Code 806.051 (now Government Code 2270.0201) (companies with business operations in Sudan), 807.051 (now Government Code 2270.0102) (companies with business operations in Iran), and 2252.153 (companies known to have contracts with or provide supplies or services to foreign terrorist organization). *Gov't Code 2252.152*

"Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain professional services subject to Government Code 2254. *Gov't Code 2252.151(3)*

Payment Due

Except as provided below, a payment by a district under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of:

1. The date the district receives the goods under the contract;
2. The date the performance of the service under the contract is completed; or
3. The date the district receives an invoice for the goods or services.

Exception

A payment under a contract executed on or after September 1, 1993, owed by a district whose board meets only once a month or less frequently is overdue on the 46th day after the later event described above. The renewal, amendment, or extension of a contract executed on or before September 1, 1993, is considered to be the execution of a new contract.

Gov't Code 2251.021

Interest

A payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of one percent and the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

Interest on an overdue payment stops accruing on the date a district or vendor mails or electronically transmits the payment.

The unpaid balance of a partial payment made within the prescribed period accrues interest, unless the balance is in dispute.

Gov't Code 2251.025, .029

A district shall:

1. Compute interest imposed on the district.
2. Pay the interest at the time payment is made on the principal.
3. Submit the interest payment with the net amount due for the goods or service.

A district may not:

1. Require a vendor to petition, bill, or wait an additional day to receive the interest due.

2. Require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest as a condition of the contract.

Gov't Code 2251.027

Early Payment Discount

A district should take advantage of an offer for an early payment discount. A district may not take an early payment discount unless the district makes a full payment within the discount period. If a district takes an early payment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires. *Gov't Code 2251.030*

Exceptions

These provisions do not apply to a payment made by a district, vendor, or subcontractor if:

1. There is a bona fide dispute between the district and a vendor, contractor, subcontractor, or supplier about the goods delivered or the service performed that causes the payment to be late;

2. There is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the services performed that causes the payment to be late;

3. The terms of a federal contract, grant, regulation, or statute prevent the district from making a timely payment with federal funds; or

4. The invoice is not mailed to the person to whom it is addressed in strict accordance with any instruction on the purchase order relating to the payment.

Gov't Code 2251.002

Disputed Payment

A district shall notify a vendor of an error or disputed amount in an invoice submitted for payment by the vendor not later than the 21st day after the date the district receives the invoice, and shall include in such notice a detailed statement of the amount of the invoice which is disputed. If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance beginning on the date that the payment for the invoice is overdue. If a dispute is resolved in favor of the district, the vendor shall submit a corrected invoice that must be paid in accordance with Government Code 2251.021 [see Payment Due above]. The unpaid balance accrues interest if the corrected invoice is not paid by the appropriate date. The district may withhold from payments required no more than 110 percent of the disputed amount. *Gov't Code 2251.042*

Vendor Remedy for Nonpayment

A vendor may suspend performance required under a contract with a district if the district does not pay the vendor an undisputed amount within the time limits provided above, and the vendor gives the district written notice informing the district that payment has not been received and stating the intent of the vendor to suspend performance for nonpayment.

The vendor may not suspend performance before the tenth day after the date the vendor gives this notice.

A vendor who suspends performance is not:

1. Required to supply further labor, services, or materials until the vendor is paid the amount provided for under Government Code Chapter 2251, plus costs for demobilization and remobilization; or

2. Responsible for damages resulting from suspending work if the district with which the vendor has the contract has not notified the vendor in writing before performance is suspended that payment has been made or that a bona fide dispute for payment exists.

A notification that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the vendor or the vendor's subcontractor are not provided in compliance with the contract, the vendor is entitled to a reasonable opportunity to cure the noncompliance of the listed items, or offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

Gov't Code 2251.051

Cash Purchases with Available Funds

The Public Property Finance Act (Local Government Code Chapter 271, Subchapter A) does not include cash purchases of real property made with moneys from available funds. *Bandera v. Hamilton, 2 S.W.3d 367 (Tex. App.—San Antonio 1999, pet. denied)*

Public Property Finance Act

Definitions

"Contract" means an agreement entered into under Local Government Code Chapter 271, Subchapter A (the Public Property Finance Act) but does not mean a contract solely for the construction of improvements to real property.

"Improvement" means a permanent building, structure, fixture, or fence that is erected on or affixed to land but does not include a transportable building or structure whether or not it is affixed to land.

"Real property" means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property.

Local Gov't Code 271.003(2), (10), (11)

Proposed Contract

The board may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. If the board proposes to enter into such a contract, the board shall publish notice of intent to enter into the contract not less than 60 days before the date set to approve execution of the contract in a newspaper with general circulation in the district. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but the board shall not publish the first advertisement for bids for construction of improvements until 60 days has expired from the publication of the notice of intent to enter into the contract. *Local Gov't Code 271.004(a)*

Petition and Referendum

If, within 60 days of the date of publication of the notice of intent required above, a written petition signed by a least five percent of the registered voters of the district is filed with the board requesting that the board order a referendum on the question of whether the contract should be approved, the board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question. The referendum shall be held in accordance with the applicable provisions of the Election Code. The requirement that an election must be held on a uniform election date does not apply to an election held under Local Government Code 271.004. *Local Gov't Code 271.004(b)–(c)*

Submission to Attorney General

A lease-purchase contract entered into by the district under Local Government Code 271.004 and the records relating to its execution must be submitted to the attorney general for examination as to their validity. If the attorney general finds that the contract has been authorized in accordance with the law, the attorney general shall approve them, and the comptroller shall register the contract. Following approval and registration, the contract is incontestable and is a binding obligation according to its terms. *Local Gov't Code 271.004(g)–(i)*

District Obligation

A contract under Local Government Code 271.004 is a special obligation of a district if ad valorem taxes are not pledged to the payment of the contract. If the contract provides that payments by the district are to be made from maintenance taxes previously approved by voters of the district and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered indebtedness under Tax Code 26.04(c). All or part of the district's obligation may be evidenced by one or more negotiable promissory notes. *Local Gov't Code 271.004 (d)–(f)*

[For information on competitive procedures under the Public Property Finance Act, see CHH.]

State Assistance—Instructional Facilities

A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility in accordance with Education Code 46.004. A lease purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under Education Code Chapter 46, Subchapter A. *Education Code 46.004; 19 TAC 61.1032*

Eminent Domain

A district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. *Education Code 11.155(a)*

[For information regarding athletic stadium authorities and eminent domain, see CCE.]

A district may not take private property through the use of eminent domain if the taking confers a private benefit on a particular private party through the use of the property, is for a public use that is merely a pretext to confer a private benefit on a particular private party, or is not for a public use. *Gov't Code 2206.001(b)*

Procedures

The procedures in the Truth in Condemnation Procedures Act, Government Code Chapter 2206, Subchapter B, apply to the use of eminent domain under the laws of this state by a governmental entity. *Gov't Code 2206.052*

Exercise of the eminent domain authority in all cases is governed by Property Code Chapter 21, Subchapter B. *Property Code 21.011*

Annual Report to Comptroller

Except as provided below, not later than February 1 of each year, a district shall submit to the comptroller a report containing records and other information specified by Government Code Chapter 2206, Subchapter D for the purpose of providing the comptroller with information to maintain the eminent domain database under Government Code 2206.153. The district shall submit the report in a form and in the manner prescribed by the comptroller.

In addition to the required annual report, the district shall report to the comptroller any changes to the district's reported eminent domain authority information not later than the 90th day after the date on which the change occurred.

Exception

A district located in a county with a population of less than 25,000 is required to file an annual report only if the district's eminent domain authority information has changed from the information reported in the most recent annual report filed by the district. If for the current annual reporting period the district's eminent domain authority information is the same as the information reflected for the district in the eminent domain database for the previous annual reporting period, the district, not later than February 1 of the current annual reporting period, shall confirm the accuracy of the information by electronically updating the district's previously filed report with the comptroller in the manner prescribed by the comptroller.

Gov't Code 2206.154

Penalties for Noncompliance

If a district does not timely submit a report that complies with these provisions, the comptroller shall provide written notice to the district under Government Code 2206.155(a).

If the district does not report the required information not later than the 30th day after the date the comptroller provides notice, the district is subject to penalties as prescribed by Government Code 2206.155.

The reporting, failure to report, or late submission of a report by a district does not affect the entity's authority to exercise the power of eminent domain.

Gov't Code 2206.155, .156

Definitions

"Contract" means an agreement entered under Local Government Code Chapter 271, Subchapter A (the Public Property Finance Act) but does not mean a contract solely for the construction of improvements to real property.

"Personal property" includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the board to be necessary, useful, or appropriate to one or more purposes of the district. The term includes all materials and labor incident to the installation of that personal property. The term includes electricity and cloud computing. The term does not include real property.

Local Gov't Code 271.003(2), (8)

Authority

A board may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof as permitted by Local Government Code 271.005. *Local Gov't Code 271.005*

Competitive Procedures

Education Code 44.031 applies to school district lease-purchase contracts entered under Local Government Code 271.004 and 271.005. *Atty. Gen. Op. GA-0494 (2006)*

In any procedure for competitive bidding under the Public Property Finance Act, the board shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

A district shall receive bids or proposals under the Public Property Finance Act in a fair and confidential manner.

A district may receive bids or proposals under the Public Property Finance Act in hard-copy format or through electronic transmission. A district shall accept any bids or proposals submitted in hard-copy format.

Local Gov't Code 271.0065

Safety and Security Committee

Responsibilities

In accordance with guidelines established by the Texas School Safety Center (TxSSC), each district shall establish a school safety and security committee. The committee shall:

1. Participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan to ensure that the plans reflect specific campus, facility, or support services needs;
2. Periodically provide recommendations to the board and district administrators regarding updating the district multihazard emergency operations plan [see CKC] in accordance with best practices identified by the Texas Education Agency (TEA), the TxSSC, or a person included in the registry of persons providing school safety or security consulting services established by the TxSSC;
3. Provide the district with any campus, facility, or support services information required in connection with a safety and security audit, a safety and security audit report, or another report required to be submitted by the district to the TxSSC;
4. Review each report required to be submitted by the district to the TxSSC to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center; and
5. Consult with local law enforcement agencies on methods to increase law enforcement presence near district campuses.

Membership

The committee, to the greatest extent practicable, must include:

1. One or more representatives of an office of emergency management of a county or city in which the district is located;
2. One or more representatives of the local police department or sheriff's office;
3. One or more representatives of the district's police department, if applicable;
4. The president of the board;
5. A member of the board other than the president;
6. The superintendent;
7. One or more designees of the superintendent, one of whom must be a classroom teacher in the district;

8. If the district partners with an open-enrollment charter school to provide instruction to students, a member of the open-enrollment charter school's governing body or a designee of the governing body; and

9. Two parents or guardians of students enrolled in the district.

Meetings

Except as otherwise provided for year-round schools, the committee shall meet at least once during each academic semester and at least once during the summer. A committee established by a district that operates schools on a year-round system or in accordance with another alternative schedule shall meet at least three times during each calendar year, with an interval of at least two months between each meeting.

The committee is subject to the Open Meetings Act (Government Code Chapter 551), and may meet in executive session as provided by that chapter. Notice of a committee meeting must be posted in the same manner as notice of a board meeting. [See BE]

Education Code 37.109

Safety and Security Audit

At least once every three years, each district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the TxSSC or a person included in the registry of persons providing school safety or security consulting services established by TxSSC.

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)

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 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. *Education Code 37.108(c-1)*

Agreements

Each district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the TxSSC's request, provide a copy of the memorandum or agreement. A copy of a memorandum of understanding or mutual aid agreement provided to the TxSSC under this provision is confidential and not subject to disclosure under Government Code Chapter 552. *Education Code 37.2121(d), (d-1)*

Asbestos Hazard Emergency Response Act

The rules adopted under the Asbestos Hazard Emergency Response Act (AHERA) (15 U.S.C. 2641-2656) require a district to identify asbestos-containing material (ACM) in schools by visually inspecting school buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques; submit management plans; and implement the plans in a timely fashion. Districts are required to use persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The rule includes recordkeeping requirements.

Delegation

Districts may contractually delegate their duties, but they remain responsible for the proper performance of those duties.

40 C.F.R. 763.80(a)

Duties

A district shall:

1. Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with 40 C.F.R. 763.80–.99 and appendices (Subpart E).
2. Ensure that all custodial and maintenance employees are properly trained as required by Subpart E and other applicable federal and/or state regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the Environmental Protection Agency [EPA] worker protection rule, or applicable state regulations).
3. Ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.
4. Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are informed of the locations of asbestos-containing building material (ACBM) and suspected ACBM assumed to be ACM.
5. Ensure that warning labels are posted in accordance with 40 C.F.R. 763.95 (see Warning Labels, below).
6. Ensure that management plans are available for inspection, and notification of such availability has been provided as specified in the management plan under 40 C.F.R. 763.93(g).

7. Designate a person to ensure that requirements under 40 C.F.R. 763.84 are properly implemented and ensure that the designated person receives adequate training to perform duties assigned.

8. Consider whether any conflict of interest may arise from the interrelationship among accredited asbestos personnel and whether that should influence the selection of accredited personnel to perform activities under Subpart E.

40 C.F.R. 763.84

Management Plan

Each district shall develop an asbestos management plan for each school, including all buildings that they lease, own, or otherwise use as school buildings, and submit the plan to the Texas Department of State Health Services (TDSHS). Each district shall maintain and update its management plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection and response action activities. All provisions required to be included in the management plan shall be retained as part of the management plan, as well as any information that has been revised to bring the plan up-to-date. *40 C.F.R. 763.93(a), (d)*

The management plan shall be developed by an accredited management planner and shall include:

1. A list of the name and address of each school building and whether it contains friable ACBM, nonfriable ACBM, and friable and nonfriable suspected ACBM assumed to be ACM.

2. Specific information for each inspection conducted before December 14, 1987.

3. Specific information for each inspection and reinspection conducted under 40 C.F.R. 763.85.

4. The name, address, and telephone number of the person designated under 40 C.F.R. 763.84 to ensure that the duties of the district are carried out, and the course name, and dates and hours of training taken by that person to carry out the duties.

5. The recommendations made to the district regarding response actions, under 40 C.F.R. 763.88(d), the name, signature, state of accreditation of each person making the recommendations, and if applicable, his or her accreditation number.

6. A detailed description of preventive measures and response actions to be taken, including methods to be used, for any friable ACBM, the locations where such measures and action will be taken, reasons for selecting the response action or preventive measure, and a schedule for beginning and completing each preventive measure and response action.

7. With respect to the persons who inspected for ACBM and who will design or carry out response actions, except for operations and maintenance, a statement regarding the person's accreditation.

8. A detailed description in the form of a blueprint, diagram, or in writing of any ACBM or suspected ACBM assumed to be ACM that remains in the school once response actions are undertaken pursuant to 40 C.F.R. 763.90. This description shall be updated as response actions are completed.

9. A plan for reinspection under 40 C.F.R. 763.85, a plan for operations and maintenance activities under 40 C.F.R. 763.91, a plan for periodic surveillance under 40 C.F.R. 763.92, a description of the management planner's recommendation regarding additional cleaning under 40 C.F.R. 763.91(c)(2) as part of an operation's maintenance program, and the district's response to that recommendation.

10. A description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

11. An evaluation of the resources needed to complete response actions successfully and carry out reinspection, operations and maintenance activities, periodic surveillance, and training.

12. With respect to each consultant who contributed to the management plan, the name of the consultant and a statement regarding the person's accreditation.

40 C.F.R. 763.93(e); Occupations Code 1954.101 (License Required for Certain Activities)

Plan Availability Upon submission of a management plan to TDSHS for review, a district shall keep a copy of the plan in its administrative office. The management plans shall be available, without cost or restriction, for inspection by representatives of EPA and the state, the public, including teachers, other school personnel and their representatives, and parents. The district may charge a reasonable cost to make copies of management plans.

Each school shall maintain in its administrative office a complete, updated copy of the management plan for that school. Management plans shall also be available for inspection, without cost or restriction, to workers before work begins in any area of a school building. The school shall make management plans available for inspection to representatives of EPA and the state, the public, including parents, teachers, and other school personnel and their representatives, within five working days after receiving a request for inspection. The school may charge a reasonable cost to make copies of the management plan.

Notice of Availability

Upon submission of its management plan to TDSHS and at least once each school year, a district shall notify in writing parent, teacher, and employee organizations of the availability of the management plans and shall include in the management plan a description of the steps taken to notify such organizations, and a dated copy of the notification.

40 C.F.R. 763.93(g)

Inspections

Each building leased or acquired to be used as a school building shall be inspected in accordance with 40 C.F.R. 763.85(a)(3) and (4) prior to use as a school building. In the event that emergency use of an uninspected building as a school building is necessitated, such buildings shall be inspected within 30 days after commencement of such use. At least once every three years after a management plan is in effect, each district shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building that they lease, own, or otherwise use as a school building. For each inspection and reinspection, the district shall have an accredited inspector provide a written assessment of all friable known or assumed ACBM in the school building. *40 C.F.R. 763.85, .88*

Response Actions

The district shall select and implement in a timely manner the appropriate response actions in 40 C.F.R. 763.90 consistent with the assessment. The response actions selected shall be sufficient to protect human health and the environment. The district may then select, from the response actions that protect human health and the environment, that action which is the least burdensome method. *40 C.F.R. 763.90(a)*

Periodic Surveillance

At least once every six months after the management plan is in effect, each district shall conduct periodic surveillance in each building that it leases, owns, or otherwise uses as a school building that contains ACBM or is assumed to contain ACBM. *40 C.F.R. 763.92(b)*

Operations and Maintenance Training

The district shall ensure, prior to the implementation of operations and maintenance provisions of the management plan, that all members of the maintenance and custodial staff who may work in a building that contains ACBM receive awareness training of at least two hours, whether or not they are required to work with ACBM. New custodial and maintenance employees shall be trained within 60 days after commencement of employment. Training shall include information specified in 40 C.F.R. 763.92(a)(1)(i)–(v). The district shall ensure that all members of its maintenance and custodial staff who conduct any activities that will result in the disturbance of ACBM shall receive training described above and 14 hours of additional training that includes information specified in 40 C.F.R. 763.92(a)(2)(i)–(iv). *40 C.F.R. 763.92(a)*

Warning Labels

The district shall attach a warning label immediately adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas at each school building. This shall include friable ACBM that was responded to by a means other than removal and ACBM for which no response action was carried out. All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACBM that is labeled is removed. The warning label shall read, in print which is readily visible because of large size or bright color, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT. *40 C.F.R. 763.95*

Texas Asbestos Health Protection Act

Texas Asbestos Health Protection rules are found in 25 Administrative Code Chapter 296.

The executive commissioner of the Health and Human Services Commission adopts by reference and enforces, except as otherwise provided in this paragraph, 40 C.F.R. Part 763, Subpart E, (relating to Asbestos-Containing Materials in Schools) adopted under AHERA. The executive commissioner does not adopt from Appendix C (relating to Asbestos Model Accreditation Plan), the EPA's recommended project monitor accreditation category in its Asbestos Model Accreditation Plan. *25 TAC 296.2*

For purposes of enforcing the federal regulations adopted to implement AHERA, 25 Administrative Code Chapter 296 applies to districts. *25 TAC 296.1(b)(4), .21(51)*

A district must ensure compliance with AHERA for all schools under its administrative control. A TDSHS representative may enter any regulated school building to inspect and investigate conditions to determine compliance in accordance with Occupations Code 1954.060, Texas Health and Safety Code 12.018, and 25 Administrative Code 296.271(c) (relating to Inspections and Investigations).

TDSHS may take enforcement action as described in 25 Administrative Code Chapter 296, Subchapter Q (relating to Compliance) for violations of AHERA. *25 TAC 296.4*

Asbestos- Related Activity

An “asbestos-related activity” means the removal, encapsulation, or enclosure of asbestos; the performance of an asbestos survey; the development of an asbestos management plan or response action; the collection or analysis of an asbestos sample; or the performance of another activity for which a license is required under Occupations Code Chapter 1954 (the Texas Asbestos Health Protection Act). *Occupations Code 1954.002, .101 (License Required for Certain Activities)*

The public building owner or the owner's delegated agent must engage persons licensed as required in 25 Administrative Code Chapter 296 to perform any asbestos-related activity. *25 TAC 296.21(74), .211(a)*

Note: For public building owner responsibilities for asbestos management, see 25 TAC 296.191

Notice of Certain Activities

A person engaged in removing asbestos from or encapsulating or enclosing asbestos in a public building shall notify TDSHS in writing at least ten days before the date the person begins the removal, encapsulation, or enclosure project according to applicable laws. A person may give the required notice orally if the removal, encapsulation, or enclosure project is of an emergency nature. *Occupations Code 1954.252*

TDSHS must be notified of any demolition of a public building whether or not asbestos has been identified. TDSHS must be notified of any asbestos abatement within a public building. Notification must be submitted as required in 25 Administrative Code 296.151.

Responsibility

It is the responsibility of the public building owner and delegated agent (such as a licensed asbestos abatement contractor, asbestos consultant, or demolition contractor) to submit a notification to TDSHS for each project. When the task to notify is delegated, the building owner's delegation and the name of the delegated agent must be specified on the notification form. The building owner and the delegated agent are responsible for the accuracy and timeliness of the notification and one or both may be found in violation for failing to accurately and timely notify TDSHS of a project.

25 TAC 296.251(a)(1), (b)(1)

Records

Recordkeeping requirements are set out in 40 C.F.R. 763.94.

Mandatory Drills

The commissioner, in consultation with the Texas School Safety Center (TxSSC) and the state fire marshal, shall adopt rules:

1. Providing best practices for conducting emergency school drills and exercises, including definitions for relevant terms; and
2. Designating the number and type of mandatory school drills to be conducted each semester of the school year, not to exceed a total of eight drills.

Education Code 37.114

Active Threat Exercises

Before a district may conduct an active threat exercise, including an active shooter simulation, the district shall ensure that:

1. Adequate notice of the exercise is provided to students expected to participate in the exercise, the parents of those students, and staff likely to be part of the exercise, including information regarding:
    a. The date on which the exercise will occur;
    b. The content, form, and tone of the exercise; and
    c. Whether the exercise will include a live simulation that mimics or appears to be an actual shooting incident;
2. The exercise is announced to students and faculty before the start of the exercise, including, if applicable, an announcement that the exercise will include a live simulation that mimics or appears to be an actual threat, such as a shooting incident;
3. First responder organizations that would likely respond in the event of a false report or alarm are notified regarding the exercise;
4. A safe zone is created around the area in which the exercise will be conducted to keep out actual firearms, ammunition, and other weapons, other than firearms, ammunition, or other weapons carried by a peace officer, school resource officer, or school marshal or any other person authorized by the district to carry those items on school grounds;
5. The content of the exercise:
    a. Is age appropriate and developmentally appropriate;
    b. Has been developed by a team of school administrators, teachers, school-based mental health professionals, and

law enforcement officers, with input from parents and students; and

c. Is designed to support the well-being of students who participate in the exercise before, during, and after the exercise is conducted; and

6. Data regarding the efficacy and impact of the exercise will be tracked, including any feedback regarding the exercise from students, staff, or family members of students or staff.

Item 4 above may not be construed to prohibit a parent, legal guardian, or other person acting on a parent's or legal guardian's behalf from transporting or storing in the person's motor vehicle a firearm, ammunition, or other weapon that the person is legally authorized to possess while the person is picking up a child from school.

A district shall submit data collected under item 6 above to the TxSSC.

Education Code 37.1141

Eye and Face Protection

Required Devices

Each teacher and student shall wear industrial-quality eye-protective devices in appropriate situations as determined by district policy. *Education Code 38.005*

Recommended Guidelines

For selection and use of face and eye protection in public schools, the Texas Department of State Health Services (TDSHS) recommends the guidelines entitled "Eye and Face Protection," available at 29 C.F.R. 1910.133.

For hazard assessment and face and eye protective equipment selection in public schools, TDSHS recommends the guidelines entitled "Non-mandatory Compliance Guidelines for Hazard Assessment and Personal Protective Equipment Selection," available at 29 C.F.R. Part 1910, Subpart I, Appendix B.

Application

The guidelines are applicable to all staff members, students, and visitors within Texas public schools participating in educational activities and programs that involve:

1. The use of hazardous chemicals;

2. The use of hot liquids or solids;

3. The use of molten materials;

4. Performing grinding, chipping, or other hazardous activities where there is danger of flying particles;

5. Milling, sawing, turning, shaping, cutting, or stamping of any solid materials;
6. Heat treatment, tempering, or kiln firing of any metal or other materials;
7. Cutting, welding, or brazing operations;
8. The use of hazardous radiation, including the use of infrared and ultraviolet light or lasers;
9. Repair or servicing of any vehicle; or
10. Any process or activity in a vocational, art, industrial arts or science course or laboratory that might have a tendency to cause damage to the eyes.

25 TAC 295.141–.142

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*

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; and
6. The implementation of a required safety and security audit [see CK].

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 the Texas Education Agency (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; and

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]

Education Code 37.108(f)

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. *Education Code 37.108(g)*

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. *Education Code 37.108(d)*

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. *Education Code 37.108(e)* [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:

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 number 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 CK];

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 on request and in accordance with the TxSSC 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 the Public Information Act (Government Code Chapter 552).

Notice of Noncompliance

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 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 Submit Plan

If a district fails to submit its multihazard emergency operations plan to the TxSSC for review, the TxSSC shall provide the district with written notice stating that the district has failed to submit a plan and must submit a plan to the center for review and verification.

Failure to Comply after Notice

Three Months

If three months after the date of initial notification outlined at Notice of Noncompliance, above, a district has not corrected the plan deficiencies or has failed to submit a plan, the TxSSC shall provide written notice to the district and TEA that the district has not complied with the requirements and must comply immediately.

Six Months

If a district still has not corrected the plan deficiencies or has failed to submit a plan six 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.

If a school district has failed to submit a plan, the notice must state that the commissioner is authorized to appoint a conservator under Education Code 37.1082.

Education Code 37.2071

Public Hearing on Noncompliance

If the board receives notice of noncompliance under Education Code 37.207(e) [see CK] or 37.2071(g) [see above at Six Months], 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 se-

curity audit during a hearing held under this provision. A district required to hold a public hearing shall provide written confirmation to the TxSSC that the district held the hearing.

Education Code 37.1081

Traumatic Injury Response Protocol

Each district shall develop and annually make available a protocol for employees and volunteers to follow in the event of a traumatic injury. The protocol must:

1. Provide for a district to maintain and make available to employees and volunteers bleeding control stations, as described below, for use in the event of a traumatic injury involving blood loss;
2. Ensure that bleeding control stations are stored in easily accessible areas of the campus that are selected by the district's school safety and security committee;
3. Require that TEA-approved training on the use of a bleeding control station in the event of an injury to another person be provided to:
    a. Each district peace officer commissioned under Education Code 37.081 or school security personnel employed under that section who provides security services at the campus;
    b. Each school resource officer who provides law enforcement at the campus; and
    c. All other district personnel who may be reasonably expected to use a bleeding control station; and
4. Require the district to annually offer instruction on the use of a bleeding control station from a school resource officer or other appropriate district personnel who has received the training described above to students enrolled at the campus in grade seven or higher.

Bleeding Control Stations

Location

A district’s school safety and security committee may select, as easily accessible areas of the campus at which bleeding control stations may be stored, areas of the campus where automated external defibrillators are stored.

Contents

A bleeding control station must contain all of the following required supplies in quantities determined appropriate by the superintendent:

1. Tourniquets approved for use in battlefield trauma care by the armed forces of the United States;
2. Chest seals;
3. Compression bandages;
4. Bleeding control bandages;
5. Space emergency blankets;

6. Latex-free gloves;
7. Markers;
8. Scissors; and
9. Instructional documents developed by the American College of Surgeons or the United States Department of Homeland Security detailing methods to prevent blood loss following a traumatic event.

A district may also include in a bleeding control station any medical material or equipment that:

1. May be readily stored in a bleeding control station;
2. May be used to adequately treat an injury involving traumatic blood loss; and
3. Is approved by local law enforcement or emergency medical services personnel.

Immunity

The good faith use of a bleeding control station by a district employee to control the bleeding of an injured person is incident to or within the scope of the duties of the employee's position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511, and a district and district employees are immune from civil liability, as provided by that section, from damages or injuries resulting from that good faith use of a bleeding control station. A district volunteer is immune from civil liability from damages or injuries resulting from the good faith use of a bleeding control station to the same extent as a professional employee of the district or school, as provided by Education Code 22.053.

Education Code 38.030(a)–(e), (i)

Automated External Defibrillators

Availability

Campus

Each school district shall make available at each campus in the district at least one automated external defibrillator, as defined by Health and Safety Code 779.001. A campus defibrillator must be readily available during any University Interscholastic League (UIL) athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the principal shall consider the primary location on campus where students engage in athletic activities.

Athletic Practice

To the extent practicable, each school district, in cooperation with the UIL, shall make reasonable efforts to ensure that a defibrillator is available at each UIL athletic practice held at a district campus. If a school district is not able to make a defibrillator available in such a manner, the district shall determine the extent to which a defibril-

lator must be available at each UIL athletic practice held at a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information.

Athletic Competition

Each school district, in cooperation with the UIL, shall determine the extent to which a defibrillator must be available at each UIL athletic competition held at a location other than a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with the school district.

Trained Staff

Each school district shall ensure the presence at each location at which a defibrillator is required above of at least one campus or district employee trained in the proper use of the defibrillator at any time a substantial number of district students are present at the location.

Use and Maintenance

A school district shall ensure that an automated external defibrillator is used and maintained in accordance with standards established under Health and Safety Code Chapter 779.

Education Code 38.017

Instruction

A district shall annually make available to district employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator, as defined by Health and Safety Code 779.001.

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other school employee specified by the commissioner and each student who serves as an athletic trainer must participate and must receive and maintain certification in the use of an automated external defibrillator from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

Education Code 22.902

[See CH for information regarding purchase and lease of automated external defibrillators.]

Response to Cardiac Arrest

Each school district shall develop safety procedures for a district or school employee or student to follow in responding to a medical emergency involving cardiac arrest, including the appropriate response time in administering cardiopulmonary resuscitation, using an automated external defibrillator, as defined by Health and Safety Code 779.001, or calling a local emergency medical services provider. *Education Code 38.018*

School District Peace Officers, School Resource Officers, and Security Personnel

The board may employ security personnel, enter into a memorandum of understanding with a local law enforcement agency for the provision of school resource officers, and commission peace officers to carry out Education Code Chapter 37, Subchapter C (Law and Order).

Jurisdiction

The jurisdiction of a peace officer, a school resource officer, or security personnel shall be determined by the board and may include all territory in the boundaries of the district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the district and the board that employ the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

Education Code 37.081(a)

Duties

The board shall determine the law enforcement duties of peace officers, school resource officers, and security personnel. The duties must be included in:

1. The district improvement plan under Education Code 11.252 [see BQ];
2. The student code of conduct adopted under Education Code 37.001 [see FO];
3. Any memorandum of understanding providing for a school resource officer; and
4. Any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

A district peace officer, a school resource officer, and security personnel shall perform law enforcement duties for the school district that must include protecting the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and the property of the school district.

In determining the law enforcement duties, the board shall coordinate with district campus behavior coordinators and other district employees to ensure that district peace officers, school resource officers, and security personnel are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other district employees.

Education Code 37.081(d), (d-1), (d-4)

Prohibited Duties

A district may not assign or require as duties of a district peace officer, a school resource officer, or security personnel:

1. Routine student discipline or school administrative tasks; or
2. Contact with students unrelated to the law enforcement duties of the peace officer, resource officer, or security personnel.

This provision does not prohibit a district peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:

1. The assigned duties of the officer or security personnel; or
2. An incident involving student behavior or law enforcement.

Education Code 37.081(d-2), (d-3)

Refusal or Removal from District Property

A school resource officer or district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a); 19 TAC 103.1207* [See GKA]

Weapons

If a board authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer. *Education Code 37.081(a)* [See CKEA]

Training

A district peace officer or school resource officer shall complete an active shooter response training program approved by the Texas Commission on Law Enforcement (TCOLE).

A district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Occupations Code 1701.263.

Education Code 37.0812

School district peace officers or school resource officers providing law enforcement services at a district must obtain a school-based law enforcement proficiency certificate within 180 days of the officer's commission or placement in the district or campus of the district. *37 TAC 218.3(d)(5); Occupations Code 1701.263(b)*

Immunity from Liability

"Retired peace officer" has the meaning assigned by Occupations Code 1701.3161.

"Security personnel" includes:

1. A school district peace officer;
2. A school marshal;
3. A school resource officer; and

4. A retired peace officer who has been hired by a district to provide security services or volunteers to provide security services to the district.

A district is immune from liability for any damages resulting from any reasonable action taken by security personnel to maintain the safety of the campus, including action relating to possession or use of a firearm.

A district is immune from liability as provided above for any damages resulting from any reasonable action taken by a district employee who has written permission from the board to carry a firearm on campus.

Any security personnel employed by a district is immune from liability for any damages resulting from any reasonable action taken by the security personnel to maintain the safety of the campus, including action relating to possession or use of a firearm.

The statutory immunity provided by these provisions is in addition to and does not preempt the common law doctrine of official and governmental immunity. To the extent that another statute provides greater immunity to a district than these provisions, that statute prevails.

Education Code 37.087

Notice of Exposure to Communicable Disease

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice regarding work-related exposure to communicable disease in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

Authorized Handguns

Under Education Code 11.151(b), a board may promulgate written regulations and authorization as provided by Penal Code 46.03(a)(1) (exception to places where weapons are prohibited). *Att'y Gen. Op. GA-1051 (2014)*

Note: For general provisions applicable to district security personnel, including district peace officers, see CKE.

For information on mental health leave and quarantine leave for peace officers, see DEC.

Powers and Duties

Code of Criminal Procedure

Any peace officer commissioned by the board must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCOLE). *Education Code 37.081(h)*

Officers commissioned by a board are peace officers. *Code of Criminal Procedure 2.12(8)*

It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means. *Code of Criminal Procedure 2.13(a)*

The peace officer shall perform the duties listed in Code of Criminal Procedure 2.13.

Determined by the Board

A district peace officer shall perform law enforcement duties for the district as determined by the board. *Education Code 37.081(d), (d-1)* [See CKE(LEGAL)]

The board may authorize any officer commissioned by the board to enforce rules adopted by the board. Education Code Chapter 37, Subchapter D (protection of buildings and grounds) is not intended to restrict the authority of each district to adopt and enforce appropriate rules for the orderly conduct of the district in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel. *Education Code 37.103*

In a peace officer's jurisdiction, a peace officer commissioned by the board:

1. Has the powers, privileges, and immunities of peace officers;
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;
3. May take a child into custody in accordance with Family Code Chapter 52 [see GRA] or Code of Criminal Procedure 45.058; and
4. May dispose of cases in accordance with Family Code 52.03 or 52.031.

Education Code 37.081(b); Family Code 52.01(a)(3)

The board shall determine the scope of the on-duty and off-duty law enforcement activities of district peace officers. A district must authorize in writing any off-duty law enforcement activities performed by a district peace officer.

A district peace officer may provide assistance to another law enforcement agency. A district may contract with a political subdivision for the jurisdiction of a district peace officer to include all territory in the jurisdiction of the political subdivision.

Education Code 37.081(c), (e)

Chief of Police

The chief of police of a district police department shall be accountable to the superintendent and shall report to the superintendent. District police officers shall be supervised by the district chief of police or the chief's designee and shall be licensed by TCOLE. *Education Code 37.081(f)*

Oath and Bond

A peace officer assigned to duty and commissioned by a board shall take and file the oath required of peace officers and shall execute and file a bond in the sum of $1,000, payable to the board, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. *Education Code 37.081(h)*

Preemployment Procedures and Reporting Requirements

Before a law enforcement agency may hire a person licensed under Occupations Code 1701 (law enforcement officers), the agency must, on a form and in the manner prescribed by the TCOLE:

1. Obtain the person's written consent for the agency to review the information required to be reviewed under Occupations Code 1701.451;
2. Request from TCOLE and any other applicable person information required to be reviewed under Occupations Code 1701.451; and
3. Submit to TCOLE confirmation that the agency, to the best of the agency's ability before hiring the person:
    a. Contacted each entity or individual necessary to obtain the information required to be reviewed under Occupations Code 1701.451; and
    b. Except as provided below, obtained and reviewed as related to the person, as applicable, the information listed in Occupations Code 1701.451(a)(3)(B).

Confirmation Form

The head of a law enforcement agency or the agency head's designee shall review and sign each confirmation form required under Occupations Code 1701.451 before submission to TCOLE. The

failure of an agency head or the agency head's designee to comply with this subsection constitutes grounds for suspension of the agency head's license under Occupations Code 1701.501.

The confirmation form submitted to TCOLE is not confidential and is subject to disclosure under Government Code Chapter 552.

Exception

If an entity or individual contacted for information required to be reviewed under Occupations Code 1701.451 refused to provide the information or did not respond to the request for information, the confirmation submitted to TCOLE must document the manner of the request and the refusal or lack of response.

Duty to Provide Information

If a law enforcement agency receives from a law enforcement agency a request for information under Occupations Code 1701.451 and the person's consent on the forms and in the manner prescribed by TCOLE, the agency shall provide the information to the requesting agency.

Occupations Code 1701.451

Separation Report

When a person licensed by TCOLE separates from an agency, the agency shall, within 7 business days:

1. Submit a separation report (Form F5) to TCOLE; and
2. Provide a copy to the licensee in a manner prescribed by Occupations Code 1701.452 (Employment Termination Report).

37 TAC 217.7(b)

An agency must retain records kept under 37 Administrative Code 217.7 while the person is appointed and for a minimum of five years after the licensee's separation date with that agency. The records must be maintained under the control of the agency head or designee in a format readily accessible to TCOLE. *37 TAC 217.7(d)*

Memorandum of Understanding

A district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies. *Education Code 37.081(g)*

Use of Force/Duty to Render Aid

Not later than the 180th day after the date TCOLE provides the model policies described by Occupations Code 1701.269(b), each law enforcement agency in this state shall adopt a policy on the topics described by that subsection. A law enforcement agency may adopt the model policies developed by TCOLE under that subsection. *Occupations Code 1701.270*

Drones

"Drone" means an unmanned aircraft, watercraft, or ground vehicle or a robotic device that:

1. Is controlled remotely by a human operator; or
2. Operates autonomously through computer software or other programming.

Each law enforcement agency that uses or intends to use a drone for law enforcement purposes shall:

1. Adopt a written policy regarding the agency's use of force by means of a drone, before the agency first uses a drone, and update the policy as necessary; and
2. Not later than January 1 of each even-numbered year, submit the policy to TCOLE in the manner prescribed by TCOLE.

Code of Criminal Procedure 2.33

[For additional information on unmanned aircraft systems, see GKA.]

Body-Worn Cameras

A law enforcement agency that operates a body-worn camera program shall adopt a policy for the use of body-worn cameras that must ensure that a body-worn camera is activated only for a law enforcement purpose and must include guidelines and provisions required by Occupations Code 1701.655(b).

A policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.

A policy must require a peace officer who is equipped with a body-worn camera and actively participating in an investigation to keep the camera activated for the entirety of the officer's active participation in the investigation unless the camera has been deactivated in compliance with that policy.

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to peace officers who will wear the body-worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Occupations Code 1701.655, .656

Motor Vehicle Stops

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including the information required by Code of Criminal Procedure 2.133.

The chief administrator of a law enforcement agency is responsible for auditing these reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Code of Criminal Procedure 2.133

A law enforcement agency shall compile and analyze the information contained in each report received by the agency. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to TCOLE. *Code of Criminal Procedure 2.134*

Civil Penalty

If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the department is liable to the state for a civil penalty in an amount not to exceed $5,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

Racial Profiling

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

Each law enforcement agency that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling that complies with Code of Criminal Procedure 2.132(b). *Code of Criminal Procedure 2.132*

Mental Health Crisis or Substance Abuse Issue

A law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

1. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
2. It is reasonable to divert the person;
3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

This requirement does not apply to a person who is accused of specified offenses involving intoxication.

Code of Criminal Procedure 16.23

Administration of Epinephrine

A law enforcement agency may acquire and possess epinephrine auto-injectors and a peace officer may possess and administer an epinephrine auto-injector in accordance with Occupations Code Chapter 1701, Subchapter O. *Occupations Code 1701.702(a)* [See FFAC regarding district maintenance and administration of epinephrine auto-injectors.]

Officer-Involved Injury or Death

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.139(b).

Code of Criminal Procedure 2.139

Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*

Failure to Report

A law enforcement agency that fails to submit the required report on or before the seventh day after the date the agency received notice of failure to report from the office of the attorney general, is liable for a civil penalty in the amount of $1,000 for each day after the seventh day that the agency fails to submit the report. Beginning on the day after the date of receiving notice of failure to report, a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty is liable for a civil penalty for each day the agency fails to submit the required report in the amount of $10,000 for the first day and $1,000 for each additional day that the agency fails to submit the report. *Code of Criminal Procedure 2.13951(b), (c)*

Complaints Against Peace Officers

To be considered by the head of the district's police department, a complaint against a district peace officer must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer

may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code 614.021–.023; Colorado County v. Staff, 510 S.W.3d 435 (Tex. 2017); Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by a law enforcement agency of a complaint by an individual who believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(b)(3), (f)*

[See DGBA, FNG, and GF for appeals]

Legal Representation

A district shall provide a district employee who is a peace officer with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee, and the suit involves an official act of the employee within the scope of the employee's authority.

To defend the employee against the suit, the district may provide counsel already employed by it or may employ private counsel.

An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit covered by these provisions and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

Local Gov't Code 180.002(b)–(d)

Note: For general provisions applicable to district security personnel, including school marshals, see CKE.

Board Authority

The board may appoint one or more school marshals for each campus. *Education Code 37.0811(a)*

Definition

A school marshal is a person who is appointed to serve as a school marshal by the board under Education Code 37.0811, is licensed under Occupations Code 1701.260, and has powers and duties described by Code of Criminal Procedure Article 2.127. *Occupations Code 1701.001(8)*

Eligibility

The board may select for appointment as a school marshal an applicant who is an employee of the district and certified as eligible for appointment under Occupations Code 1701.260. *Education Code 37.0811(b)*

To be eligible for appointment as a school marshal, an applicant shall:

1. Successfully complete all prerequisite Texas Commission on Law Enforcement (TCOLE) training;
2. Pass the state licensing exam;
3. Be employed and appointed by an authorized school district; and
4. Meet all statutory requirements, including psychological fitness.

37 TAC 227.3(a); Code of Criminal Procedure 2.127(d)

A school marshal training program is open to any employee of a district who holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H. *37 TAC 227.5(a)*

TCOLE shall license an eligible person who:

1. Completes required training to the satisfaction of TCOLE staff; and
2. Is psychologically fit to carry out the duties of a school marshal as indicated by the results of the psychological examination administered under Occupations Code 1701.260(d).

Occupations Code 1701.260(f)

Reimbursement for Training

The board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under Occupations Code 1701.260. *Education Code 37.0811(b)*

District Responsibilities

A district shall:

1. Submit and receive approval for an application to appoint a person as a school marshal;
2. Upon authorization, notify TCOLE using approved format prior to appointment;
3. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the district;
4. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the district, TCOLE standards, another state agency, or under other law; and
5. Immediately report to the commission a school marshal's violation of any commission standard, including the discharge of a firearm carried under the authorization of these provisions outside of a training environment.

For five years, the district must retain documentation that the district has met all requirements under law in a format readily accessible to TCOLE. This requirement does not relieve a district from retaining all other relevant records not otherwise listed.

37 TAC 227.1

Powers and Duties

A school marshal may make arrests and exercise all authority given to peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the board.

A school marshal may only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

A school marshal may not issue a traffic citation for a violation of the Transportation Code.

Code of Criminal Procedure 2.127

Reporting Requirements

Once appointed, a school marshal shall:

1. Immediately report to TCOLE and the district any circumstance which would render them unauthorized to act as a school marshal by virtue of their employment with the district, failure to meet the standards of TCOLE, another state agency, or under law;

2. Immediately report to TCOLE any violation of applicable TCOLE standards, including any discharge of a firearm carried under the authorization of these provisions outside of training environment; and

3. Comply with all requirements under law, including Education Code 37.0811.

37 TAC 227.3(b)

Handgun Possession

A school marshal may carry a concealed handgun or possess a handgun on the physical premises of a school, but only:

1. In the manner provided by written regulations adopted by the board; and

2. At a specific school as specified by the board.

Accessing Handgun

A school marshal may use a handgun the school marshal is authorized to carry or possess only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33.

Board Regulations

A board's written regulations must provide that a school marshal may carry a concealed handgun on the school marshal's person or possess the handgun on the physical premises of a school in a locked and secured safe or other locked and secured location.

The written regulations must also require that a handgun carried or possessed by a school marshal may be loaded only with frangible duty ammunition approved for that purpose by TCOLE.

Inactive Status

A district employee's status as a school marshal becomes inactive on:

1. Expiration of the employee's school marshal license under Occupations Code 1701.260;

2. Suspension or revocation of the employee's license to carry a handgun;

3. Termination of the employee's employment with the district; or

4. Notice from the board that the employee's services as school marshal are no longer required.

Education Code 37.0811(c)–(f)

Identity Confidential

The identity of a school marshal is confidential and is not subject to a request under the Public Information Act, except that the person's name, date of birth, and handgun license number, and the address of the person's place of employment must be provided by TCOLE to:

1. The director of the Department of Public Safety;
2. The district;
3. The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a district located within a municipality;
4. The sheriff of the county if the person is employed at a campus of a district that is not located within a municipality; and
5. The chief administrator of any school district-commissioned peace officer, if the person is employed at a district that has commissioned peace officers.

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed as a school marshal. The notice may not disclose information that is confidential.

Education Code 37.0811(g), (h); Occupations Code 1701.260(j)

No State Benefits

A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code of Criminal Procedure 2.127(c)*

Note: For general provisions applicable to district security personnel, including school resource officers, see CKE.

Definition

A school resource officer is a peace officer who is assigned by the officer's employing political subdivision to provide a police presence at a public school, safety or drug education to students of a public school, other similar services. The term does not include a peace officer who provides law enforcement at:

1. A public school only for extracurricular activities; or
2. A public school event only for extracurricular activities.

Occupations Code 1701.601

License Required

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by Occupations Code Chapter 1701. *Occupations Code 1701.602*

Firearms Accident Prevention Program

A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the district.

A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle Gun Safe Program, including animated videos and activity books.

Occupations Code 1701.603

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]

Identification and Right to Reject

Identification may be required of any person on school property. A school administrator, school resource officer, or district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a), (b)* [See GKA]

Human Trafficking Warning Signs

Each public school shall post warning signs of the increased penalties for trafficking of persons under Penal Code 20A.02(b-1)(2) at the following locations:

1. Parallel to and along the exterior boundaries of the school's premises;
2. At each roadway or other way of access to the premises;
3. For premises not fenced, at least every five hundred feet along the exterior boundaries of the premises;
4. At each entrance to the premises; and
5. At conspicuous places reasonably likely to be viewed by all persons entering the premises.

Education Code 37.086(b)

"Premises" means real property and all buildings and appurtenances pertaining to the real property. *Health and Safety Code 481.134; Education Code 37.086(a)(1)*

On all regular school days, every public school shall fly the United States and Texas flags. *Education Code 1.003*

The board shall require that the United States and Texas flags be prominently displayed in accordance with 4 U.S.C. Sections 5–10 and Government Code Chapter 3100 in each campus classroom to which a student is assigned at the time the pledges of allegiance to those flags are recited. [See EC] A district is not required to spend federal, state, or local district funds to acquire flags under this provision. A district may raise money or accept gifts, grants, and donations to acquire flags. *Education Code 25.082(b-1)*

National Motto

A public school must display in a conspicuous place in each building of the school a durable poster or framed copy of the United States national motto, “In God We Trust,” if the poster or framed copy meets the requirements below and is donated for display at the school or purchased from private donations and made available to the school.

A poster or framed copy of the national motto described above:

1. Must contain a representation of the United States flag centered under the national motto and a representation of the state flag; and

2. May not depict any words, images, or other information other than the representations listed in item 1.

A public school may accept and use private donations for the purposes of this provision.

Education Code 1.004

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)*

No Appeal

The amount of the allotment determined by the commissioner is final and may not be appealed. *19 TAC 66.1307(d)*

Delayed Publisher Payment Option

A district may requisition and receive state-adopted instructional materials before allotment funds for those materials are available. The total cost of delayed-payment-option materials requisitioned may not exceed 80 percent of the district's expected allotment for the subsequent biennium.

When a district submits a requisition for instructional materials under this provision, the Texas Education Agency (TEA) will expend a district's existing allotment balance before applying the delayed payment option. TEA will make payment for any remaining balance for a district's order as the allotment funds become available and will prioritize payment for requisitions over reimbursement of purchases made directly by a district.

The commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. Publishers may decline orders for which payments could be delayed. A publisher's decision to decline an order shall affect all of that publisher's orders for which payments could be delayed. Publishers may not selectively decline individual orders or orders from individual districts. Government Code Chapter 2251 does not apply to requisitions under this provision.

Education Code 31.0215; 19 TAC 66.1312

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)*

High-enrollment growth adjustments will be based on the difference between the district's percentage of enrollment growth and that of the state. Enrollment growth calculations will be determined each fiscal year based on fall Texas Student Data Systems Public Education Information Management System (TSDS PEIMS) enrollment data. The amount of the adjustment determined by the commissioner is final and may not be appealed.

If sufficient funds are available, high-enrollment growth adjustments will be granted once each fiscal year. Notwithstanding this, a district that experiences an unexpected growth:

1. Of at least two percent due to a natural or man-made disaster or catastrophic event may apply for additional funding at any time during a fiscal year.

2. In its bilingual population of at least ten percent in any school year may apply for additional bilingual funding at any time during a fiscal year.

Any additional funding will be dependent on the availability of funds.

The per-student high-enrollment growth adjustment granted in the second year of a biennium shall not exceed one-half of the per-student amount established as the biennial allotment.

19 TAC 66.1309

Permitted Expenditures

The allotment may be used to purchase:

1. Materials on the list adopted by the commissioner under Education Code 31.0231;
2. Instructional materials, regardless of whether the instructional materials are on the list adopted under Education Code 31.024;
3. Consumable instructional materials, including workbooks;
4. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
5. Instructional materials for use in college preparatory courses under Education Code 28.014, as provided by Education Code 31.031;
6. Supplemental instructional materials, as provided by Education Code 31.035;
7. State-developed open education resource instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
8. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
9. Technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Education Code 31.0231 or any instructional materials purchased with an allotment under these provisions;
10. Inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials; and
11. Services, equipment, and technology infrastructure necessary to ensure internet connectivity and adequate bandwidth.

The allotment may be used to pay:

1. For 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;

2. For training personnel in the electronic administration of assessment instruments;

3. The salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning; and

4. For costs associated with distance learning, including Wi-Fi, internet access hotspots, wireless network service, broadband service, and other services and technological equipment necessary to facilitate internet access.

Education Code 31.0211(c); 19 TAC 66.1307(f)

Technological Equipment

In purchasing technological equipment, a school district shall:

1. Secure technological solutions that meet the varying and unique needs of students and teachers in the district; and

2. Consider the long-term cost of ownership and flexibility for innovation.

Education Code 31.0211(d-1)

Prohibited Expenditures

The allotment may not be used to pay for:

1. Services for installation;

2. The physical conduit that transmits data such as cabling and wiring or electricity;

3. Office and school supplies;

4. Items that are not directly related to student instruction such as furniture, athletic equipment, extension cords, temporary contractors, or video surveillance equipment;

5. Travel expenses; or

6. Equipment used for moving or storing instructional materials.

19 TAC 66.1307(g)

Certification of Allotment

A district shall annually certify to the commissioner that the district's allotment has been used only for permitted expenses. *Education Code 31.0213*

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.

A district may also use funds in the district's account to purchase electronic instructional materials or technological equipment. The district shall submit to the commissioner a request for funds for this purpose from the district's account in accordance with the commissioner's rules.

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.

Education Code 31.0212

Access to Allotment

The allotment for each biennium will be made available for district use through the state's online instructional material ordering system (EMAT) as early as possible in the fiscal year preceding the beginning of the biennium for which the funds have been appropriated. A district may access its allotment for any upcoming school year upon completion of:

1. Submission to the commissioner certification that:
    a. The district has instructional materials that cover all the required Texas essential knowledge and skills (TEKS), except those for physical education, as required by Education Code 31.004 [see Certification of Instructional Materials, below]; and
    b. The district has used its allotment for only the allowable expenditures [see Permitted Expenditures and Certification of Allotment Use, above]; and
2. Preparation by TEA of EMAT for the new school year with the new allotment amounts.

Upon completion of these requirements, a district may access its funds by correctly providing all information required in EMAT.

19 TAC 66.1307(h)–(j)

Online Requisition System (EMAT)

The commissioner shall maintain an online requisition system (EMAT) for districts to requisition instructional materials to be purchased with the district's allotment. *Education Code 31.101(f)*

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*
Requisitions, Use, and Distribution	A district shall make a requisition for instructional materials using the online requisition program (EMAT) maintained by the commissioner. A district may requisition instructional materials on the State Board of Education (SBOE) instructional materials list 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)*
Supplemental Instructional Materials	A district may requisition supplemental instructional material adopted by the SBOE but not on the instructional material list adopted under Education Code 31.023 only if the district requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the list adopted under Education Code 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district is requisitioning the supplemental instructional materials. *Education Code 31.035(d)*
Availability of Open Education Resource Instructional Materials	A district that selects open education resource 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)*
Employee Training	The board shall require the employee responsible for ordering instructional materials to complete TEA-developed training in the use of the allotment and the use of the instructional materials ordering system (EMAT). Training shall be completed prior to ordering instructional materials for the first time and again each time the dis-

trict is notified by TEA that the training has been updated. The district shall maintain documentation of the completion of the required training. *19 TAC 66.107(d)*

Special Instructional Materials

All laws and rules applying to instructional materials provided to students with no disabilities that are not in conflict with Education Code 31.028 or 19 Administrative Code 66.1311 shall apply to the distribution and control of special instructional materials. Special instructional materials include braille, large-print, and audio books and any other formats designed specifically to provide equal access to students with disabilities.

Requisitions for special instructional materials shall be based on actual student enrollment but may include up to two copies per student if necessary to meet individual need.

Special instructional materials are the property of the state. A district is responsible for replacing or reimbursing the state for lost, stolen, or damaged special instructional materials.

For Teachers

Adopted instructional materials needed by a teacher with a print disability to carry out his or her instructional duties shall be furnished in the required format without cost. The materials are to be loaned to the district as long as needed and are to be returned to the state when they are no longer needed.

For Parents

Adopted instructional materials in a specialized format that are requested by a parent with a print disability shall be furnished without cost by the state. Requests for electronic files shall be filled by TEA after the parent signs and TEA receives a statement, through the district, promising that the parent will safeguard the security of the files and observe all current copyright laws, including those that forbid reproduction of the files and their transfer to other parties. All specialized instructional material formats and electronic files that have been provided must be returned to the local school district at the end of the school year.

19 TAC 66.1311

Bilingual Instructional Materials

A district shall purchase with its allotment or otherwise acquire instructional materials for use in bilingual education classes. The commissioner shall determine the amount of the allotment for bilingual education based on TSDS PEIMS bilingual enrollment data from the fall collection of the school year preceding the first year of each biennium. *Education Code 31.029; 19 TAC 66.1307(c)*

Certification of Instructional Materials

Prior to the beginning of each school year, a district shall submit to the SBOE and commissioner certification that for each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level, the district 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. The certification shall be submitted in a format approved by the commissioner and can be based on both state-adopted and non-state-adopted materials.

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. Materials adopted or purchased by the commissioner under Education Code 31.0231 or Education Code Chapter 31, Subchapter B-1;
3. Open education resource instructional materials submitted by eligible institutions and adopted by the SBOE;
4. Open education resource instructional materials made available by other public schools;
5. Instructional materials developed or purchased by the district; and
6. Open education resource instructional materials and other electronic instructional materials included in the repository under Education Code 31.083.

The certifications shall be ratified by the board in a public, noticed meeting.

Education Code 31.004; 19 TAC 66.105

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 open education resource instructional material that a district does not intend to use for another student is distributed, the printed copy of the open education resource instructional material becomes the property of the student to whom it is distributed.

This provision does not apply to an electronic copy of open education resource instructional material.

Education Code 31.104(c), (g)–(h); 19 TAC 66.107(b)

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 open education resource instructional material.

Education Code 31.104(d), (e), (h); 19 TAC 66.107(c) [See also EF]

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 open education resource instructional material. *Education Code 31.104*

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 electronic 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

Annual Inventory A district shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the district. The results of the inventory shall be recorded in the district's files. *19 TAC 66.107(a)*

Local Handling Expenses School districts shall not be reimbursed from state funds for expenses incurred in local handling of instructional materials. *19 TAC 66.104(d)*

Definitions

For purposes of this policy:

1. "Bus" means a motor vehicle used to transport persons and designed to accommodate more than ten passengers, including the operator.
2. "Passenger car" means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate ten or fewer passengers, including the operator.
3. "Passenger van" means a motor vehicle, other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.
4. "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a district and is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, a school bus, or a multifunction school activity bus.
5. "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport preprimary, primary, or secondary students on a route to and from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.
6. "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.

Education Code 34.003(d), (e); Transp. Code 541.201(3)(A), (12), (15), (16)

Authority

A board may establish and operate an economical public school transportation system:

1. In the district;
2. Outside the district, if the district enters into an interlocal contract as provided by Government Code Chapter 791; or
3. Outside the district if students enrolled in the district reside outside the district and the district:

a. Has an active policy adopted by the board that prohibits screening transfer students who reside outside the district based on the student's academic performance, disciplinary history, or attendance record, regardless of any relevant district or innovation plan adopted by the board or authorization to screen transfer students under any other authority; and

b. Certifies that the district has:

(1) An overall performance rating of C or higher under Education Code 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned;

(2) An overall accountability score of 70 or higher for the preceding school year or the most recent school year in which a performance rating was assigned as calculated by the Texas Education Agency (TEA) for purposes of determining the district's overall performance rating under Education Code 39.054; and

(3) The same or better overall performance rating under Education Code 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned as the district from which the district will transport students under these provisions.

A district shall make publicly available on the district's internet website information regarding the district's compliance with the requirements under item 3 above.

Education Code 34.007 may not be construed to prohibit a board from operating a transportation system in another district to ensure the most efficient routes for transporting students who reside in the operating district.

Education Code 34.007(a), (a-1), (c)

Transportation Allotment for Eligible Students

Each district operating a regular transportation system is entitled to an allotment based on a rate per mile per regular eligible student set by the legislature in the General Appropriations Act. *Education Code 48.151(c)*

"Regular eligible student" means a student who resides two or more miles from the student's campus of regular attendance, measured along the shortest route that may be traveled on public

roads, and who is not classified as a student eligible for special education services; or is a homeless child or youth, as defined by 42 U.S.C. 11434a. *Education Code 48.151(b)(1)*

The commissioner of education may not reduce the allotment because a district provides transportation for an eligible student to and from a child-care facility or a grandparent's residence instead of the student's residence, as authorized by Education Code 34.007 [see Designation of Child-Care Facility or Grandparent's Residence, below]. *Education Code 48.151(k)*

Authorized Uses

Funds allotted under these provisions must be used in providing transportation services. Transporting a meal or instructional materials as provided below is included in transportation services under this provision. *Education Code 48.151(h)*

Meals and Instructional Materials

For the duration of a declared disaster, a district located in an area that is wholly or partly the subject of a disaster declaration by the governor under Government Code Chapter 418 or by the president of the United States may be reimbursed on a per-mile basis for the cost of transporting a meal or instructional materials to a student's residence or to another location, designated by the district, for pickup by the student. *Education Code 48.151(n)*

Fees for Transportation

For information regarding fees a district may charge for transportation, see FP(LEGAL).

Hazardous Conditions or High Risk of Violence

A district may apply for and on approval of the commissioner receive an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions or a high risk of violence if they walked to school. *Education Code 48.151(d); 19 TAC 61.1016*

Definitions

"Hazardous traffic condition" means an area within two miles of a campus where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

"Area presenting a high risk of violence" means an area within two miles of a campus that law enforcement records indicate presents a high incidence of violent crimes.

19 TAC 61.1016(b)

Community Walking Transportation Programs

A district may use all or part of any additional funds received to support community walking transportation programs, including walking school bus programs, provided that the district requires each supported program to submit a financial report each semester

that covers services provided by the program for the benefit of the district. *Education Code 48.151(d-2)*

Eligibility

A district or county is eligible to report hazardous area service annual mileage in the Foundation School Program (FSP) transportation application if the district submits to the TEA a policy adopted by the board that:

1. Explains the specific hazardous traffic conditions or areas presenting high risk for violence that apply to the district and exist within two miles of its campuses; and
2. If a district elects to implement community walking transportation programs or innovative school safety projects, requires such district-supported community walking transportation programs or innovative school safety projects to:
    a. Utilize trained adults with current background checks to either walk students to their home or school or to stand guard along safe routes; and
    b. Provide financial reports to the district each semester.

19 TAC 61.1016(c)

Reporting

A district is required to submit a hazardous area policy prior to the start of the school year and to report annual hazardous area service mileage by August 1 of each school year on the home-to-school/school-to-home section of the FSP transportation route services report. Districts requesting funds for an area presenting a high risk of violence must provide to TEA, contemporaneously with the explanation required at Eligibility above, consolidated law enforcement records that document violent crimes identified by reporting agencies within the relevant jurisdiction. *19 TAC 61.1016(d)*

Career and Technology Program

The cost of transporting career and technology education students from one campus to another inside a district, from a sending district to another secondary public school for a career and technology program or an area career and technology school or to an approved postsecondary institution under a contract for instruction approved by TEA, or from a district campus to a location at which students are provided work-based learning under the district's career and technology program shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by the board and approved by TEA. *Education Code 48.151(f)*

Dual Credit Students

A district shall be reimbursed on a per-mile basis for the cost of transporting a dual credit student to another campus in the district,

a campus in another district, or a postsecondary educational institution for purposes of attending the course, if the course is not available at the student's campus. *Education Code 48.151(m)*

Bus Drivers

In establishing and operating the transportation system, the board shall employ bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety. *Education Code 34.007(b)(1)*

Bus Operation

A person may not operate a school bus if:

1. The door of the school bus is open; or
2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

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

1. Standing in the bus; or
2. Sitting on the floor of the bus or in any location that is not designed as a seat.

Transp. Code 545.426

Transporting Students to School

School buses or mass transit authority buses shall be used for the transportation of students to and from schools on routes having ten or more students. Passenger cars may be used on routes having fewer than ten students. *Education Code 34.003(a)*

Bus Passes or Cards

A school district may use the state transportation allotment to provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transportation system of the district is not a feasible method of providing transportation. *Education Code 48.151(l)*

Designation of Child-Care Facility or Grandparent's Residence

On determining eligibility for transportation services, the board shall allow a parent to designate one of the following locations instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school, if the location is an approved stop on an approved route:

1. A child-care facility as defined by Human Resources Code 42.002 below; or
2. The residence of a grandparent of the child.

Education Code 34.007(b)(2)

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

Transportation of Homeless Students

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act, a district shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, at the request of the homeless liaison [see FFC]) to and from the school of origin, as follows:

1. If the child continues to live in the area served by the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.

2. If the child's living arrangements in the area served by the district of origin terminate and the child, though continuing his or her education in the school of origin, begins living in an area served by another district, the district of origin and the district in which the child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

42 U.S.C. 11432(g)(1)(J)(iii)(I), (II) [See FDC]

Transportation of Students in Foster Care

A district receiving Title 1, Part A funds must collaborate with the state or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care. These procedures shall:

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A); and

2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the district will provide transportation to the school of origin if:

a. The local child welfare agency agrees to reimburse the district for the cost of such transportation;

b. The district agrees to pay the cost of transportation; or

c. The district and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5) [See FD]

School Activities

When transporting students in connection with school activities other than on routes to and from school:

1. Only school buses or motor buses may be used to transport 15 or more students; and

2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

Education Code 34.003(b)

In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt. *Education Code 34.003(c)*

Accelerated Instruction Programs

A district shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j)*

Transportation Company or System

A board may contract with a mass transit authority, commercial transportation company, or juvenile board for all or any part of a district's public school transportation if the authority, company, or board:

1. Requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and

2. Uses only those school buses or mass transit authority buses in transporting 15 or more students that meet or exceed safety standards for school buses established under Education Code 34.002.

A mass transit authority contracting under this provision for daily transportation of pre-primary, primary, secondary students to or from school shall conduct, in a manner and on a schedule approved by the board, the following education programs:

1. A program to inform the public that public school students will be riding on the authority's or company's buses;

2. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and

3. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

A board may supplement the state transportation cost allotment with local funds necessary to provide complete transportation services.

Education Code 34.008

[For provisions pertaining to criminal history record information on contractors providing transportation services, see CJA(LEGAL).]

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

Wireless Communication Devices

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)*

General Rule

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).

Accident Reports

Notice to DPS

A district shall provide DPS written notification of any accident 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)*

Notice must be received not more than five days from the date of the accident 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 accident;
4. The city or county where the accident 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)*

Notice to TEA

A district shall report annually to TEA the number of accidents in which its buses were involved in the past year in a manner prescribed by the commissioner of education. A district shall file the annual report 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 accidents;
2. The date each accident occurred;

3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each accident;

4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;

5. The number of students and adults involved in each accident;

6. The number and types of injuries that were sustained by the bus passengers in each accident; and

7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

A school district shall report a bus accident 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 accident involved a collision with a pedestrian.

Exceptions

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

2. The accident 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 accident.

A school district shall not report an accident 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 61.1028(b)

Texas Department of Agriculture Authority

The Texas Department of Agriculture (TDA) administers federal and state nutrition programs, including the National School Lunch Program (NSLP) under 42 U.S.C. Section 1751 et seq., and the School Breakfast Program (SBP) under 42 U.S.C. Section 1773. *Agriculture Code 12.0025*

Note: Regulations applicable to federal nutrition programs are found at the following:

7 C.F.R. 210: National School Lunch Program

7 C.F.R. 215: Special Milk Program for Children

7 C.F.R. 220: School Breakfast Program

7 C.F.R. 225: Summer Food Service Program

7 C.F.R. 245: Free and Reduced Price Eligibility

Program Compliance

TDA shall require that school food authorities (SFAs) comply with the applicable provisions 7 C.F.R. Part 210. TDA shall ensure compliance through audits, administrative reviews, technical assistance, training guidance materials or by other means. *7 C.F.R. 210.19(a)(3)*

[For the definition of "school food authority," see COA(LEGAL).]

Administrative Review

TDA must conduct administrative reviews of all SFAs participating in the NSLP (including the Afterschool Snacks and the Seamless Summer Option) and SBP at least once during a 3-year review cycle, provided that each SFA is reviewed at least once every 4 years.

"Administrative reviews" means the comprehensive off-site and/or on-site evaluation of all SFAs participating in the specified programs. The term administrative review is used to reflect a review of both critical and general areas in accordance with 7 C.F.R. 210.18(g) and (h), as applicable for each reviewed program, and includes other areas of program operations determined by TDA to be important to program performance.

7 C.F.R. 210.18

Note: For recordkeeping and retention information, see TDA's Food and Nutrition Division *Administrator's Reference Manual*,[1] Section 30, *Records Retention*.

School Nutrition Professional Standards

An SFA that operates the NSLP or the SBP must establish and implement professional standards for school nutrition program directors, managers, and staff. *7 C.F.R. 210.30(a)*

Minimum Standards for Program Directors

Each SFA must ensure that all newly hired school nutrition program directors meet minimum hiring standards and ensure that all new and existing directors have completed the minimum annual training/education requirements for school nutrition program directors, as set forth in 7 C.F.R. 210.30. *7 C.F.R. 210.30(b)*

Note: All school nutrition program directors hired on or after July 1, 2015, must meet the required minimum educational requirements based on student enrollment. *See Summary of School Nutrition Program Director Professional Standards by Local Educational Agency Size chart, 7 C.F.R. 210.30(b)(2).*

Exempt Fundraisers

Schools that participate in the NSLP or SBP may sell food and beverages that do not meet nutritional standards outlined in 7 C.F.R. Parts 210 and 220 as part of a fundraiser, during the school day, for up to six days per school year on each school campus, provided that no specially exempted fundraiser foods or beverages may be sold in competition with school meals in the food service area during the meal service. *4 TAC 26.2*

Definitions

“School day” means the midnight before, to 30 minutes after the end of the official school day.

“School campus” means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

4 TAC 26.1

Unpaid Meal Charges

State Law

The board of a district that allows students to use a prepaid meal card or account to purchase meals served at schools in the district shall adopt a grace period policy regarding the use of the cards or accounts. The policy:

1. Must allow a student whose meal card or account balance is exhausted or insufficient to continue, for a period determined by the board, to purchase meals by:
    a. Accumulating a negative balance on the student’s card or account; or
    b. Otherwise receiving an extension of credit from the district;

2. Must require the district to notify the parent of or person standing in parental relation to the student that the student's meal card or account balance is exhausted;

3. May not permit the district to charge a fee or interest in connection with meals purchased under item 1, above; and

4. May permit the district to set a schedule for repayment on the account balance as part of the notice to the parent or person standing in parental relation to the student.

Education Code 33.908

Federal Law

An SFA operating a NSLP and/or SBP must:

1. Have a written and clearly communicated meal charge policy in order to ensure a consistent and transparent approach to the issue of how students who pay the full or reduced price cost of a reimbursable meal are impacted by having insufficient funds on hand or in their account to purchase a meal.

2. Include policies regarding the collection of delinquent meal charge debt in the written meal charge policy.

3. Ensure that the policy is provided in writing to all households at the start of each school year and to households that transfer to the school during the school year.

4. Provide the meal charge policy to all school or SFA-level staff responsible for policy enforcement, including school food service professionals responsible for collecting payment for meals at the point of service, staff involved in notifying families of low or negative balances, and staff involved in enforcing any other aspects of the meal charge policy.

Excerpts from *USDA Memo SP 46-2016, Unpaid Meal Charges: Local Meal Charge Policies*[2] *(July 8, 2016)*

Lauren's Law

A district may not adopt any rule, policy, or program under Education Code 28.002(a), (k), (l), (l-1), or (l-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

1. Children in the classroom of the child on the occasion of the child's birthday; or

2. Children at a school-designated function.

Education Code 28.002(l-3)(2)

Donation of Food

A district may allow a campus to elect to donate food to a nonprofit organization through a person who is directly and officially affiliated with the campus, including a teacher or counselor, or through a parent of a student enrolled at the campus. The donated food may be received, stored, and distributed on the campus. Food donated by the campus may include:

1. Surplus food prepared for breakfast, lunch, or dinner meals or snacks served from the campus cafeteria, subject to any applicable local, state, and federal requirements; or
2. Food donated to the campus as the result of a food drive or similar event.

The type of food donated under item 1 above may include:

1. Packaged unserved food that is packaged on the campus of a district and has not been removed from the campus cafeteria;
2. Packaged served food if the packaging and food are in good condition;
3. Whole, uncut produce; and
4. Wrapped raw unserved produce.

Food that by law must be maintained at a certain temperature for safety may not be donated unless the campus has maintained the food at the required temperature.

Food donated under these provisions to a nonprofit may be distributed at the campus at any time. Campus employees may assist in preparing and distributing the food as volunteers of the nonprofit organization.

Under this program, a district may adopt a policy under which the district provides food at no cost to a student for breakfast, lunch, or dinner meals or a snack if the student is unable to purchase such meals or snack.

Education Code 33.907

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[1] TDA's Food and Nutrition Division Administrator's Reference Manual: https://squaremeals.org/Programs/NationalSchoolLunchProgram/Policy-ARM.aspx
[2] USDA Memo *Unpaid Meal Charges: Local Meal Charge Policies:* https://fns-prod.azureedge.net/sites/default/files/cn/SP46-2016os.pdf

Next Generation Technology

A district, in the administration of the district, shall consider using next generation technologies, including cryptocurrency, blockchain technology, robotic process automation, and artificial intelligence. *Gov't Code 2054.601*

Children's Internet Protection Act

"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

Definitions

Harmful to Minors

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

47 U.S.C. 254(h)(7)(G); 20 U.S.C. 7131(e)(6)

Technology Protection Measure

"Technology protection measure" means a specific technology that blocks or filters internet access to the material covered by a certification described at Certifications to the FCC, below, to which such certification relates. *47 U.S.C. 254(h)(7)(I)*

Universal Service Discounts (E-Rate)

An elementary or secondary school having computers with internet access may not receive universal service discount rates unless the district submits to the FCC the certifications described below at Certifications to the FCC and a certification that an internet safety policy has been adopted and implemented as described at Internet Safety Policy, below, and ensures the use of computers with internet access in accordance with the certifications. *47 U.S.C. 254(h)(5)(A); 47 C.F.R. 54.520*

Certifications to the FCC

A district that receives discounts for internet access and internal connections services under the federal universal service support mechanism for schools must make certifications in accordance with 47 C.F.R. 54.520(c) each funding year. A district that only receives discounts for telecommunications services is not subject to the certification requirements, but must indicate that it only receives discounts for telecommunications services. *47 C.F.R. 54.520(b)*

With Respect to Minors

A certification under 47 U.S.C. 254(h)(5)(B) is a certification that the district is:

1. Enforcing a policy of internet safety for minors that includes monitoring their online activities and the operation of a technology protection measure with respect to any of its computers with internet access that protects against access through such computers to visual depictions that are obscene, child pornography, or harmful to minors;

2. Enforcing the operation of such technology protection measure during any use of such computers by minors; and

3. Educating minors, as part of its internet safety policy, about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.

47 U.S.C. 254(h)(5)(B); 47 C.F.R. 54.520(c)(1)

With Respect to Adults

A certification under 47 U.S.C. 254(h)(5)(C) is a certification that the district is:

1. Enforcing a policy of internet safety that includes the operation of a technology protection measure with respect to any of its computers with internet access that protects against access through such computers to visual depictions that are obscene or child pornography; and

2. Enforcing the operation of such technology protection measure during any use of such computers.

47 U.S.C. 254(h)(5)(C); 47 C.F.R. 54.520(c)(1)

Disabling for Adults

An administrator, supervisor, or other person authorized by the district may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. *47 U.S.C. 254(h)(5)(D)*

Internet Safety Policy

A district shall adopt and implement an internet safety policy that addresses:

1. Access by minors to inappropriate matter on the internet and the World Wide Web;

2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

3. Unauthorized access, including “hacking,” and other unlawful activities by minors online;

4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and

5. Measures designed to restrict minors' access to materials harmful to minors.

47 U.S.C. 254(l); 47 C.F.R. 54.520(c)(1)(ii)

Public Hearing — A district shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed internet safety policy. *47 U.S.C. 254(h)(5)(A)(iii), (l)(1)(B)*

Inappropriate for Minors — A determination regarding what matter is inappropriate for minors shall be made by the board or designee. *47 U.S.C. 254(l)(2)*

Noncompliance — A district that knowingly fails to submit required certifications shall not be eligible for discount services under the federal universal service support mechanism for schools until such certifications are submitted.

A district that knowingly fails to ensure the use of computers in accordance with the required certifications must reimburse any funds and discounts received under the federal universal service support mechanism for schools for the period in which there was noncompliance.

47 C.F.R. 54.520(d), (e); 47 U.S.C. 254(h)(5)(F)

ESEA Funding — No federal funds made available under Title IV, Part A of the ESEA for an elementary or secondary school that does not receive universal service discount rates may be used to purchase computers used to access the internet, or to pay for direct costs associated with accessing the internet unless a district:

1. Has in place a policy of internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors; and enforces the operation of the technology protection measure during any use by minors of its computers with internet access; and

2. Has in place a policy of internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with internet access.

An administrator, supervisor, or other person authorized by the district may disable the technology protection measure to enable access for bona fide research or other lawful purposes.

Certification to U.S. Department of Education

A district shall certify its compliance with these requirements during each annual program application cycle under the ESEA.

20 U.S.C. 7131

Uniform Electronic Transactions Act (UETA)

The UETA (Business and Commerce Code Chapter 322) applies to electronic records and electronic signatures relating to a transaction. *Business and Commerce Code 322.003(a)*

The UETA applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. The UETA does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form. A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. This right may not be waived by agreement. *Business and Commerce Code 322.005(a)–(c)*

Except as otherwise provided in Business and Commerce Code 322.012(f), the UETA does not require a district to use or permit the use of electronic records or electronic signatures. *Business and Commerce Code 322.017(c)*

Records Retention

If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

1. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

2. Remains accessible for later reference.

A record retained as an electronic record in accordance with the provisions above satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after January 1, 2002, specifically prohibits the use of an electronic record for the specified purpose.

Business and Commerce Code 322.012(a), (f)

[For more information on records management, see CPC.]

Definitions

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Business and Commerce Code 322.002(7), (8), (15)

Digital Signature

A digital signature may be used to authenticate a written electronic communication sent to a district if it complies with rules adopted by the board. Before adopting the rules, the board shall consider the rules adopted by the Department of Information Resources (DIR) and, to the extent possible and practicable, make the board's rules consistent with DIR rules. *Gov't Code 2054.060(b); 1 TAC 203*

"Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature. *Gov't Code 2054.060(e)(1)*

Interception of Communications

For information on the unlawful interception, use, or disclosure of communications, see the Electronic Communications Privacy Act (18 USC 2510–2523 [federal wiretap act] and 2701–2713 [Stored Communications Act]) and Penal Code 16.02 (state wiretap law) and 16.04 (Unlawful Access to Stored Communications).

Information Required on Website

A district that at any time on or after January 1, 2019, maintained a publicly accessible internet website shall post on a publicly accessible website the following information:

1. The district's contact information, including a mailing address, telephone number, and email address;
2. Each member of the board;
3. The date and location of the next election for board members [see BB series];
4. The requirements and deadline for filing for candidacy of board member, which shall be continuously posted for at least one year before the election day for the office [see BB series];
5. Each notice of a meeting of the board under the Open Meetings Act (Government Code Chapter 551, Subchapter C) [see BE]; and
6. Each record of a meeting of the board under Government Code 551.021 [see BE].

Items 5 and 6 above do not apply to a district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

Gov't Code 2051.201

Note: See GBA regarding the confidentiality of certain board member information.

Trustee Information

Each district that maintains an internet website shall post on the website the name, email address, and term of office, including the date the term began and the date the term expires, of each member of the district's board of trustees. If a district does not maintain an internet website, the district shall submit the information required above to the Texas Education Agency (TEA). On receipt of the district's information, TEA shall post the information on TEA's internet website.

Each time there is a change in the membership of a district's board, the district shall update the information required above and, as applicable post the updated information on the district's internet website or submit the updated information to TEA for posting on TEA's internet website.

Education Code 11.1518

Note: The following is an index of website posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident or postings required under special circumstances.

Other Required Internet Postings

The following posting requirements apply to a district that maintains an internet website:

1. A board may not vote on adoption of a proposed local innovation plan unless the final version of the proposed plan has been available on the district website for at least 30 days, under Education Code 12A.005(a)(1) and 19 Administrative Code 102.1307(a)(1). [See AF]

2. A district designated as a district of innovation shall ensure that a copy of its current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's website, under Education Code 12A.0071(a) and 19 Administrative Code 102.1305(e), .1307(f). [See AF]

3. Not later than 30 days after an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked is assigned, a district must post notice on the home page of its website with a link to the required notification under 19 Administrative Code 97.1055(f), and maintain this until the district is assigned the accredited status. [See AIA]

4. A district with a local accountability system must produce a campus scorecard and make available on the district website an explanation of the methodology used to assign local accountability performance ratings, under 19 Administrative Code 97.1003(g). [See AIA]

5. A board shall disseminate its Texas Academic Performance Report (TAPR) by posting it on the district website under 19 Administrative Code 61.1022(f). [See AIB]

6. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]

7. A district shall post its annual federal report card under 20 U.S.C. 6311(h)(2). [See AIB]

8. A campus intervention team must notify the public of the meeting for input for the development of a targeted improvement plan fifteen days prior to the meeting by way of the district and campus website, under 19 Administrative Code 97.1061(d)(3)(A)(ii) and Education Code 39A.056. [See AIC]

9. A district shall post a targeted improvement plan for a campus assigned an unacceptable performance rating on its website before the board hearing on the plan under Education Code 39A.057(b). [See AIC]

10. A district shall notify stakeholders of their ability to review the completed campus turnaround plan and post the completed plan on the district website at least 30 days before the final plan is submitted to the board of trustees, under 19 Administrative Code 97.1064(e). [See AIC]

11. A district shall post an election notice required under Election Code 85.007. [See BBBA]

12. A district shall post election information under Election Code 4.009. [See BBBA]

13. Each day early voting is conducted, the district shall post the branch daily register under Election Code 85.072. [See BBBA]

14. A district shall post early voting rosters under Election Code 87.121. [See BBBA]

15. A district shall post election results under Election Code 65.016. [See BBBB]

16. A district shall post the minutes of the last regular board meeting held before an election of trustees if the minutes reflect that a trustee is deficient in meeting the trustee's training requirement, under Education Code 11.159(b) and 19 Administrative Code 61.1(j). [See BBD]

17. A district that is located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000 shall post a report filed pursuant to Election Code Chapter 254 by a board member, a candidate for membership on the board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board under Election Code 254.04011. [See BBBC]

18. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]

19. A district shall post the statements regarding activities to support and promote student health under Education Code 28.004. [See BDF]

20. A district must post notice of school health advisory council (SHAC) meetings under Education Code 28.004(d-1). [See BDF]

21. A district must post the minutes and audio or video recording of each SHAC meeting under Education Code 28.004(d-2). [See BDF]

22. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting under Government Code 551.056. [See BE]

23. A district that has a student enrollment of 10,000 or more shall post the archived recording, or a link thereto, of its meetings under Government Code 551.128(b-1). [See BE]

24. A district conducting a bond election shall post the election order, the election notice, the contents of the proposition, and any sample ballot under Election Code 4.003(f). [See CCA]

25. A district conducting a bond election shall post the voter information document beginning not later than the 21st day before election day and ending on the day after the election, under Government Code 1251.052(d). [See CCA]

26. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]

27. Not later than 30 days before the date of an election to approve a tax rate, a district must post the results of an efficiency audit under Education Code 11.184. [See CCG]

28. A district shall include on the home page of its website the prescribed statement if the district increases the amount of taxes to fund maintenance and operation expenditures under Tax Code 26.05(b). [See CCG]

29. A district shall maintain a link to the area of the comptroller's website where information on each of the district's agreements to limit appraised value, if any, is maintained, under Tax Code 313.0265(c). [See CCGB]

30. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget under Education Code 44.0041. [See CE]

31. In the format prescribed by the comptroller, a district shall post or cause to be posted tax rate and budget information under Tax Code 26.18. [See CE]

32. A district shall maintain its adopted budget on the district's website until the third anniversary of the date the budget was adopted, under Education Code 44.0051. [See CE]

33. A district shall continuously post its contact information and Annual Local Debt Report under Local Government Code 140.008 and 34 Administrative Code 10.1–.6 on its website until the district posts the next annual report, or, as an alternative, the district may continually maintain a link to the comptroller's website where the district's financial information may be viewed. [See CFA]

34. A district must make available information regarding its compliance with requirements related to the transportation of students enrolled in the district who reside outside the district, under Education Code 34.007. [See CNA]

35. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]

36. A district that is a service provider seeking to limit liability under the Digital Millennium Copyright Act must post information regarding its designated agent under 17 U.S.C. 512(c)(2). [See CY]

37. A district shall post its employment policy and any regulations referenced under Education Code 11.1513(a). [See DC]

38. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]

39. The board shall adopt and post on the district's website early childhood literacy and mathematics plans that set specific annual goals under Education Code 11.185. [See EA]

40. The board shall post on the district's website and on the website, if any, of each campus the annual report of progress toward the goals set under the early childhood literacy and mathematics plans under Education Code 11.185. [See EA]

41. The board shall post on the district's website and on the website, if any, of each campus the annual report of progress toward the goals set under the college, career, and military readiness plans under Education Code 11.186. [See EA]

42. A district shall post the transition and employment guide for students enrolled in special education programs and their parents in order to provide information on statewide services and programs that assist in the transition to life outside the public school system, under Education Code 29.0112. [See EHBAD]

43. A district shall make available on the district or campus website by November 1 of each school year a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education, under 19 Administrative Code 102.1003(e). [See EHBG]

44. Annually, a district shall post any agreement between the district and a public institution of higher education to provide a dual credit program, under Education Code 28.009(b-2). [See EHDD]

45. A district shall publish information from TEA under Education Code 28.02121 explaining the advantages of the distinguished level of achievement and each endorsement. [See EIF]

46. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]

47. A district that receives funds under Title 1, Part A shall post on its website and the website of each campus for each grade served, information on each assessment required by the state to comply with 20 U.S.C. 6311, other assessments required by the state, and assessments required district-wide, under 20 U.S.C. 6312(e)(2)(B). [See EKB]

48. A district shall post information regarding local programs and services, including charitable programs and services, available to assist students who are homeless, under Education Code 33.906. [See FDC]

49. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements under Education Code 38.019. [See FFAB]

50. Each school year, the board shall post a summary of the Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis[1] on the district's website with instructions for obtaining access to the complete guidelines document, under Education Code 38.0151. [See FFAF]

51. A district must prominently display the contact information required to be listed for the Title IX Coordinator and policy on its website, if any, under 34 C.F.R. 106.8(b). [See FFH]

52. A district must make all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, if any, under 34 C.F.R. 106.45(b)(10)(i)(D). [See FFH]

53. To the extent practicable, a district must post the procedure for reporting bullying established by the district's bullying policy, under Education Code 37.0832(e). [See FFI]

54. A district shall post on its website, for each district campus, the email address and dedicated phone number of the campus behavior coordinator under Education Code 26.015. [See FO]

55. If the board designates a method for making a written request for public information, other than mail, email, or hand-delivery, the board must include a statement that a request may be made by that method on its website under Government Code 552.234(b) unless the statement is on the sign required by Government Code 552.205. [See GBAA]

56. A board that allows requestors to use the public information request form created by the attorney general must post the form on the district website under Government Code 552.235. [See GBAA]

57. A district shall post on its website and each campus shall post on any campus website a notice regarding the district's ability to refuse entry or eject certain persons under Education Code 37.105 and 19 Administrative Code 103.1207(g), including the appeal process. [See GKA]

Optional Internet Postings

A district that maintains an internet website has the following options:

1. A board may broadcast an open meeting over the internet, under Government Code 551.128. [See BE]
2. A district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report under 19 Administrative Code 109.1001(q)(3)(B)(i). [See CFA]
3. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's internet website, rather than on a bulletin board, under Education Code 11.1513. [See DC]
4. A district may place on its internet website a current copy of the procedural safeguards notice regarding special education and related services, under 34 C.F.R. 300.504(b). [See EHBAE]
5. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of subsidies for certain exam fees and the availability and enrollment qualifications for programs under which a student may earn college credit and career and technology education programs or other work-based education programs in the district, under Education Code 28.010. [See EHDD]
6. A board may post a mailing address and email address designated for receiving written requests for public information on its website under Government Code 552.234(d). [See GBAA]

Geospatial Data Products

"Geospatial data product" means a document, computer file, or internet website that contains geospatial data; a map; or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

Notice

A district shall include a notice on each geospatial data product that:

1. Is created or hosted by the district;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Gov't Code 2051.102

Exemption

A district is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

Gov't Code 2051.103

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[1] TDSHS Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis: https://www.dshs.texas.gov/uploadedFiles/Content/Prevention_and_Preparedness/schoolhealth/SHAC/Guidelines-Food%20Allergy-Final.pdf

Cybersecurity

Each district shall adopt a cybersecurity policy to:

Policy

1. Secure district cyberinfrastructure against cyber attacks and other cybersecurity incidents; and
2. Determine cybersecurity risk and implement mitigation planning.

A district's cybersecurity policy may not conflict with the information security standards for institutions of higher education adopted by the Department of Information Resources (DIR) under Government Code Chapters 2054 and 2059.

Cybersecurity Coordinator

The superintendent shall designate a cybersecurity coordinator to serve as a liaison between the district and the Texas Education Agency (TEA) in cybersecurity matters.

Cyber Attack or Cybersecurity Incident

Report to TEA

A district shall report to TEA or, if applicable, the entity that administers the system established by TEA in coordination with DIR under Education Code 11.175(g), any cyber attack or other cybersecurity incident against the district's cyberinfrastructure that constitutes a breach of system security as soon as practicable after the discovery of the attack or incident.

Report to Parent

The district's cybersecurity coordinator shall provide notice to a parent of or person standing in parental relation to a student enrolled in the district of an attack or incident for which a report is required to TEA involving the student's information.

Definitions

Breach of System Security

"Breach of system security" means an incident in which student information that is sensitive, protected, or confidential, as provided by state or federal law, is stolen or copied, transmitted, viewed, or used by a person unauthorized to engage in that action.

Cyber Attack

"Cyber attack" means an attempt to damage, disrupt, or gain unauthorized access to a computer, computer network, or computer system.

Cybersecurity

"Cybersecurity" means the measures taken to protect a computer, computer network, or computer system against unauthorized use or access.

Education Code 11.175(a)–(f)

Training

Requirements

At least once each year, a district shall:

1. Identify district employees and elected and appointed board members who have access to a district computer system or database and use a computer to perform at least 25 percent of the employee's or board member's required duties; and

2. Require the employees and board members identified under item 1 to complete a cybersecurity training program certified under Government Code 2054.519 (state-certified cybersecurity training programs).

Gov't Code 2054.5191(a-1)

Notwithstanding Government Code 2054.5191 above, only the district's cybersecurity coordinator is required to complete the cybersecurity training on an annual basis. Any other school district employee required to complete the cybersecurity training shall complete the training as determined by the district, in consultation with the district's cybersecurity coordinator. *Education Code 11.175(g)*

Denial of Access

The board or the board's designee may deny access to the district's computer system or database to an individual described by item 1 above who the board or the board's designee determines is noncompliant with the requirements of item 2. *Gov't Code 2054.5191(a-2)*

Exceptions

The requirements above do not apply to employees and board members who have been:

1. Granted military leave;
2. Granted leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.);
3. Granted leave related to a sickness or disability covered by workers' compensation benefits, if that employee no longer has access to the district's database and systems;
4. Granted any other type of extended leave or authorization to work from an alternative work site if that employee no longer has access to the district's database and systems; or
5. Denied access to a district's computer system or database by the board or the board's designee for noncompliance with the requirements of item 2 at Training, Requirements, above.

Gov't Code 2054.5191(f)

Program

The board may select the most appropriate state-certified cybersecurity training program for employees and board members of the district to complete. The board shall:

1. Verify and report on the completion of a cybersecurity training program by district employees and board members to the DIR; and

2. Require periodic audits to ensure compliance with these provisions.

Gov't Code 2054.5191(b)

Security Breach Notification

To Individuals

A district that owns, licenses, or maintains computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made without unreasonable delay and in each case not later than the 60th day after the date on which the district determines that the breach occurred, except as provided at Criminal Investigation Exception, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

Resident of Other State

If the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of a state that requires a person that owns or licenses computerized data to provide notice of a breach of system security, the notice of the breach of system security required under Notice, below, may be provided under that state's law or under Notice, below.

To the Owner or License Holder

A district that maintains computerized data that includes sensitive personal information not owned by the district shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

Notice

A district may give the required notice to individuals or the owner or license holder by providing:

1. Written notice at the last known address of the individual;
2. Electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001 (electronic records and signatures); or
3. If the district demonstrates that the cost of providing notice would exceed $250,000, the number of affected persons exceeds 500,000, or the district does not have sufficient contact information, by:
    a. Electronic mail, if the district has electronic mail addresses for the affected persons;
    b. Conspicuous posting of the notice on the district's website; or

c. Notice published in or broadcast on major statewide media.

Information Security Policy

A district that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice described above complies with the notice requirements if the district notifies affected persons in accordance with that policy.

To the Attorney General

A district that is required to disclose or provide notification of a breach of system security under these provisions shall notify the attorney general of that breach not later than the 60th day after the date on which the district determines that the breach occurred if the breach involves at least 250 residents of this state. The notification must include:

1. A detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;
2. The number of residents of this state affected by the breach at the time of notification;
3. The number of affected residents that have been sent a disclosure of the breach by mail or other direct method of communication at the time of notification;
4. The measures taken by the district regarding the breach;
5. Any measures the district intends to take regarding the breach after the notification described at Notice, above; and
6. Information regarding whether law enforcement is engaged in investigating the breach.

To a Consumer Reporting Agency

If a district is required to notify at one time more than 10,000 persons of a breach of system security, the district shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The district shall provide the notice without unreasonable delay.

Criminal Investigation Exception

A district may delay providing the required notice to individuals or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.

Business and Commerce Code 521.053; Local Gov't Code 205.010

Definitions

For purposes of security breach notifications, the following definitions apply:

Breach of System Security

"Breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Business and Commerce Code 521.053(a)*

Sensitive Personal Information

"Sensitive personal information" means:

1. An individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
    a. Social security number;
    b. Driver's license number or government-issued identification number; or
    c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or
2. Information that identifies an individual and relates to:
    a. The physical or mental health or condition of the individual;
    b. The provision of health care to the individual; or
    c. Payment for the provision of health-care to the individual.

"Sensitive personal information" does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

Business and Commerce Code 521.002(a)(2), (b)

Cybersecurity Information Sharing Act

A district may, for a cybersecurity purpose and consistent with the protection of classified information, share with, or receive from, any other non-federal entity or the federal government a cyber threat indicator or defensive measure in accordance with the Cybersecurity Information Sharing Act, 6 U.S.C. Subchapter I (sections 1501–1510). *6 U.S.C. 1503(c)*

Removal of Personal Information

A district sharing a cyber threat indicator pursuant to these provisions shall, prior to sharing:

1. Review such indicator to assess whether it contains any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or

2. Implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual.

6 U.S.C. 1503(d)(2)

Definitions

For purposes of the Cybersecurity Information Sharing Act, the following definitions apply:

Cybersecurity Purpose

"Cybersecurity purpose" means the purpose of protecting an information system or information that is stored on, processed by, or transiting an information system from a cybersecurity threat or security vulnerability. *6 U.S.C. 1501(4)*

Cybersecurity Threat

"Cybersecurity threat" means an action, not protected by the First Amendment to the United States Constitution, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system. The term does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement. *6 U.S.C. 1501(5)*

Cyber Threat Indicator

"Cyber threat indicator" means information that is necessary to describe or identify:

1. Malicious reconnaissance, as defined in 6 U.S.C. 1501(12), including anomalous patterns of communications that appear to be transmitted for the purpose of gathering technical information related to a cybersecurity threat or security vulnerability;

2. A method of defeating a security control or exploitation of a security vulnerability;

3. A security vulnerability, including anomalous activity that appears to indicate the existence of a security vulnerability;

4. A method of causing a user with legitimate access to an information system or information that is stored on, processed by,

or transiting an information system to unwittingly enable the defeat of a security control or exploitation of a security vulnerability;

5. Malicious cyber command and control, as defined in 6 U.S.C. 1501(11);

6. The actual or potential harm caused by an incident, including a description of the information exfiltrated as a result of a particular cybersecurity threat;

7. Any other attribute of a cybersecurity threat, if disclosure of such attribute is not otherwise prohibited by law; or

8. Any combination thereof.

6 U.S.C. 1501(6)

Defensive Measure — "Defensive measure" means an action, device, procedure, signature, technique, or other measure applied to an information system or information that is stored on, processed by, or transiting an information system that detects, prevents, or mitigates a known or suspected cybersecurity threat or security vulnerability. The term does not include a measure that destroys, renders unusable, provides unauthorized access to, or substantially harms an information system or information stored on, processed by, or transiting such information system not owned by the private entity operating the measure or another entity that is authorized to provide consent and has provided consent to that private entity for operation of such measure. *6 U.S.C. 1501(7)*

Information System — "Information system" has the meaning given the term in 44 U.S.C. 3502 and includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers. *6 U.S.C. 1501(9)*

Security Control — "Security control" means the management, operational, and technical controls used to protect against an unauthorized effort to adversely affect the confidentiality, integrity, and availability of an information system or its information. *6 U.S.C. 1501(16)*

Security Vulnerability — "Security vulnerability" means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. *6 U.S.C. 1501(17)*

Plan

The District shall develop a cybersecurity plan to secure the District's cyberinfrastructure against a cyberattack or any other cybersecurity incidents, determine cybersecurity risk, and implement appropriate mitigation planning.

Coordinator

The Superintendent shall designate a cybersecurity coordinator. The cybersecurity coordinator shall serve as the liaison between the District and the Texas Education Agency in cybersecurity matters.

Training

The Board delegates to the Superintendent the authority to:

1. Determine the cybersecurity training program to be used in the District;
2. Verify and report compliance with training requirements in accordance with guidance from the Department of Information Resources; and
3. Remove access to the District's computer systems and databases for noncompliance with training requirements as appropriate.

The District shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

Security Breach Notifications

Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law. The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Email, if the District has email addresses for the affected persons.
3. Conspicuous posting on the District's websites.
4. Publication through broadcast media.

The District shall disclose a breach involving sensitive, protected, or confidential student information as required by law.

Definitions

Participating Entity — "Participating entity" means an entity participating in the uniform group coverage program established under Insurance Code Chapter 1579.

Program — "Program" means the uniform group coverage program established under Insurance Code Chapter 1579 (TRS-ActiveCare).

Insurance Code 1579.002(5), (6)

Coverage Requirements

A district shall participate in the uniform group coverage program established under Insurance Code Chapter 1579 as provided by Subchapter D of that chapter. *Education Code 22.004(a)*

Districts with 500 or Fewer Employees — Each district with 500 or fewer employees is required to participate in the program. *Insurance Code 1579.151(a)*

Self-Funded Districts — Notwithstanding the above, a district otherwise subject to the requirement that, on January 1, 2001, was individually self-funded for the provision of health coverage to its employees may elect not to participate in the program. *Insurance Code 1579.151(b)*

Districts with More Than 500 Employees — A district with more than 500 employees may elect to participate in the program. A district that elects to participate shall apply for participation in the manner prescribed by TRS rule. *Insurance Code 1579.152; 34 TAC 41.30*

TRS-ActiveCare

The Teacher Retirement System (TRS) shall implement and administer the uniform group coverage program described by Insurance Code Chapter 1579. TRS shall establish plans of group coverages for employees participating in the program and their dependents. *Insurance Code 1579.051, .101*

Eligibility — Participation in the program is limited to employees of participating districts who are full-time employees and to part-time employees who are participating members in TRS. *Insurance Code 1579.202(a)*

Full-Time Employees — A "full-time employee" is a participating member who is currently employed by a district in a position that is eligible for membership in TRS and who is not receiving coverage as an employee or retiree from a uniform group insurance or health benefits program under Insurance Code Chapters 1551 (Texas Employees Group Benefits Act), 1601 (State University Employees Uniform Insurance Benefits Act), or 1575 (Texas Public School Retired Employees Group Benefits Act [TRS-Care]). *34 TAC 41.33(2)*

Certain Part-Time Employees — A part-time employee of a district who is not a participating member in TRS is eligible to participate in the program only if the employee pays all of the premiums and other costs associated with

the health coverage plan selected by the employee. *Insurance Code 1579.204*

A "part-time employee" is an individual who:

1. Is currently employed by a district for ten hours or more each week;
2. Is employed in a position that is not eligible for membership in TRS or is not eligible for membership in TRS because of a service or disability retirement; and
3. Is not receiving coverage as an employee or retiree from a uniform group insurance or health benefits program under Insurance Code Chapters 1551, 1601, or 1575 (TRS-Care).

34 TAC 41.33(6)

Alternative Group Health Coverage Prohibited

Notwithstanding any other law, a participating entity may not offer or make available to the entity's employees or their dependents group health coverage not provided under the program. *Insurance Code 1579.1045*

Participation Election

Election to Discontinue

Effective September 1, 2022, a participating entity may elect to discontinue the entity's participation in the program by providing written notice to TRS not later than December 31 of the year preceding the first day of the plan year in which the election will be effective.

A participating entity that elects to discontinue participation in the program may not elect to:

1. Participate in the program until the fifth anniversary of the effective date of the entity's election to discontinue participation; or
2. Discontinue the entity's participation after an election described by item 1 until the fifth anniversary of the effective date of that election.

Election to Continue

Effective September 1, 2022, an entity that elects to participate in the program shall provide written notice to TRS not later than December 31 of the year preceding the first day of the plan year in which the election will be effective. The entity may not elect to discontinue the entity's participation until the fifth anniversary of the effective date of the entity's election to participate.

Insurance Code 1579.155

Optional Coverages

Education Code 22.004 does not preclude a district that is participating in the uniform group coverage program established under

Insurance Code Chapter 1579 from entering into contracts to provide optional insurance coverages for district employees. *Education Code 22.004(j)*

Other Health Coverage Programs

A district that does not participate in the program shall make available to its employees group health coverage provided by a risk pool established by one or more districts under Local Government Code Chapter 172 ("authorized risk pool"), or under a policy of insurance or group contract issued by an insurer, a company subject to Insurance Code Chapter 842, or a health maintenance organization under Insurance Code Chapter 843.

Comparability

The coverage provided by a district that does not participate in the program must meet the substantive coverage requirements of Insurance Code Chapter 1251, Subchapter A, Chapter 1364, and Chapter 1366, Subchapter A, and any other law applicable to group health insurance policies or contracts issued in this state. The coverage must include major medical treatment but may exclude experimental procedures. "Major medical treatment" means a medical, surgical, or diagnostic procedure for illness or injury. The coverage may include managed care or preventive care and must be comparable to the basic health coverage provided under Insurance Code Chapter 1551 (Texas Employees Group Benefits Act).

The following factors shall be considered in determining whether the district's coverage is comparable to the basic health coverage specified above:

1. The deductible amount for service provided inside and outside of the network;
2. The coinsurance percentages for service provided inside and outside of the network;
3. The maximum amount of coinsurance payments a covered person is required to pay;
4. The amount of the copayment for an office visit;
5. The schedule of benefits and the scope of coverage;
6. The lifetime maximum benefit amount; and
7. Verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance (TDI) or is provided by an authorized risk pool or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.

Education Code 22.004(b)

Financial Statement

A district that does not participate in the program may not contract with an insurer, a company subject to Insurance Code Chapter 842, or a health maintenance organization to issue a policy or contract under Education Code 22.004, or with any person to assist the district in obtaining or managing the policy or contract unless, before the contract is entered, the insurer, company, organization, or person provides the district with an audited financial statement showing the financial condition of the insurer, company, organization, or person. *Education Code 22.004(f)*

Small Employer Market Election

A district may elect to participate as a small employer without regard to the number of employees in the district. A district that makes this election is treated as a small employer under Insurance Code Chapter 1501 for all purposes.

A district that is participating in the uniform group coverage program established under Insurance Code Chapter 1579 may not participate in the small employer market under this provision and may not renew a health insurance contract obtained in accordance with this provision after the date on which the program of coverages provided under Chapter 1579 is implemented. This provision does not affect a contract for the provision of optional coverages not included in a health benefit plan under Insurance Code Chapter 1501.

Insurance Code 1501.009

Employee Election — Spouses

A district employee who is eligible for coverage under a large or small employer health benefit plan providing coverage to the district's employees and who is the spouse of another district employee covered under the plan may elect whether to be treated under the plan as an employee or as the dependent of the other employee. *Insurance Code 1501.0095*

Self-Funded Health-Care Plan

The board may establish a health-care plan for district employees and their dependents. In implementing the plan, the board shall establish a fund to pay, as authorized under the plan, all or part of the actual costs for hospital, surgical, medical, dental, or related health care incurred by employees or any dependent whose participation in the program is being supported by deductions from an employee's salary. Under the plan, the fund also may be used to pay the costs of administering the fund. The fund consists of money contributed by the district and money deducted from salaries of employees for dependent or employee coverage. Money for the fund may not be deducted from an employee's salary unless the employee authorizes the deduction in writing. The plan shall attempt to protect the district against unanticipated catastrophic indi-

vidual loss, or unexpectedly large aggregate loss, by securing individual stop-loss coverage, or aggregate stop-loss coverage, or both, from a commercial insurer.

The board may amend or cancel the district's health-care plan at any regular or special board meeting. If the plan is canceled, any valid claim against the fund for payment of health-care costs resulting from illness or injury occurring during the time the plan was in effect shall be paid out of the fund. If the fund is insufficient to pay the claim, the costs shall be paid out of other available district funds.

Education Code 22.005

Compliance Report

Each district that does not participate in the program shall prepare a report addressing its compliance with Education Code 22.004. The report must be available for review, together with the policy or contract for the group health coverage plan, at the central administrative office of each campus in the district and be posted on the district's internet website if the district maintains a website, must be based on the district group health coverage plan in effect during the current plan year, and must include:

1. Appropriate documentation of:
    a. The district's contract for group health coverage with a provider licensed to do business in this state by TDI or an authorized risk pool; or
    b. A resolution of the board authorizing a self-insurance plan for district employees and of the district's review of district ability to cover the liability assumed;
2. The schedule of benefits;
3. The premium rate sheet, including the amount paid by the district and employee;
4. The number of employees covered by the health coverage plan offered by the district; and
5. Information concerning the ease of completing the report.

Education Code 22.004(d)

Cost of Coverage

TRS-ActiveCare

The cost of coverage under the program shall be paid by the state, the district, and the employees in the manner provided by Insurance Code, Chapter 1579, Subchapter F, below. *Education Code 22.004(c)*

State Contribution	The state shall provide for each covered employee the amount of $900 each state fiscal year or a greater amount as provided by the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Education Code Chapters 48 and 49 and used by districts as provided by Education Code 48.275*. Insurance Code 1579.251(a)*
Employee Contribution	An employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of the state contribution and a district's contribution.
District Contribution	A district may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee. *Insurance Code 1579.253* A district shall make contributions for the program as provided by Insurance Code Chapter 1581. *Insurance Code 1579.252* [See District Required Minimum Effort, below]
Other Health Coverage Programs	The cost of coverage under a plan adopted by a district that does not participate in the program shall be shared by the employees and the district, using the contributions by the state described by Insurance Code Chapter 1579, Subchapter F. [See State Contribution, above] *Education Code 22.004(c)*
District Required Minimum Effort	A district shall, for each fiscal year, use to provide health coverage an amount equal to the number of participating employees of the district multiplied by $1,800. *Insurance Code 1581.052(a)*
Designation of Compensation for Benefits	An employee who is covered by a cafeteria plan or who is eligible to pay health-care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health-care supplementation. [See DEA] *Education Code 22.103(a), (c)*
Use	An employee may use compensation designated for health-care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health-care premiums through a premium conversion plan. *Education Code 22.106*
Written Election	Each year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health-care supplementation. An election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

Continuation Coverage

After Resignation

Notwithstanding any other law, an employee whose resignation is effective after the last day of an instructional year is entitled to participate or be enrolled in the uniform group coverage plan or the district's group health coverage through the earlier of:

1. The first anniversary of the date participation in or coverage under the uniform group coverage plan or the group health coverage was first made available to district employees for the last instructional year in which the employee was employed by the district; or

2. The last calendar day before the first day of the instructional year immediately following the last instructional year in which the employee was employed by the district.

If an employee's resignation is effective after the last day of an instructional year, the district may not diminish or eliminate the amount of a contribution available to the employee under Insurance Code Chapter 1581 [see District Required Minimum Effort, above] before the last date on which the employee is entitled to participation or enrollment.

Education Code 22.004(k), (l); 34 TAC 41.38

During Military Leave

An employee who is absent from a position of employment by reason of service in the uniformed services may elect to continue coverage under a health plan. The maximum period of coverage of such a person and the person's dependents shall be the lesser of:

1. The 24-month period beginning on the date on which the person's absence begins; or

2. The day after the date on which the person fails to apply for or return to a position of employment. [See DECB]

38 U.S.C. 4317(a)

During FMLA Leave

During any period of leave under the Family and Medical Leave Act (FMLA), a district shall maintain coverage under any group health plan for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. *29 U.S.C. 2614(c); 29 C.F.R. 825.209, .210, .213* [See also DECA]

Upon Termination or Other Qualifying Event (COBRA)

In accordance with regulations that the Secretary of Health and Human Services shall prescribe, each group health plan that is maintained by any state that receives funds under 42 U.S.C. Chapter 6A, by any political subdivision of such a state, or by any agency or instrumentality of such a state or political subdivision,

shall provide, in accordance with 42 U.S.C. Chapter 6A, Subchapter XX, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan. *42 U.S.C. 300bb-1(a)*

[For more information on the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), see 42 U.S.C. 300bb-1 through 300bb-8.]

Note: See DEB for continuation benefits that are available to survivors of district peace officers under certain conditions.

Coverage of Preexisting Conditions

Notwithstanding any other law, group health benefit coverage provided by or offered through a district to its employees under any law other than the uniform group coverage program is subject to the requirements of Insurance Code Sections 1501.102–.105, which limit exclusion for preexisting conditions. This provision applies to all group health benefit coverage provided by or offered through a district to its employees, including a standard health benefit plan issued under Insurance Code Chapter 1507 and health and accident coverage provided through a risk pool established under Local Government Code Chapter 172. *Education Code 22.004(m)*

TRS-ActiveCare

Coverage provided under the uniform group coverage program may not be made subject to a preexisting condition limitation during the initial period of eligibility*. Insurance Code 1579.105*

Federal Law

A group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusion with respect to such plan or coverage. *42 U.S.C. 300gg-3(a)*

Privacy of Health Information

To the extent a district is a covered entity under the Administrative Simplification provisions of HIPAA (42 U.S.C. Chapter 7, Subchapter XI, Part C; 45 C.F.R. Parts 160, 162, 164), the district must maintain the privacy of protected health information in accordance with the Privacy Rule, 45 C.F.R. Part 164, Subpart E.

Definitions

“Covered entity” means:

Covered Entity

1. A health plan;
2. A health-care clearinghouse; or

3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Subtitle A, Subchapter C.

45 C.F.R. 160.103

Protected Health Information

"Protected health information" means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any form or medium. "Protected health information" excludes individually identifiable health information:

1. In education records covered by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g. [See FL]

2. In records described at 20 U.S.C. 1232g(a)(4)(B)(iv) (medical treatment records on a student who is at least 18 years of age).

3. In employment records held by a covered entity in its role as employer.

45 C.F.R. 160.103

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Note: For information on the new instructional facilities allotment, see CBA.

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

For information on procuring goods and services under Education Code Chapter 44, see CH.

For required vendor disclosures and contract provisions, including prohibitions, see CHE.

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

For legal requirements related to energy savings performance contracts, see CL.

Definition

"Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. *Gov't Code 2253.001(4)*

Board Authority

A district may adopt rules as necessary to implement Government Code Chapter 2269. *Gov't Code 2269.051*

Delegation of Authority

The board may delegate its authority under Government Code Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person.

The district shall provide notice of the delegation, the limits of the delegation, and the name or title of each designated person by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Gov't Code 2269.053

[For information regarding delegation in the event of a catastrophe, emergency, or natural disaster, see CH.]

Contracts Valued at or Above $50,000

Except as provided by Education Code Chapter 44, Subchapter B, all district contracts for the purchase of goods and services valued at $50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for a district [see also CH]:

1. An interlocal contract. *Education Code 44.031(a)(4)* [See CH]
2. A method provided by Government Code Chapter 2269 for construction services. *Education Code 44.031(a)(5)*

a. Competitive bidding. *Gov't Code 2269 Subch. C* [See CVA]

b. Competitive sealed proposals. *Gov't Code 2269 Subch. D* [See CVB]

c. Construction manager-agent method. *Gov't Code 2269 Subch. E* [See CVC]

d. Construction manager-at-risk method. *Gov't Code 2269 Subch. F* [See CVD]

e. Design-build method. *Gov't Code 2269 Subch. G* [See CVE]

f. Job order contracting. *Gov't Code 2269 Subch. I* [See CVF]

3. The reverse auction procedure as defined by Government Code 2155.062(d). *Education Code 44.031(a)(6)* [See CH]

Education Code 44.031(a); Gov't Code Ch. 2269

Exceptions

Emergency Damage or Destruction

For information on procurement options when school equipment, a facility, or personal property is destroyed or severely damaged as a result of an unforeseen catastrophe or emergency, under Education Code 44.031, see CH.

Contracts Requiring a Bond

A reverse auction procedure may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see Payment and Performance Bonds, below]. "Reverse auction procedure" has the meaning assigned by Government Code 2155.062 or a procedure similar to that described by Section 2155.062. *Gov't Code 2253.021(h)*

Notice Publication

A board shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.

For a contract entered into by a board under a method provided by Government Code 2269, the board shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

Gov't Code 2269.052(a)–(b)

[See CH for additional notice publication requirements.]

Contract Selection Criteria

In determining the award of a contract under Government Code Chapter 2269, the district shall consider and apply:

1. Any existing laws, including any criteria, related to historically underutilized businesses; and

2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

In determining the award of a contract, the district may consider:

1. The price.
2. The offeror's experience and reputation.
3. The quality of the offeror's goods or services.
4. The impact on the ability of the district to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

Using Method Other Than Competitive Bidding

The board that considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding must, before advertising, determine which method provides the best value for the district.

Determine Best Value

Publish Criteria

The district shall base its selection among offerors on applicable criteria listed for the particular method used. The district shall publish in the request for proposals or qualifications:

1. The criteria that will be used to evaluate the offerors;
2. The applicable weighted value for each criterion; and
3. A detailed methodology for scoring each criterion.

Make Evaluations Public

The district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

Gov't Code 2269.056

Submission

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*

Documents Related to Evaluation and Ranking

An offeror who submits a bid, proposal, or response to a request for qualifications for a construction contract under Government Code Chapter 2269 may, after the contract is awarded, make a request in writing to the district to provide documents related to the evaluation of the offeror's submission.

Not later than the 30th day after the date a request is made, the district shall deliver to the offeror the documents relating to the evaluation of the submission including, if applicable, its ranking of the submission.

Gov't Code 2269.060

Uniform General Conditions for Contracts

After reviewing the uniform general conditions adopted by the Texas Facilities Commission under Government Code 2166.302, a school district may adopt uniform general conditions to be incorporated in all district building construction contracts. *Education Code 44.035*

Right to Work

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2269, a district:

1. May not consider whether a person is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

Gov't Code 2269.054

Collective Bargaining

A district awarding a public work contract funded with state money, including the issuance of debt guaranteed by the state, may not:

1. Prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or
2. Discriminate against a person described by item 1 based on the person's involvement in the agreement, including the person's status or lack of status as a party to the agreement or willingness or refusal to enter into the agreement.

Gov't Code 2269.0541(a)

Out-of-State Bidders

For legal requirements regarding out-of-state bidders, see CH.

Change Orders

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of $1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than $1 million increases the contract amount to $1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

Inspection, Verification, and Testing

Independently of the contractor, construction manager-at-risk, or design-build firm, a district shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district. The district shall select the services for which it contracts in accordance with Government Code 2254.004.
Gov't Code 2269.058

Impact Fees

A district is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board considers advisable to provide for the payment of the fees.
Local Gov't Code 395.022

Professional Services

Architects and Engineers

An architect or engineer required to be selected or designated under Government Code Chapter 2269 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004 [see Procuring Professional Services, below].

Gov't Code 2269.057

Registered Architect

An architectural plan or specification for any of the following may be prepared only by an architect:

1. A new building having construction costs exceeding $100,000 that is to be:
    a. Constructed and owned by a district; and
    b. Used for education, assembly, or office occupancy; or
2. An alteration or addition having construction costs exceeding $50,000 that:
    a. Is to be made to an existing building that:
        (1) Is owned by a district; and
        (2) Is or will be used for education, assembly, or office occupancy; and
    b. Requires the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit.

This provision does not prohibit an owner of a building from contracting with an architect or engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice under Occupations Code Chapter 1001 or 1051.

Occupations Code 1051.703; 22 TAC 1.212

Registered Engineer

A district may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless:

1. The engineering plans, specifications, and estimates have been prepared by an engineer; and
2. The engineering construction is to be performed under the direct supervision of an engineer.

Occupations Code 1001.407

The following work is exempt from Occupations Code Chapter 1001 (Texas Engineering Practice Act):

1. A public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is $8,000 or less; or

2. A public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is $20,000 or less.

Occupations Code 1001.053

Certification for Purchases Through Purchasing Cooperatives

A district may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative under Government Code Chapter 791 in an amount greater than $50,000 unless a person designated by the district certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Occupation Code Chapter 1001 or 1051; or

2. The plans and specifications required under Occupation Code Chapters 1001 and 1051 have been prepared.

"Purchasing cooperative" means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j) [See CH for more information on interlocal contracts and purchasing cooperatives.]

Procuring Architectural or Engineering Services

Education Code 44.031 does not apply to a contract for professional services rendered, including the services of an architect. *Education Code 44.031(f)* [See CH for information on the Professional Services Procurement Act generally.]

In procuring architectural, engineering, or land-surveying services, a district shall:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and

2. Then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, a district shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The district shall continue this process to select and negotiate with providers until a contract is entered into.

Gov't Code 2254.004

An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

Contracts for Engineering or Architectural Services

A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or hold harmless the district against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

Indemnification

Duty to Defend

Except as provided below, a covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the district, the district's agent, the district's employee, or other entity, excluding the engineer or architect or that person's agent, employee, or subconsultant, over which the district exercises control. A covenant or promise may provide for the reimbursement of a district's reasonable attorney's fees in proportion to the engineer's or architect's liability.

District as Additional Insured

A district may require in a contract for engineering or architectural services to which the district is a party that the engineer or architect name the district as an additional insured under the engineer's or architect's general liability insurance policy and provide any defense provided by the policy.

Standard of Care

A contract for engineering or architectural services to which a district is a party must require a licensed engineer or registered architect to perform services:

1. With the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license; and
2. As expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

In a contract for engineering or architectural services to which a district is a party, a provision establishing a different standard of

care than a standard described above is void and unenforceable. If a contract contains a void and unenforceable provision, the standard of care described above applies.

Nothing in these provisions prohibits a district in a contract for engineering or architectural services to which the district is a party from including and enforcing conditions that relate to the scope, fees, and schedule of a project in the contract.

Local Gov't Code 271.904

Payment and Performance Bonds

A district that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the district:

1. A performance bond if the contract is in excess of $100,000; and

2. A payment bond if the contract is in excess of $25,000.

A bond required by this provision must be executed by a corporate surety in accordance with Insurance Code Article 7.19-1 (now Insurance Code 3503.001–.005). A bond for a public work contract with a district must be payable to and its form must be approved by the awarding board.

Gov't Code 2253.021(a), (d)–(e)

The performance bond is solely for the protection of the district awarding the public work contract, in the amount of the contract, and conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents. *Gov't Code 2253.021(b)*

The payment bond is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material, and in the amount of the contract. *Gov't Code 2253.021(c)*

Failure to Obtain Payment Bond

If a district fails to obtain from a prime contractor a payment bond as required above:

1. The district is subject to the same liability that a surety would have if the surety had issued a payment bond and if the district had obtained the bond; and

2. A payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the public work contract were subject to Property

Code Chapter 53, Subchapter J (Lien on Money Due Public Works Contractor).

Gov't Code 2253.027(a)

Bond for Insured Loss

A district shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the district, furnishes or has furnished by a contractor:

1. A performance bond as described above for the benefit of a district; and

2. A payment bond, as described above for the benefit of the beneficiaries described above.

If the payment bond is not furnished, the district is subject to the same liability that a surety would have if the surety had issued the payment bond and the district had required the bond to be provided.

The bonds required to be furnished by the provisions above shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

Exception to Bond Requirement

These provisions do not apply to a district when a surety company is complying with an obligation under a bond that had been issued for the benefit of the district.

Gov't Code 2253.022

Prevailing Wage on Public Works

"Worker" includes a laborer or mechanic. *Gov't Code 2258.001(3)*

A worker employed on a public work by or on behalf of a district shall be paid:

1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and

2. Not less than the general prevailing rate of per diem wages for legal holiday and overtime work.

The requirements above do not apply to maintenance work. A worker is employed on a public work for purposes of this provision if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with a district.

Gov't Code 2258.021

For a contract for a public work awarded by a district, the board shall determine the general prevailing rate of per diem wages in the district for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:

1. Conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the district in which the public work is to be performed; or

2. Using the prevailing wage rate as determined by the U.S. Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

The board shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents. A board shall specify in the call for bids for the contract and in the contract itself the wage rates determined under these provisions. The board's determination of the general prevailing rates of per diem wages is final.

Gov't Code 2258.022(a), (c)–(e)

Government Code 2258.022(b) applies to a public work located in a county bordering the United Mexican States or in a county adjacent to a county bordering the United Mexican States. *Gov't Code 2258.022(b)*

Enforcement

A board awarding a contract, and an agent or officer of the board, shall:

1. Take cognizance of complaints of all violations of Government Code Chapter 2258 committed in the execution of the contract; and

2. Withhold money forfeited or required to be withheld under Government Code Chapter 2258 from the payments to the contractor under the contract, except that the board may not withhold money from other than the final payment without a determination by the board that there is good cause to believe that the contractor has violated Government Code Chapter 2258.

On receipt of information, including a complaint by a worker, concerning an alleged violation of Government Code 2258.023 [see Penalty for Noncompliance, below] by a contractor or subcontractor, a board shall make an initial determination as to whether good cause exists to believe that the violation occurred. A board must

make its determination before the 31st day after the date the board receives the information. A board shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

Gov't Code 2258.051–.052(a)–(c)

Retainage and Reimbursement

A board shall retain any amount due under the contract pending a final determination of the violation. *Gov't Code 2258.052(d)*

Note: Arbitration of unresolved issues is governed by Government Code 2258.053–.055.

A board shall use any amounts retained under Government Code Chapter 2258 to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have received at the general prevailing rate as provided in the arbitrator's award. The board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.056(a)–(b)*

Penalty for Noncompliance

The contractor who is awarded a contract by a district or a subcontractor of the contractor shall pay not less than the rates determined under these provisions to a worker employed by it in the execution of the contract. A contractor or subcontractor who violates this provision shall pay to the district on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A board awarding a contract shall specify this penalty in the contract. A contractor or subcontractor does not violate this section if a board awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as required by these provisions. The board shall use any money collected under this provision to offset the costs incurred in the administration of Government Code Chapter 2258. *Gov't Code 2258.023*

Criminal Offense

An officer, agent, or representative of a district commits an offense if the person willfully violates or does not comply with a provision of Government Code 2258. *Gov't Code 2258.058(a)*

Required Workers' Compensation Coverage

A district that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Each subcontractor shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the

subcontractor's certificate to the district. *Labor Code 406.096(a)–(b)*

A district that enters into a building or construction contract on a project shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverage, using the language required by 28 Administrative Code 110.110(c)(7).
2. As part of the contract, using the language required by 28 Administrative Code 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverage as set out in 28 Administrative Code 110.110(d).
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person beginning work on the project.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
    a. Before the end of the current coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
    b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance, Division of Workers' Compensation upon request and to any person entitled to a copy by law.
7. Use the language contained in 28 Administrative Code 110.110(c)(7) for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation.

28 TAC 110.110(c)

Exception

This coverage requirement does not apply to sole proprietors, partners, and corporate officers who meet the requirements of Labor

Code 406.097(c), and who are explicitly excluded from coverage in accordance with Labor Code 406.097(a). *28 TAC 110.110(i)*

Definitions

"Persons providing services on the project" includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes but is not limited to independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. "Services" includes but is not limited to providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets. *28 TAC 110.110(a)(7)*

"Project" includes the provision of all services related to a building or construction contract for a district. *28 TAC 110.110(a)(8)*

Criminal Offenses

For information on criminal offenses for violations of Education Code 44.031, see CH.

Enforcement Actions

Government Code Chapter 2269 may be enforced through an action for declaratory or injunctive relief filed not later than the 15th day after the date on which the contract is awarded. *Gov't Code 2269.452*

Defects in Facilities

A district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of a district facility financed by bonds shall provide the commissioner with written notice of the action by registered or certified mail, return receipt requested, not later than the 30th day after the date the action is filed. If the district fails to comply with this provision, the court or an arbitrator or other adjudicating authority shall dismiss the action without prejudice. The dismissal of an action under this provision extends the statute of limitations on the action for a period of 90 days.

The notice must include a copy of the petition and an itemized list of the defects in the design, construction, renovation, or improvement for which the district is seeking damages under the action.

In an action involving an instructional facility financed by bonds for which the district receives state assistance under Education Code Chapter 46, Subchapter A (Instructional Facilities Allotment), the commissioner may join in the action on behalf of the state to protect the state's share in the action.

A district that brings an action under these provisions shall use the net proceeds from the action for:

1. The repair of the defective design, construction, renovation, or improvement of the facility on which the action is brought, including the repair of any ancillary damage to furniture and fixtures;
2. The replacement of the facility on which the action is brought;
3. The reimbursement of the district for a repair or replacement; or
4. Any other purpose with written approval from the commissioner.

Education Code 46.008 applies to the repair. A district shall provide to the commissioner an itemized accounting of any repairs made.

The state's share resulting from an action brought under these provisions involving an instructional facility financed by bonds for which the school district receives state assistance under Education Code Chapter 46, Subchapter A is state property. The district shall send to the comptroller any portion of the state's share not used by the district to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Education Code 48.272 applies to the state's share.

Definitions

"Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.

"State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under Education Code Chapter 46, Subchapter A used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

Education Code 44.151

Attorney General Enforcement

If the attorney general believes that a district has violated or is violating Education Code 44.151(d), (e), or (f) (use of proceeds, accounting, and the state's share), the attorney general may, after providing at least two weeks' notice to the district, bring an action on behalf of the state to enjoin the district from violating those sections.

In such an action, the attorney general may request and the court may order any other appropriate relief that is in the public interest, including payment of:

1. A civil penalty in an amount not to exceed $20,000 for each violation;
2. The attorney general's reasonable costs for investigating and prosecuting the violation; or
3. If applicable, the amount of the state's share.

Education Code 44.152(a)–(b)

Attorney Fees

A governmental contract may not provide for the award of attorney's fees to a district in a dispute in which the district prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute.

"Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

Gov't Code 2252.904

Construction Liability Claims

To assert a claim against a contractor, subcontractor, supplier, or design professional for damages arising from damage to or loss of real or personal property caused by an alleged construction defect in an improvement to real property that is a public building or public work in which the district has an interest, the district must comply with Government Code Chapter 2272. *Gov't Code 2272.002(a)*

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

For legal requirements generally applicable to the procurement process, see CH and CV.

"Competitive sealed proposals" is a procurement method by which a district requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility. In selecting a contractor through competitive sealed proposals, a district shall follow the procedures provided by Government Code 2269, Subchapter D. *Gov't Code 2269.151*

Request for Proposals

The district shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to respond to the request. *Gov't Code 2269.153(b)* [For information on the weighted value assigned to price, see Government Code 2269.153(c), (d).]

Architect/Engineer

The district shall select or designate an architect or engineer to prepare construction documents for the project. *Gov't Code 2269.152* [See CV]

Opening Proposals

The district shall receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria. *Gov't Code 2269.154*

Selection

The district shall select the offeror that submits the proposal that offers the best value for the district based on:

1. The selection criteria in the request for proposal and the weighted value for those criteria in the request for proposal; and
2. Its ranking evaluation.

The district shall first attempt to negotiate a contract with the selected offeror. The district and its architect or engineer may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the

selection ranking until a contract is reached or all proposals are rejected.

Gov't Code 2269.155(a)–(c)

Make Evaluations Public

Not later than the seventh business day after the date the contract is awarded, the governmental entity shall make the evaluations, including any scores, public and provide them to all offerors. *Gov't Code 2269.155(d)*

Note: The Board has adopted an innovation plan[1] that affects application of provisions in this legally referenced policy.

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Notice to Parents

Teacher Qualifications

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall, at the beginning of each school year, notify the parents of each student attending any school receiving such funds that the parents may request, and the district shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the student's teacher:
    a. Has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;
    b. Is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and
    c. Is teaching in the field of discipline of the certification of the teacher.
2. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

20 U.S.C. 6312(e)(1)(A)

Federally Required Notice—Lack of Credentials

A school that receives such federal funds shall also provide to each individual parent of a child who is a student in such school, with respect to such student, timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. *20 U.S.C. 6312(e)(1)(B)(ii)*

State-Required Notice—Lack of Credentials

If a district assigns an inappropriately certified or uncertified teacher (as defined below) to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom.

A superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. A district shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is not English. A district shall retain a copy of the notice and make information relating to teacher certification available to the public on request.

An “inappropriately certified or uncertified teacher” includes an individual serving on an emergency certificate or an individual who does not hold any certificate or permit. It does not include an individual who is:

1. Certified and assigned to teach a class or classes outside his or her area of certification, as determined by State Board for Educator Certification (SBEC) rules specifying the certificate required for an assignment;
2. Serving on a certificate issued due to a hearing impairment;
3. Serving on a certificate issued pursuant to enrollment in an approved alternative certification program;
4. Certified by another state or country and serving on a certificate issued under Education Code 21.052;
5. Serving on a school district teaching permit; or
6. Employed under a waiver granted by the commissioner of education.

The state notice requirement does not apply if a school is required in accordance with Section 1006, Every Student Succeeds Act [20 U.S.C. Section 6312(e)(1)(B)(ii)], to provide notice to a parent or guardian regarding a teacher who does not meet certification requirements at the grade level and subject area in which the teacher is assigned, provided the school provides notice as required by that Act. [See Federally Required Notice—Lack of Credentials, above]

Education Code 21.057; 19 TAC 231.1

Professional Personnel

Certificate

A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a district unless the person holds an appropriate certificate or permit. A person who desires to teach shall present the person’s certificate for filing with a district before the person’s contract with a board is binding.

A person is not required to hold a certificate under Education Code 21.0487 to be employed by a district as a Junior Reserve Officer Training Corps instructor.

An educator who does not hold a valid certificate may not be paid for teaching or work done before the effective date of issuance of a valid certificate.

Education Code 21.003(a), .0487(d), .053(a)–(b)

License

A person may not be employed by a district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for a district only if the person holds the appropriate credentials from the appropriate state agency.

A person employed by a district before September 1, 2011, to perform marriage and family therapy is not required to hold a license as a marriage and family therapist as long as the person remains employed by the district.

Education Code 21.003(b)

School District Teaching Permit

A district may issue a school district teaching permit and employ as a teacher a person who does not hold a teaching certificate issued by SBEC. To be eligible for a school district teaching permit, a person must hold a baccalaureate degree. *Education Code 21.055(a)–(b)*

Statement to Commissioner

Promptly after employing a person under a school district permit, a district shall send a written statement to the commissioner. This statement must identify the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the commissioner.

Not later than the 30th day after the commissioner receives a district's statement, the commissioner may inform the district that the person is not qualified to teach. The person may not teach if the commissioner finds that the person is not qualified. If the commissioner fails to act before the 30th day after receiving the statement, a district may issue the school district teaching permit and the person may teach the subject or class identified in the statement sent to the commissioner.

Education Code 21.055(c)–(d)

Noncore Career and Technical Courses

The following requirements do not apply to a person who will teach only noncore academic career and technical education courses:

1. The requirement to hold a baccalaureate degree;
2. The requirement that the district send a written statement to the commissioner identifying the person, the person's qualifications as a teacher, and the subject or class the person will teach; and

3. The requirement that the commissioner inform the district in writing if the commissioner finds the person to be not qualified to teach.

A board may issue a school district teaching permit to a person who will teach courses only in career and technical education based on qualifications certified by the superintendent. Qualifications must include demonstrated subject matter expertise such as professional work experience, formal training and education, holding an active professional relevant industry license, certification, or registration, or any combination of work experience, training and education, or industry license, certification, or registration, in the subject matter to be taught.

The superintendent shall certify to the board that a new employee has undergone a criminal background check and is capable of proper classroom management. A district shall require a new employee to obtain at least 20 hours of classroom management training and to comply with continuing education requirements as determined by the board.

A person may teach a career and technical education course immediately upon issuance of a permit. Promptly after employing a person who qualifies under Education Code 21.055(d-1), the board shall send to the commissioner a written statement identifying the person, the course the person will teach, and the person's qualifications to teach the course.

Education Code 21.055(d-1)

Duration of Permit

A school district teaching permit remains valid unless the district issuing the permit revokes it for cause. A person authorized to teach under a school district teaching permit issued by a particular district may not teach in another school district unless that other district complies with the permit-issuing provisions. *Education Code 21.055(e)*

Emergency Permit

Emergency permits are issued under the authority of SBEC. *19 TAC 230.71(a)*

Activation

A superintendent or designee who cannot secure an appropriately certified and qualified individual to fill a vacant position may activate an emergency permit for an individual who does not have one of the appropriate credentials for the assignment, as specified in 19 Administrative Code Chapter 231 (Requirements for Public School Personnel Assignments).

In order to activate an emergency permit, the superintendent or designee must:

1. Document locally the efforts the district has taken to employ an appropriately certified individual in the position for which an emergency permit is activated;

2. Apply for an emergency permit when a vacant position is filled with an uncertified or inappropriately certified individual who will serve as the teacher of record or will serve in the assignment for more than 30 consecutive instructional days. The application must be submitted to the Texas Education Agency (TEA) within 45 instructional days of the date of assignment;

3. Verify that the district maintains a support system, has assigned a trained mentor, and will provide release time as needed to assist the individual serving on an emergency permit. However, a district shall not be required to provide a mentor for a degreed, certified teacher assigned on an emergency permit if the teacher has one or more creditable years' experience within the district, as defined at 19 Administrative Code Chapter 153, Subchapter CC; and

4. Verify that the individual for whom the emergency permit is activated has been advised of the SBEC rules regarding permits and permit renewal requirements in 19 Administrative Code Chapter 230, Subchapter F.

19 TAC 230.71(d)

Temporary Vacancies

A district is not required to activate an emergency permit if an uncertified individual is assigned for a certified teacher who will be absent for more than 30 consecutive instructional days due to documented health-related reasons and has expressed the intention to return to the assignment. A district must, however, comply with the parent notification requirements above. *19 TAC 230.71(i)*

General Eligibility Requirements

An individual for whom an emergency permit is activated must meet the following criteria:

1. The individual must hold a bachelor's degree or higher from an accredited institution of higher education. [See 19 Administrative Code 230.75(1) for career and technical and trade and industrial education assignments.]

2. The individual must be at least 18 years of age.

3. The individual must be able to communicate and understand the English language sufficiently to use it easily and readily in daily communication and teaching, as specified in 19 Administrative Code 230.11 (General Requirements).

4. The individual must be of good moral character. SBEC may refuse to authorize an emergency permit for an individual, applying the same standards that would be applied to the administrative denial of an applicant for certification under 19 Administrative Code 249.12 (Administrative Denial; Appeal).

5. The individual must submit fingerprints in accordance with 19 Administrative Code 232.35(c) (Submission of Required Information) and Education Code 22.0831. [See DBAA]

19 TAC 230.75

Specific Requirements for Initial Permits

An individual for whom an emergency permit is activated must:

1. Have completed the appropriate semester credit hours or equivalent contact hours required for the emergency permit sought as specified in 19 Administrative Code 230.77, or, for a degreed, certified teacher, have passed the appropriate content specialization portions of the appropriate certification examination required for the target certificate; and

2. Have satisfied the appropriate experience requirement specified in 19 Administrative Code 230.77 for the emergency permit sought.

19 TAC 230.77(a)

SBEC rules provide requirements for the following assignments:

1. Elementary grades (early childhood–grade 6) (general education).

2. Secondary grades (grades 7–12) (general education).

3. All grade levels (early childhood–grade 12) (general education).

4. Career and technical education programs.

5. Special populations, such as English language learners (ELLs) and students with special learning needs.

6. Other instructional and support personnel, such as school counselor, educational diagnostician, school librarian, and JROTC instructor.

19 TAC 230.77 (b)–(g)

Hardship Exception

An emergency permit may be authorized on a hardship basis for an individual who does not meet all eligibility requirements only if approval has been granted and email notification received from TEA staff. The district must:

1. Document local conditions requiring the assignment of an individual who does not meet emergency permit requirements;
2. Verify that the deficiencies for the certificate sought do not exceed 36 semester credit hours; and
3. Verify:
    a. That the individual will be enrolled in the first available course listed on the certification plan; or
    b. Registration for the next available administration of the appropriate content specialization portion of the certification examination for an individual who holds a valid Texas classroom teaching certificate and a bachelor's degree or higher from an accredited institution of higher education and is placed in an assignment requiring a different classroom teaching certificate.

19 TAC 230.71(h)

Holders of Intern or Probationary Certificates

Candidates who hold an intern certificate under the provisions of 19 Administrative Code 230.36 (Intern Certificates) or a probationary certificate under 19 Administrative Code 230.37 (Probationary Certificates) may be employed on an emergency permit during the validity of the intern certificate or probationary certificate, if the emergency permit is being issued in a certificate area not available through the educator preparation program that provided recommendation for the intern certificate or probationary certificate. *19 TAC 230.71(j)*

Procedures for Initial Permit

The superintendent or his or her designee or authorized representative must verify the individual's eligibility for the emergency permit [see General Eligibility Requirements and Specific Requirements for Initial Permits, above] and submit online to TEA the following information within 45 instructional days of assignment.

For all assignments (except career and technical education assignments based on skill and experience):

1. A completed online emergency permit application;
2. One of the following:
    a. A certification plan from an approved Texas educator preparation program (EPP); or
    b. Verification of registration for an appropriate certification examination for a teacher that is already certified; and
3. The appropriate fee (payable by the school district).

For career and technical education assignments based on skill and experience:

1. A completed online emergency permit application;
2. A copy of the individual's statement of qualifications, approved by the certification officer of a Texas EPP;
3. Acceptable license, registration, or certification by a state-authorized or nationally recognized agency in an occupational area appropriate for the assignment;
4. A certification plan from an approved Texas EPP for the career and technical education certificate appropriate for the assignment; and
5. The appropriate fee (payable by the school district).

19 TAC 230.79

Validity of Emergency Permit

The validity date of an activated and authorized emergency permit is specified in 19 Administrative Code 230.97 (Effective Dates of Certificates and Permit Issuance).

An emergency permit is valid for the remainder of the school year for which it is activated and authorized by SBEC. The emergency permit must be submitted to TEA within 45 instructional days from the date of assignment. A permit authorized by SBEC is valid for service only in the requesting district and only for the assignments indicated on the emergency permit application.

Effective with the 2017–18 school year, the employment of an individual on an emergency permit, with the exception of the assignment as a JROTC instructor or a teacher of students with visual impairments may not exceed one school year in the same assignment. [See One-Year Limitation, below]

Prior to the 2017–18 school year, the individual may serve in a specific assignment no more than one additional school year beyond the initial emergency permit. To continue beyond the initial emergency permit year, the individual must comply with the renewal provisions specified in 19 Administrative Code 230.81. [See Renewal Requirements and Procedures, below]

Effective with the 2017–18 school year, to continue employment in the assignment beyond the validity of the initial emergency permit, the individual must hold the appropriate certificate, in accordance with 19 Administrative Code, Chapter 231 (Requirements for Public School Personnel Assignments). An individual may not serve as a

classroom teacher of record in the district for more than three school years without obtaining initial, standard certification.

19 TAC 230.73

One-Year Limitation

Effective with the 2017–18 school year, an emergency permit will limit an individual to one year of service and no renewal will be allowed.

Exceptions

The one-year limitation does not apply to individuals serving in the position of Junior Reserve Officer Training Corps (JROTC) instructor or teachers of students with visual impairments.

As indicated in 19 Administrative Code 230.77(g)(4)(B), emergency permits for JROTC instructors must be reissued every year.

Emergency permits for teachers of students with visual impairments referenced in 19 Administrative Code 230.77(f)(2)(B) may be renewed a maximum of two years.

19 TAC 230.71(b), (c)

Renewal Requirements and Procedures

Effective with the 2017–18 school year, these renewal provisions no longer apply for emergency permits, with the exception of teachers of students with visual impairments. *19 TAC 230.73(f)*

A superintendent, designee, or authorized representative may renew an emergency permit for the same assignment in the same district for which the initial emergency permit was activated.

No individual may continue in the same assignment for more than one school year of service on an emergency permit, except that emergency permits used fewer than 90 calendar days may be renewed for one additional year of service, if needed.

The total of semester credit hours or the equivalent contact hours required to obtain certification appropriate for the assignment shall determine the number of emergency permit renewals for which the individual may be eligible.

For six semester credit hours or less plus appropriate examination requirements, an individual is not eligible for renewal.

For seven semester credit hours or more plus appropriate examination requirements, an individual is eligible for one renewal.

The superintendent or his or her designee or authorized representative may renew an emergency permit provided the following requirements and procedures are met:

1. The emergency permit must be renewed for the same assignment in the same school district.

2. Official transcripts verifying completion of a minimum of six semester credit hours or documentation of completion of equivalent contact hours toward the appropriate target certificate must be placed in the individual's personnel file.

3. If the individual has not completed permit renewal requirements as indicated above, the superintendent or his or her designee must obtain hardship approval from the TEA prior to continuation of the assignment.

4. The appropriate renewal of the emergency permit application must be completed online prior to the beginning date of duties for the current school year.

5. The school district shall pay the appropriate fee.

19 TAC 230.81

Nonrenewable Permits

A superintendent or designee may activate a nonrenewable permit for an individual who has not completed the appropriate examination requirements specified in 19 Administrative Code 230.21 (Educator Assessment).

A nonrenewable permit may be activated for an individual who:

1. Has completed all course and degree requirements of a Texas EPP except for successful completion of all appropriate examination requirements. Nonrenewable permits activated for individuals in this category expire 12 months from the date of activation; or

2. Holds a Texas teacher certificate with an effective date before February 1, 1986, but has not revalidated the certificate for employment purposes by passing an examination. The individual must not have been employed in a Texas school district since the start of the 1985–86 school year. A nonrenewable permit activated for an individual in this category expires six months from the date of activation or at the end of the school year, whichever is less.

A nonrenewable permit may not be activated for an individual in the same assignment area for which another permit had previously been authorized.

The superintendent, designee, or authorized representative must verify that an individual is eligible for the permit and submit the following information within 45 calendar days of assignment:

1. An application for a nonrenewable permit completed before the effective date of the assignment; and

2. The appropriate fee (payable by the district).

19 TAC 230.83

Educator Consent

A certified teacher must consent to the activation of an emergency permit and be advised of the conditions of the emergency permit.

A teacher who refuses to consent to activation of an emergency permit may not be terminated or nonrenewed or otherwise retaliated against because of the teacher's refusal to consent to the activation of the emergency permit. However, a teacher's refusal to consent shall not impair a district's right to implement a necessary reduction in force or other personnel actions in accordance with local policy.

19 TAC 230.71(e)

No Property Right

An emergency permit is authorized for the district for a specific assignment and is not the property of the individual for whom the emergency permit was activated. *19 TAC 230.71(f)*

Unused Permits

If an emergency permit authorized by SBEC is not used, the district shall notify TEA staff by email. *19 TAC 230.71(g)*

Tutoring Program

A person may participate in a tutoring program to provide supplemental instruction to students in kindergarten through grade 12 on an individualized or small-group basis.

Eligibility

To participate in the program as a tutor, a person must:

1. Be an active or retired teacher;
2. Apply for the position in a manner specified by a nonprofit teacher organization approved by the commissioner for the purpose of participating in the tutoring program;
3. Designate in the application whether the person plans to provide tutoring:
    a. For compensation, on a volunteer basis, or both; and
    b. In person, online, or both; and
4. Not be included in the Do Not Hire Registry. [See DBAA]

If an active or retired teacher who has been approved for participation in the tutoring program contacts a school district to provide tutoring to students in the district and the district needs tutoring assistance, the district may:

1. If the teacher is providing tutoring services on a volunteer basis, use the volunteer tutoring services provided by the teacher; or

2. If the district has local, state, or federal funds for purposes of the tutoring program and the teacher is providing tutoring services for compensation, employ the teacher as a tutor.

Local Oversight and Reporting

The superintendent or designee shall:

1. Oversee the tutoring program within the district; and
2. Not later than the last day of each semester, submit a report to the board that includes, with respect to that semester:
   a. The number of active or retired teachers who contacted the district to offer tutoring services to students in the district; and
   b. The number of active or retired teachers who were used by the district as a tutor on a volunteer basis or employed by the district to provide tutoring services for compensation.

Funding

A school district may use any available local, state, or federal funds to provide compensation to a person participating in the program as a tutor who is providing tutoring for compensation under the program.

Education Code 33.913

Certification of Paraprofessional Employees

Educational aides shall be certified according to standards established by SBEC. *19 TAC 230.51*

Federal Requirements for Teachers and Paraprofessionals

Teachers and paraprofessionals working in a program supported with funds under Title I, Part A of the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.) shall meet applicable state certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. *20 U.S.C. 6311(g)(2)(J), 6312(c)(6)*

The state's professional standards for paraprofessionals working in a program supported with Title I funds must include qualifications that were in place under former 20 U.S.C. 6319, as that section existed before December 10, 2015. *20 U.S.C. 6311(g)(2)(M)*

Qualifications Before December 10, 2015

Each district receiving assistance under Title I, Part A of the ESEA shall ensure that all paraprofessionals working in a program supported with those funds shall:

1. Be assigned only duties consistent with the following:
   a. A paraprofessional may be assigned to:

(1) Provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

(2) Assist with classroom management, such as organizing instructional and other materials;

(3) Provide assistance in a computer laboratory;

(4) Conduct parental involvement activities;

(5) Provide support in a library or media center;

(6) Act as a translator; or

(7) Provide instructional services to students in accordance with items (b) and (c).

b. A paraprofessional may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with this section; and

c. A paraprofessional may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

2. Regardless of a paraprofessional's hiring date, have earned a secondary school diploma or its recognized equivalent.

3. If hired after January 8, 2002, have one of the following credentials:

a. Completed at least two years of study at an institution of higher education;

b. Obtained an associate's (or higher) degree; or

c. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment:

(1) Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(2) Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

Receipt of a high school diploma is not sufficient to satisfy the formal academic assessment requirement.

The requirements at item 3, above, shall not apply to a paraprofessional:

1. Who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under Title I, Part A by acting as a translator; or

2. Whose duties consist solely of conducting parental involvement activities.

Former 20 U.S.C. 6319 in effect before Dec. 10, 2015

Federal Requirements for Special Education Teachers

Each person employed as a special education teacher who teaches elementary school, middle school, or secondary school must:

1. Have obtained full state certification as a special education teacher [including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 C.F.R. 2005.56(a)(2)(ii) as in effect November 28, 2008], or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher;

2. Have not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

3. Hold at least a bachelor's degree.

20 U.S.C. 1412(a)(14)(C)

CPR and First Aid Certification

A district employee who serves as head director of a school marching band, head coach, or chief sponsor of an extracurricular athletic activity (including cheerleading) that is sponsored or sanctioned by the district or UIL must maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification. A district shall adopt, in accordance with its professional development policy [see DMA], procedures for adminis-

tering this requirement, including procedures for the time and manner in which proof of current certification must be submitted. *Education Code 33.086*

AED Certification

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 must receive and maintain certification in the use of an automated external defibrillator (AED) from the American Heart Association, the American Red Cross, or a similar nationally recognized association. *Education Code 22.902(c)* [See DMA]

School Bus Drivers

Credentials

For purposes of the following provisions, a "school bus driver" is a driver transporting school children and/or school personnel on routes to and from school or on a school-related activity trip while operating a multifunction school activity bus, school activity bus, or school bus. *37 TAC 14.1* [See CNA]

At a minimum, to become employed and maintain employment status as a school bus driver, a person must meet the following requirements:

1. Be at least 18 years old.
2. Possess a valid driver's license designating a class appropriate (with applicable endorsement, if commercial driver license) for the gross vehicle weight rating and manufacturer's designed passenger capacity of the vehicle to be operated.
3. Meet the medical qualifications specified by the Department of Public Safety (DPS) at 37 Administrative Code 14.12. [See DBB]
4. Maintain an acceptable driving record in accordance with the minimum standards established by the DPS at 37 Administrative Code 14.14.
5. Maintain an acceptable criminal history record, secured from any law enforcement agency or criminal justice agency, and reviewed in accordance with the provisions of Education Code Chapter 22. [See DBAA]
6. Possess a valid Texas School Bus Driver Safety Training Certificate, as specified at 37 Administrative Code 14.35 or a valid Enrollment Certificate, as specified at 37 Administrative Code 14.36.

Transp. Code 521.022; 37 TAC 14.11, .12, .14

Pre-Employment Inquiries

An applicant for employment as a school bus driver must disclose to the district:

1. Any violations of motor vehicle laws or ordinances (other than parking violations) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted;

2. Any serious traffic violations, as defined by Transportation Code 522.003(25), of which the applicant was convicted during the ten years preceding the date the application is submitted; and

3. Any suspension, revocation, or cancellation of driving privilege that the applicant has ever received.

The district shall make an inquiry into the applicant's complete driving record, with DPS and with any state in which the applicant held a motor vehicle operator's license or permit within the past seven years. If no previous driving record is found to exist, the district must document its efforts to obtain such information and certify that no previous driving record exists for the individual.

The district shall review the applicant's driving record to determine whether that person meets minimum requirements, as described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements).

37 TAC 14.14(b)

Annual Evaluation

A district shall, at least once every 12 months, make an inquiry into the complete driving record of each school bus driver it employs, with DPS and with any state in which the individual held a motor vehicle operator's license or permit during that time period. The district shall review the driving record to determine whether the individual meets the minimum requirements described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements). *Transp. Code 521.022(d); 37 TAC 14.14(c)*

Disqualification

Any person who has accumulated ten or more penalty points shall be considered ineligible to transport students until such time as he or she may become qualified. A school bus driver who receives notice that his or her license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the district of the contents of the notice before the end of the business day following the day the driver received it. A district shall not permit a disqualified driver to drive a school bus, school activity bus, or multifunction school activity bus. *37 TAC 14.14(g)*

Employee Records

The following records on professional personnel must be readily available for review by the commissioner:

Professional Employees

1. Credentials (certificate or license);
2. Service record(s) and any attachments;
3. Contract;
4. Teaching schedule or other assignment record; and
5. Absence from duty reports.

Service Record

The basic document in support of the number of years of professional service claimed for salary increment purposes and both the state's sick and personal leave program data for all personnel is the service record (form FIN-115) or a similar form containing the same information. It is the responsibility of the issuing district to ensure that service records are true and correct and that all service recorded on the service record was actually performed.

The service record must be validated by a person designated by a district to sign service records. The service record shall be kept on file at the district.

Former Employees

On request by a classroom teacher, librarian, school counselor, or nurse or by the school district employing one of those individuals, a district that previously employed the individual shall provide a copy of the individual's service record to the district employing the individual. The district must provide the copy not later than the 30th day after the later of:

1. The date the request is made; or
2. The date of the last day of the individual's service to the district.

The original service record, verified by the employee, shall be given to the employee upon request or sent to the next employing district. A district must maintain a legible copy for audit purposes. A scanned version of the original service record may be considered official if sent directly from one employing district to another employing district.

Education Code 21.4031; 19 TAC 153.1021(b), (d)

Access to Employee Records

With regard to public access to information in personnel records, custodians of such records shall adhere to the requirements of the Public Information Act. *Gov't Code Ch. 552* [See GBA]

Information in a personnel file is excepted from the requirements of the Public Information Act if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

Except as provided below, an employee of a district shall choose whether to allow public access to information in the district's custody that relates to the employee's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

Gov't Code 552.024, .102(a)

The social security number of an employee of a district in the custody of the district is confidential. A district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number. *Gov't Code 552.024(a-1), .147(a-1)*

Employee Right of Access

All information in the personnel file of a district employee shall be made available to that employee or the employee's designated representative as public information is made available under the Public Information Act. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by a district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

A district may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Act. A district may assert as grounds for denial of access other provisions of the Public Information Act or other laws that are not intended to protect the employee's privacy interests.

If a district determines that information in the employee's records is exempt from disclosure under an exception of Government Code Chapter 552, Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, it shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, a district shall release the information to the requestor not later than the tenth day after the request for information is received.

Gov't Code 552.023, .102(a), .307

[1] Innovation Plan: https://www.ltisdschools.org/domain/862

Employment Policies

A board shall adopt a policy providing for the employment and duties of district personnel. The policy shall provide that:

1. A board employs and evaluates the superintendent;
2. A superintendent has sole authority to make recommendations to a board regarding the selection of all personnel, except that the board may delegate final authority for those decisions to the superintendent [see Superintendent Recommendation, below];
3. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP];
4. Notice will be provided of vacant positions [see Posting of Vacancies, below]; and
5. Each employee has the right to present grievances to the board. [See Grievances, below]

Education Code 11.1513

Tax Identifier

A board shall adopt a policy prohibiting the use of social security numbers as employee identifiers other than for tax purposes [see Social Security Numbers, below]. *Education Code 11.1514* [See DBA]

Contract Positions

A board shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply. *Education Code 21.002(c)* [See DCB and DCC]

Delegation of Authority

A district's employment policy may specify the terms of district employment or delegate to the superintendent the authority to determine the terms of employment with the district. *Education Code 11.1513(c)* [For nepotism implications, see BBFB and DBE]

Availability

A district shall post on its internet website, if the district has a website, the employment policy adopted by the board under Education Code 11.1513(a) and the full text of any regulations referenced in the policy.

A district shall make available any forms referenced in its employment policy on an intranet website that is maintained by the district and accessible to district employees, or at a district administrative office designated by the district if the district does not maintain an intranet website.

Education Code 11.1513(k)

Internal Auditor

If a district employs an internal auditor, the board shall select the internal auditor and the internal auditor shall report directly to the board. *Education Code 11.170* [See CFC]

Superintendent Recommendation

A board may accept or reject a superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's open meeting, in the certified agenda or tape recording of a closed meeting, or in the recording required under Government Code 551.125 or 551.127, as applicable. If a board rejects a superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation. *Education Code 11.1513(b)*

Posting of Vacancies

A district's employment policy must provide that not later than the tenth school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that affects the safety and security of students as determined by the board, the district must provide to each current district employee:

1. Notice of the position by posting the position on:
    a. A bulletin board at:
        (1) A place convenient to the public in the district's central administrative office, and
        (2) The central administrative office of each campus during any time the office is open; or
    b. The district's internet website, if the district has a website; and
2. A reasonable opportunity to apply for the position.

Education Code 11.1513(d)

Exception

If, during the school year, a district must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the district must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, a district is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. *Education Code 11.1513(e)*

Grievances

A district's employment policy must provide each employee with the right to present grievances to the board. The policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of

a district, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the board.

Education Code 11.1513(i)–(j) [See DGBA]

Transfers

A district's employment policy may include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district. *Education Code 11.1513(c)(3)* [See DK]

Contract Employees

A district shall employ each classroom teacher, principal, librarian, nurse, or school counselor under a probationary contract, a continuing contract, or a term contract. A district is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. *Education Code 21.002*

Classroom Teacher

"Classroom teacher" means an educator who is employed by a district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher's aide or a full-time administrator. *Education Code 5.001(2)*

Minimum Length of Contract

A contract between a district and an educator must be for a minimum of ten months of service. An educator employed under a ten-month contract must provide a minimum of 187 days of service. *Education Code 21.401(a), (b)*

Proportionate Reduction

If a district anticipates providing less than 180 days of instruction for students during a school year, as indicated by the district's academic calendar, the district may reduce the number of days of service proportionately. A reduction by the district does not reduce an educator's salary. *Education Code 21.401(c-1)*

Commissioner Waiver

The commissioner of education may reduce the number of days of service if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools. A reduction by the commissioner does not reduce an educator's salary. *Education Code 21.401(c), 25.081(b)*

Educational Aides

A board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. *Education Code 54.363(f)*

Employment of Retirees

A district shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. A district shall inform TRS of changes in status of the district that affect the district's reporting responsibilities.

The certified statement must include information regarding:

1. Employees of third party entities if the employees are service or disability retirees who were first employed by the third party entity on or after May 24, 2003, and are performing duties or providing services on behalf of or for the benefit of the district that employees of the district would otherwise perform or provide; and

2. Retirees who retired within twelve full, consecutive calendar months of the month of the monthly certified statement and are performing duties or providing services for or on behalf of the district that employees of the district would otherwise perform or provide, and are:

    a. Waiving, deferring, or forgoing compensation for the services or duties;

    b. Performing the duties or providing the services as an independent contractor; or

    c. Serving as a volunteer without compensation and performing the same duties or providing the same services for a reporting entity that the retiree performed or provided immediately before retiring and the retiree has an agreement to perform those duties or provide those services after the first 12 full, consecutive calendar months after the retiree's effective date of retirement.

A district that fails to attain a completed status for the monthly certified statement as required by 34 Administrative Code 31.2 shall pay to TRS, in addition to the required employer surcharges and any applicable penalty interest on the unpaid amounts, the late fee established in 34 Administrative Code 31.2(d) for each business day that the monthly certified statement fails to attain a completed status.

An administrator of a district who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.

Gov't Code 824.6022, 825.403(k); 34 TAC 31.2

Former Board Member Employment

A board member is prohibited from accepting employment with the district until the first anniversary of the date the board member's membership on a board ends. *Education Code 11.063* [See BBC]

New Hires

I-9 Forms

A district shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

A district must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If a district hires an individual for employment for a duration of less than three business days, the district must verify employment at the time of hire. A district shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times. When a district rehires an individual, the district may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.
2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii)

New Hire Reporting

A district shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain a district's name, address, and employer identification number.

A district may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the district's payroll address for mailing of notice to withhold child support.

A district shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by the district and in a format acceptable to the attorney general.

Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date a district hires the employee; or
2. In the case of a district transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

Penalties

A district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I

Donations for Supplemental Educational Staff

A district shall accept from a parent-teacher organization or association recognized by the district a donation designated to fund supplemental educational staff positions at a school campus and spend the donation accepted for the designated purpose at the direction of and within the time period specified by the school campus for which the donation was designated. This provision expires September 1, 2025. *Education Code 11.156(c), (d)*

Social Security Numbers

A board shall adopt a policy prohibiting the use of the social security number of an employee of the district as an employee identifier other than for tax purposes. *Education Code 11.1514* [See DBA]

Federal Law

A district shall not deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

Exceptions

The federal law does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;

2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or

3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a district's jurisdiction.

Statement of Uses

A district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974)

Employment Assistance Prohibited

Federal Law

A district that receives Title I funds shall have regulations or policies that prohibit any individual who is a school employee, contractor, or agent, or a district, from assisting a school employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or district knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926 [See also CJ]

State Law

SBEC may suspend or revoke a certificate, impose other sanctions against the person, or refuse to issue a certificate to the person if:

1. The person assists another person in obtaining employment at a school district, private school, or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and
2. The person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

The commissioner may require a school district to revoke or decline to issue a school district teaching permit under Education Code 21.055 issued to or requested by a person subject to SBEC action above.

Education Code 21.0581; 19 TAC 249.15(b)(13)

Minimum Salary Schedule — Educators

A district shall pay each classroom teacher, full-time librarian, full-time school counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 Administrative Code 153.1021.

Definitions

Classroom Teacher

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from the State Board for Educator Certification (SBEC). Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

Librarian

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

School Counselor

"School counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

Nurse

"Nurse" means an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

Full-Time

"Full-time" means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081.

19 TAC 153.1022(a)

Placement on Salary Schedule

The commissioner's rules determine the experience for which a teacher, librarian, school counselor, or nurse is to be given credit in placing the teacher, librarian, school counselor, or nurse on the minimum salary schedule. A district shall credit the teacher, librarian, school counselor, or nurse for each year of experience, whether or not the years are consecutive. *Education Code 21.402(a), .403(c); 19 TAC 153.1022*

Employees Formerly on Career Ladder

A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district.

In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to placement on the minimum salary schedule according to the guidelines at Education Code 21.403(d). *Education Code 21.402(f), .403(d)*

Pay Increases

A district shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53*

Public Hearing—Contract Employees

A district may not pay an employee or former employee more than an amount owed under a contract with the employee unless the district holds at least one public hearing. Notice of the hearing must be given in accordance with notice of a public meeting under the Texas Open Meetings Act [see BE].

The board must state the following at the public hearing:

1. The source and exact amount of the payment;
2. The reason the payment is being offered including the public purpose that will be served by making the payment; and
3. The terms for distribution of the payment that effect and maintain the public purpose.

Local Gov't Code 180.007

Increase in Basic Allotment

During any school year for which the maximum amount of the basic allotment provided under Education Code 48.015(a) or (b) is greater than the maximum amount provided for the preceding school year, a district must use at least 30 percent of the district's increased funding to provide compensation increases to full-time district employees other than administrators as follows:

1. 75 percent must be used to increase the compensation paid to classroom teachers, full-time librarians, full-time school counselors certified under Education Code Chapter 21, Subchapter B and full-time school nurses, prioritizing differentiated compensation for classroom teachers with more than five years of experience; and
2. 25 percent may be used as determined by the district to increase compensation paid to full-time district employees.

"Compensation" includes benefits such as insurance premiums.

Education Code 48.051(c), (d)

Maintenance of Salary

An employee who received a salary increase from a district for the 2019–20 school year is, as long as the employee remains employed by the same district and the district is receiving at least the same amount of funding as the amount of funding the district received for the 2019–20 school year, entitled to salary that is at least equal to the salary the employee received for the 2019–20 school year.

This requirement does not apply if the board:

1. Implements a furlough program under Education Code 21.4021 [see Furlough Program, below], a salary reduction under Education Code 21.4022 [see Salary Reduction/Furlough Process, below], and a widespread reduction in salaries under Education Code 21.4032 [see Widespread Salary Reductions, below] in reducing the employee's salary; and
2. Has adopted a resolution declaring a financial exigency for the district under Education Code 44.011. [See CEA]

A reduction in the salary of a district employee described above is subject to the rights granted to the employee under the Education Code.

Education Code 48.051(c-1), (c-2)

Salary Advances and Loans

A district shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

Designation of Compensation for Benefits

An employee who is covered by a cafeteria plan or who is eligible to pay health-care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health-care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 22.103*

Use

An employee may use the compensation designated for health-care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health-care premiums through a premium conversion plan. *Education Code 22.106*

Annual Election

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health-care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

Definition

For purposes of the designation of compensation as health-care supplementation, “employee” means an active, contributing member of the Teacher Retirement System (TRS) who:

1. Is employed by a district;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the district as an independent contractor.

Education Code 22.101(2)

TRS Contributions for New Hires

During each fiscal year, a district shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.

“New member” means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.

On a monthly basis, a district shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and
2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

A district must remit the amount required under this section to TRS at the same time the district remits the member’s contribution. In computing the amount required to be remitted, a district shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

Gov’t Code 825.4041

TRS Surcharge for Rehired Retirees

During each payroll period for which a retiree is reported, a district shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

TRS Fund Contributions

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

Gov't Code 825.4092(b)

Health Insurance Contributions

In addition, each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), a district shall contribute to the TRS Care trust fund an amount established by TRS. In determining the amount to be contributed by the district, TRS shall consider the amount a retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers. *Gov't Code 825.4092(c); Insurance Code 1575.204(b)*

No Recovery of Costs

A district is ultimately responsible for payment of the contributions above. A district may not directly or indirectly pass that cost on to the retiree through payroll deduction, by imposition of a fee, or by any other means designed to recover the cost. *Gov't Code 825.4092(f)*

Exception

A district is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005. *Gov't Code 825.4092(e)*

Temporary Exception

A district is not required to contribute these amounts for a retiree who retired from the retirement system after September 1, 2005, and is employed in a position described by Government Code 824.6021(a) performing duties related to the mitigation of student learning loss attributable to the coronavirus disease (COVID-19) pandemic. This provision expires February 1, 2025. *Gov't Code 825.4092(f)*

Notice Regarding Earned Income Tax Credit

Not later than March 1 of each year, a district shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;

2. Electronically at the employee's last known email address;

3. Through a flyer included, in writing or electronically, as a payroll stuffer; or

4. By first class mail to the employee's last known address.

A district may not satisfy this requirement solely by posting information in the workplace.

In addition, a district may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

Labor Code 104.001–.003

Decreasing Pay

The commissioner has held that a district may reduce educator compensation if it gives sufficient warning of a possible reduction in pay when educators can still unilaterally resign from their contracts. A sufficient warning must be both formal enough and specific enough to give educators a meaningful opportunity to decide whether to continue employment with a district. *Brajenovich v. Alief Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 021-R1O-1106 (2009)*

Widespread Salary Reductions

The following provisions apply only to a widespread reduction in the amount of annual salaries paid to classroom teachers in a district based primarily on district financial conditions rather than on teacher performance.

For any school year in which a district has reduced the amount of the annual salaries paid to classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district administrator or other professional employee by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

Education Code 21.4032

A board may not reduce salaries until the district has complied with the requirements at Education Code 21.4022 [see Salary Reduction/Furlough Process, below]. *Education Code 21.4022*

Furlough Program

In accordance with district policy [see DFFA], a board may implement a furlough program and reduce the number of days of service otherwise required under Education Code 21.401 [see DC] by not more than six days of service during a school year if the commissioner certifies that the district will be provided with less state and local funding for that year than was provided to the district for the 2010–11 school year. *Education Code 21.4021(a)*

A board may not implement a furlough program until the district has complied with the requirements at Education Code 21.4022 [see Salary Reduction/Furlough Process, below]. *Education Code 21.4022*

Funding Levels

Not later than July 1 of each year, the commissioner shall determine for each district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010–11 school year. If the amount estimated to be provided is less, the commissioner shall certify the percentage decrease in funding to be provided to the district. *Education Code 48.010*

Salaries

Notwithstanding Education Code 21.402 (minimum salary schedule), a board may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced. Any reduction in the amount of the annual salary must be equally distributed over the course of the employee's current contract with the district.

Furlough Days

A furlough program must subject all contract personnel to the same number of furlough days. An educator may not be furloughed on a day that is included in the number of days of instruction required under Education Code 25.081 [see EB]. Implementation of a furlough program may not result in an increase in the number of required teacher workdays. An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.

Contract Resignation

If a board adopts a furlough program after the date by which a teacher must give notice of resignation from a probationary, term, or continuing contract [see DFE], an employee who subsequently resigns is not subject to sanctions imposed by SBEC.

No Appeal

A decision by a board to implement a furlough program is final and may not be appealed and does not create a cause of action or require collective bargaining.

Education Code 21.4021

Salary Reduction / Furlough Process

A board may not implement a furlough program under Education Code 21.4021 or reduce salaries until the district has complied with the requirements below.

Employee Involvement

A district must use a process to develop a furlough program or other salary reduction proposal, as applicable, that:

1. Includes the involvement of the district's professional staff; and

2. Provides district employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal, as applicable, at the public meeting described below.

Public Meeting

A board must hold a public meeting at which the board and district administration present:

1. Information regarding the options considered for managing the district's available resources, including consideration of a tax rate increase and use of the district's available fund balance;

2. An explanation of how the district intends, through implementation of a furlough program or salary reductions, as applicable, to limit the number of district employees who will be discharged or whose contracts will not be renewed. Any explanation of a furlough program must state the specific number of furlough days proposed to be required; and

3. Information regarding the local option residence homestead exemption.

The public and district employees must be provided with an opportunity to comment at the public meeting.

Education Code 21.4022

Incentive Grants—Contract Provision

A district shall provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Education Code Chapter 21, Subchapter O (Educator Excellence Award Program and Educator Excellence Innovation Program) if the district participates in the program. A district shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. *Education Code 21.415*

Educator Excellence Innovation Program

The Educator Excellence Innovation Program (EEIP) is a grant program under which a district may receive a competitive grant for the purposes of systematically transforming educator quality and effectiveness. The Texas Education Agency (TEA) will give priority to districts that receive Title I funding and have at a majority of district campuses a student enrollment that is at least 50 percent educationally disadvantaged.

Eligibility

A district is eligible to apply for EEIP grant funds if the district:

1. Completes and submits a Notice of Intent to Apply to TEA by the date established by the commissioner of education;
2. Complies with all assurances in the Notice of Intent to Apply and grant application;
3. Participates in the required technical assistance activities established by the commissioner, including establishing leadership teams, master teachers, mentor teachers, and instructional coaches and developing career pathways;
4. Agrees to participate for four years; and
5. Complies with any other activities set forth in the program requirements.

An eligible district must submit an application in a form prescribed by the commissioner. Each eligible applicant must meet all deadlines, requirements, and assurances specified in the application. The commissioner may waive any eligibility requirements as specified in 19 Administrative Code 102.1073.

Local Plan

An eligible district that intends to participate in the EEIP shall submit a local educator excellence innovation plan to TEA. A local educator excellence innovation plan must address the elements at 19 Administrative Code 102.1073(e)(2).

A district must act pursuant to its local board policy [see DEAA (LOCAL)] for submitting a local educator excellence innovation plan and grant application to TEA. A local decision to approve and

submit a plan and grant application may not be appealed to the commissioner.

A district may renew its local educator excellence innovation plan for three consecutive school years without resubmitting a full grant application to TEA. With TEA approval, a district may amend its local plan in accordance with 19 Administrative Code 102.1073(c) and (h) for each school year the district receives a program grant.

Use of Grant Funds

A district may use grant funds only to carry out purposes of the program as described at Education Code 21.7011, in accordance with the district's local plan, which may include the following specific methods or procedures:

1. Implementation and administration of a high-quality mentoring program for teachers in the first three years of classroom teaching using mentors who meet the qualifications prescribed by Education Code 21.458 [see Mentor Teachers, below];
2. Implementation of a teacher evaluation system using multiple measures that include:
    a. The results of classroom observation, which may include student comments;
    b. The degree of student educational growth and learning; and
    c. The results of teacher self-evaluation;
3. To the extent permitted under Education Code Chapter 25, Subchapter C, restructuring of the school day or school year to provide for embedded and collaborative learning communities for the purpose of professional development [see EC];
4. Establishment of an alternative teacher compensation or retention system; and
5. Implementation of incentives designed to reduce teacher turnover.

Waiver Request

A district may apply to the commissioner in writing for a waiver to exempt the district or one or more district campuses from one or more of the statutory sections listed at Education Code 21.7061(a).

The application for the waiver must demonstrate:

1. Why waiving the identified section of the Education Code is necessary to carry out the purposes of the program;

2. Approval for the waiver by a vote of a majority of the members of the board;

3. Approval for the waiver by a vote of a majority of the educators employed at each campus for which the waiver is sought; and

4. Evidence that the voting occurred during the school year and in a manner that ensured that all educators entitled to vote had a reasonable opportunity to participate in the voting.

Neither the board nor the superintendent may compel a waiver of rights under Education Code 21.7061.

Not later than April 1 of the year in which the waiver application is submitted, the commissioner shall notify the district in writing whether the application has been granted or denied. A waiver expires when the waiver is no longer necessary to carry out the purposes of the program, in accordance with the district's local educator excellence innovation plan.

Education Code Ch. 21, Subch. O; 19 TAC 102.1073

Local Optional Teacher Designation System

A district may designate a classroom teacher as a master, exemplary, or recognized teacher for a five-year period based on the results from single year or multiyear appraisals [see DNA]. *Education Code 21.3521(a)*

Rules

The commissioner's rules specify the requirements for districts to implement local teacher designation systems, including teacher eligibility, application procedures and the approval process, system expansion and amendments, monitoring and program evaluation, continuing approval and renewal, and funding. *19 TAC 150.1012*

Standards

The commissioner's rules establish performance and validity standards for each local optional teacher designation system that:

1. Must provide a mathematical possibility that all teachers eligible for a designation may earn the designation; and

2. May not require a district to use an assessment instrument adopted under Education Code 39.023 to evaluate teacher performance.

Education Code 21.3521(b); 19 TAC 150.1014

A classroom teacher that holds a National Board Certification issued by the National Board for Professional Teaching Standards may be designated as recognized. *Education Code 21.3521(c); 19 TAC 150.1013*

Assistance

TEA shall develop and provide technical assistance for districts that request assistance in implementing a local optional teacher designation system, including assistance in prioritizing high needs campuses. *Education Code 21.3521(e)*

No Property Right

A teacher has no vested property right in a teacher designation assigned under a local optional teacher designation system. A teacher designation is void in the determination that the designation was issued improperly, and the Administrative Procedure Act does not apply to the voiding of a local optional teacher designation. *Education Code 21.3521(f)*

Teacher Incentive Allotment

For each classroom teacher with a local optional teacher designation, a district is entitled to an allotment, adjusted by high needs and rural factors, as determined under Education Code 48.112.

A district shall annually certify that:

1. Funds received were used as follows:
    a. At least 90 percent was used for the compensation of teachers employed at the campus at which the teacher for whom the district received the allotment is employed; and
    b. Any other funds were used for costs associated with implementing the local optional teacher designation system, including efforts to support teachers in obtaining designations; and
2. The district prioritized high needs campuses in the district in using funds.

Education Code 48.112(c), (i)

Evaluations

TEA shall periodically conduct evaluations of the effectiveness of the local optional teacher designation systems and the teacher incentive allotment and report the results of the evaluations to the legislature. A district that has implemented a local optional teacher designation system or received funds under the teacher incentive allotment shall participate in the evaluations. *Education Code 21.3521(g)*

Mentor Teachers

A district may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;

2. To the extent practicable, teach the same subject or grade level, as applicable; and

3. Meet the qualifications prescribed by commissioner's rules.

Education Code 21.458(a)

Rules

The commissioner's rules specify the requirements for districts to implement mentor training programs, including program requirements, application approval process, ongoing verification and compliance, allowable expenditures, and program review. *19 TAC 153.1011*

Assignment of Mentor

To be assigned as a mentor, a teacher must agree to serve as a mentor teacher for at least one school year. The assignment must begin not later than the 30th day of employment of the classroom teacher to whom the mentor teacher is assigned. A district must agree to assign a mentor to a new classroom teacher for at least two school years. *Education Code 21.458(a-1)*

Requirements for Mentor

The commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the commissioner;

2. Complete a training program provided by the district, which the district may allow to be satisfied by completing the commissioner's research-based mentor and induction training program above;

3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance; and

4. Demonstrate interpersonal skills, instructional effectiveness, and leadership skills.

Education Code 21.458(b)

Training

A district must provide the training program described above to mentor teachers and any appropriate district and campus employees who work with the classroom teacher or supervise the classroom teacher. A district may allow the commissioner's research-based mentor and induction training program to qualify for the district's required training. The training must be completed by the mentor teacher and the district and campus employees before the beginning of the school year. A district shall also provide supplemental training to mentor teachers and employees during the school year. The training must include content related to best mentorship practices. *Education Code 21.458(b-1)*

Mentoring Sessions

A mentor teacher must meet with each classroom teacher assigned to the mentor not less than 12 hours each semester. Observations of the mentor by the classroom teacher being mentored or of the classroom teacher being mentored by the mentor may count toward the 12 hours of meeting time required for the semester.

Unless the district has created a mentoring curriculum as provided below, the mentoring sessions must address the following topics:

1. Orientation to the context, policies, and practices of the school district;
2. Data-driven instructional practices;
3. Specific instructional coaching cycles, including coaching regarding conferences between parents and the classroom teacher;
4. Professional development; and
5. Professional expectations.

Subject to approval by TEA, in determining the topics to be addressed in the mentoring sessions, a school district may create an appropriate curriculum that meets the district needs.

A district must:

1. Designate a specific time during the regularly contracted school day for meetings between mentor teachers and classroom teachers assigned to a mentor; and
2. Schedule release time or a reduced teaching load for mentor teachers and classroom teachers under this section to facilitate mentoring activities, including classroom observations or participation in supportive coaching.

Education Code 21.458(f), (f-1)

Allotment

A school district that has implemented a mentoring program is entitled to an allotment to fund the mentoring program and provide stipends for mentor teachers under a formula adopted by the commissioner.

Funding may be used only for providing:

1. Mentor teacher stipends;
2. Scheduled release time for mentor teachers and the classroom teachers to whom they are assigned for meeting and engaging in mentoring activities; and

3. Mentoring support through providers of mentor training.

Education Code 48.114

Achievement Academy Stipends

A stipend received by a teacher who attends a literacy or mathematics achievement academy is not considered in determining whether a district is paying the teacher the minimum monthly salary under Education Code 21.402. *Education Code 21.4552(d), .4553(d)*

A stipend received by a school counselor or teacher who attends a postsecondary education and career counseling academy under Education Code 33.009 is not considered in determining whether a district is paying the school counselor or teacher the minimum monthly salary under Education Code 21.402. *Education Code 33.009(h)*

Autism Training

A district may provide a salary incentive or similar compensation to a teacher who completes training provided by a regional education service center (ESC) relating to autism. A school district that decides to provide an incentive or compensation shall adopt a policy to implement this section. *Education Code 21.465*

Retirement Incentives

A district may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

Attendance Supplement

A district shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*

Note: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

State Leave

State Personal Leave

A district shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. A district may provide additional personal leave beyond this minimum.

A board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

State Sick Leave (Accumulated Prior to 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.
5. During military leave [see Use During Military Leave, below].

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

Former Education Service Center Employees

A district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

Order of Use

A board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the school district.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

Use During Military Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB]

Temporary Disability

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

At Employee's Request

A request for a leave of absence for temporary disability must be made to a superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

By Board Authority

A board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties. [See DBB]

Return to Active Duty

Notice

The educator shall notify the superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.

Placement

An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, a district must place the

employee at the school at which the employee formerly taught or was assigned.

Length of Absence

A superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. A board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.

Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)

Sick Leave Different from Temporary Disability Leave

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. *Atty. Gen. Op. H-352 (1974)*

Assault Leave

In addition to all other days of leave, a district employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at Coordination with Workers' Compensation Benefits.

A district employee is physically assaulted if the person engaging in the conduct causing injury to the employee:

1. Could be prosecuted for assault; or
2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

Notice of Rights

Any informational handbook a district provides to employees in an electronic or paper form or makes available by posting on the district's website must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by a district through which an employee may request personal leave must include assault leave as an option.

Assignment to Assault Leave

At the request of an employee, a district must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, a district may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.

Coordination with Workers' Compensation Benefits

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.

Education Code 22.003(b)–(c-1)

Religious Observances

A district shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of district business. Such absence shall be without pay unless applicable paid leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)*

Compliance with a Subpoena

An employer may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

Note: A Texas federal court held that by omitting any reference to governmental entities from Labor Code 52.051, the state legislature intended to exclude governmental entities from the definition of "employer" contained within that section. Therefore, the statute did not waive a county's governmental immunity from liability for claims of retaliatory discharge of an employee for complying with a subpoena. *Alcala v. Texas Webb County*, 620 F. Supp. 2d 795 (S.D. Tex. 2009)

Jury Duty

An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror [see DG]. *Education Code 22.006(c)*

Attendance at Truancy Hearing

A district may not terminate the employment of a permanent employee because the employee is required under Family Code 65.062(b) to attend a truancy court hearing. *Family Code 65.063*

Developmental Leaves of Absence

A board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in a district at least five consecutive school years.

A developmental leave of absence may be granted for one school year at one-half salary or for one-half of a school year at full salary paid to the employee in the same manner, on the same schedule,

and with the same deductions as if the employee were on full-time duty.

An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of a district for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in a district.

Education Code 21.452

Leave for Sick Foster Child

An employer commits an unlawful employment practice under Labor Code, Chapter 21 if:

1. The employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
2. The leave policy does not treat in the same manner as an employee's biological or adopted minor child any foster child of the employee who:
    a. Resides in the same household as the employee; and
    b. Is under the conservatorship of the Texas Department of Family and Protective Services.

Labor Code 21.0595

Leave for Peace Officers

Quarantine Leave

A board shall develop and implement a paid quarantine leave policy for peace officers who are employed by the district and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

A paid quarantine leave policy must:

1. Provide that a peace officer on paid quarantine leave receive:
    a. All employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits for the duration of the leave; and
    b. Reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation; and
2. Require that the leave be ordered by the person’s supervisor or the district’s health authority.

A district may not reduce a peace officer’s sick leave balance, vacation leave balance, holiday leave balance, or other paid leave

balance in connection with paid quarantine leave taken in accordance with the district's policy.

Local Gov't Code 180.008

Mental Health Leave

A district shall develop and adopt a policy allowing the use of mental health leave by peace officers employed by the district who experience a traumatic event in the scope of that employment.

The mental health leave policy must:

1. Provide clear and objective guidelines establishing the circumstances under which a peace officer is granted mental health leave and may use mental health leave;
2. Entitle a peace officer to mental health leave without a deduction in salary or other compensation;
3. Enumerate the number of mental health leave days available to a peace officer; and
4. Detail the level of anonymity for a peace officer who takes mental health leave.

The mental health leave policy may provide a list of mental health services available to peace officers in the area of the district.

Gov't Code 614.015

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc., 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996) (workers' compensation claim); Gonzalez v. El Paso Natural Gas Co., 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)*

[Some employees may have protected status even after the expiration of all other leave. See DAA.]

Note: This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA.

Federal Military Leave

Reemployment

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to a district (unless notice is precluded by military necessity or is otherwise unreasonable or impossible);
2. The cumulative length of the absence and of all previous absences from a position of employment with the district does not exceed five years; and
3. The person reports to or submits an application for reemployment to the district and complies with the appropriate procedural requirements that apply under the circumstances.

For purposes of federal military leave, "uniformed services" means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President in time of war or emergency.

A person who is reemployed under USERRA is entitled to the seniority, and other rights and benefits determined by seniority, that the person had on the date of the commencement of uniformed service, plus the additional seniority, rights, and benefits that such person would have attained if the person had remained continuously employed.

Exception

A district is not required to reemploy a person if:

1. The district's circumstances have so changed as to make reemployment impossible or unreasonable;
2. The reemployment of such person would impose an undue hardship on the district; or

3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

38 U.S.C. 4301, et. seq.

State Leave for Member of Military or Rescue Team

Leave of Absence

An employee of a district who is a member of the state military forces, a reserve component of the United States Armed Forces, or a member of a state or federally authorized Urban Search and Rescue team shall be granted a paid leave of absence from the employee's duties without loss of time, efficiency rating, vacation time, personal time, sick leave, or salary on all days during which the employee is engaged in authorized training or duty ordered or authorized by proper authority. Such leave shall not exceed 15 workdays in a fiscal year.

On employment, a district shall provide written notice of the number of workdays of paid leave to which an employee is entitled each fiscal year under Government Code 437.202(a).

On request, a district shall provide to an employee a statement that contains the number of workdays for which the employee claimed paid leave under Government Code 437.202(a) in that fiscal year.

An employee of a district with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

Gov't Code 437.202(a), (d), (e)–(f)

Disaster Leave of Absence

In addition to the leave of absence above, an employee described above called to state active duty by the governor or another appropriate authority in response to a disaster, as defined by Government Code 418.004, is entitled to a paid leave of absence from the person's duties for each day the person is called to active duty during the disaster, not to exceed seven workdays in a fiscal year. During a leave of absence for a disaster, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. *Gov't Code 437.202(a-1)*

Called to Duty

A service member of the Texas military forces who is ordered to state active duty or training and other duty by the governor or other proper authority under state law is entitled to the same benefits and protections provided to persons performing service in the uniformed services under 38 U.S.C. 4301–4313 and 4316–4319 (USERRA) and to persons in the military service of the United

States under 50 U.S.C. 3901-3959, 3991, and 4011-4026. *Gov't Code 437.213*

Reemployment

After Authorized Training or Duty

A district may not terminate the employment of an employee who is a member of the military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. *Gov't Code 437.204*

After Active Military Service

Any employee, other than a temporary employee, who leaves a position with a district to enter active military service is entitled to be reemployed by the district in the same position held at the time of the induction, enlistment, or order, or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position. *Gov't Code 613.001(3), .002*

An employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in a district in a position that the employee can perform and that has like seniority, status, and pay as the former position, or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

To be reemployed, a veteran of the military must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. Application must be made in writing to the superintendent and have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions. *Gov't Code 613.004*

A person reemployed after active military service shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

"Military service" means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard, or the Texas State Guard. *Gov't Code 613.001(2)*

Use of Personal Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. This provision applies to any personal or sick leave available under former law or provided by local policy.

A district may adopt a policy providing for paid leave for active military service as part of the consideration of employment.

Education Code 22.003(d), (e)

Resignation without Consent (Unilateral Resignation)

An educator employed under a probationary contract for the following school year, or under a term or continuing contract, may relinquish the position and leave district employment at the end of the school year without penalty by filing a written resignation with a board or a board's designee not later than the 45th day before the first day of instruction of the following school year.

A written resignation mailed by prepaid certified or registered mail to a board president or a board's designee at the post office address of the district is considered filed at the time of mailing.

Education Code 21.105(a), .160(a), .210(a)

An unequivocal resignation filed not later than the 45th day before the first day of instruction of the following school year is effective upon filing with a district and the district cannot reject such a resignation. The resignation cannot be withdrawn by the teacher based on an argument that the district has not accepted the resignation. *Fantroy v. Dallas Indep. Sch. Dist., Tex. Comm'r of Educ. Decision. No. 034-R8-0206 (Mar. 5, 2009); Garcia v. Miles Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 055-RI-503 (Nov. 30, 2006).*

Resignation with Consent

The educator may resign, with the consent of the board or the board's designee, at any other time. *Education Code 21.105(b), .160(b), .210(b)*

Sanctions for Abandonment of Contract

On written complaint by a district, the State Board for Educator Certification (SBEC) may impose sanctions against an educator who is employed under a probationary contract, or under a continuing or term contract, for the following school year, and who:

1. Resigns;
2. Fails without good cause to comply with the resignation deadline or the provision regarding resignation by consent; and
3. Fails without good cause to perform the contract.

Education Code 21.105(c), .160(c), .210(c)

Acceptance or approval of a resignation indicates consent to abandonment of contract. *Quitman Indep. Sch. Dist. v. Wilkerson, Tex. Comm'r of Educ. Decision No. 142-TTC-698 (Dec. 2, 1999); Houston Indep. Sch. Dist. v. Johnson, Tex. Comm'r of Educ. Decision No. 054-TTC-1196 (Sept. 28, 1998)*

Notice to Teacher

If a district submits a complaint regarding a teacher to SBEC, the district shall promptly notify the teacher of the complaint. The notice must include:

1. The basis of the complaint;

2. Information regarding how the teacher may contact SBEC; and

3. A reminder that the teacher should verify that the teacher's mailing address on file with SBEC is current.

SBEC Actions

Before imposing sanctions against a teacher for abandonment of contract, SBEC:

1. Must consider any mitigating factors relevant to the teacher's conduct; and

2. May consider alternatives to sanctions, including additional continuing education or training.

If a teacher files a written resignation after the 45th day but not later than the 30th day before the first day of instruction of the following school year, SBEC may not suspend or revoke the teacher's certificate.

Education Code 21.105(d)–(f), .160(d)–(f), .210(d)–(f)

SBEC shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract unless a board:

1. Submits a written complaint within 30 calendar days after the effective date of the educator's separation from employment from the district. Unless the district and the educator have a written agreement to the contrary, the effective date of separation from employment is the first day that, without district permission, the educator fails to appear for work under the contract.

2. Renders a finding that good cause did not exist under Education Code 21.105(c)(2) (probationary contract), 21.160(c)(2) (continuing contract), or 21.210(c)(2) (term contract). This finding constitutes prima facie evidence of the educator's lack of good cause but is not a conclusive determination.

3. Submits the following required attachments to the written complaint:

    a. The educator's resignation letter, if any;

    b. The agreement with the educator regarding the effective date of separation from employment, if any;

    c. The educator's contract; and

    d. Board meeting minutes indicating a finding of "no good cause." If the board does not meet within 30 calendar days of the educator's separation from employment, the

minutes may be submitted within ten calendar days after the next board meeting.

19 TAC 249.14(j)

Good Cause

SBEC may consider the following factors when an educator is reported to have abandoned a contract in violation of Education Code 21.105(c), 21.160(c), or 21.210(c):

1. Serious illness or health condition of the educator or close family member of the educator;
2. Relocation to a new city as a result of change in employer of the educator's spouse or partner who resides with the educator; or
3. Significant change in the educator's family needs that requires the educator to relocate or to devote more time than allowed by current employment.

Mitigating Factors

SBEC may consider the following factors when seeking, proposing, or making a decision regarding an educator who has abandoned a contract in violation of Education Code 21.105(c), 21.160(c), or 21.210(c):

1. Educator gave written notice to school district 30 days or more in advance of the first day of instruction for which the educator will not be present;
2. Educator assisted school district in finding a replacement educator to fill the position;
3. Educator continued to work until the school district hired a replacement educator;
4. Educator assisted in training the replacement educator;
5. Educator showed good faith in communications and negotiations with school district; or
6. Educator provided lesson plans for classes following educator's resignation.

19 TAC 249.17(d)

Required Report to SBEC

A superintendent shall report the educator's resignation to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB]
Education Code 21.006

Investigation

A superintendent of a district, including a district of innovation, shall complete an investigation of an educator that involves evidence

that the educator may have abused or otherwise committed an unlawful act, was involved in a romantic relationship with, or solicited or engaged in sexual contact with a student or minor, despite the educator's resignation from employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

Report by Principal

A person who serves as a principal in a district, including a district of innovation, must notify the superintendent, and may be subject to sanctions for failure to do so, not later than the seventh business day after the date of an educator's resignation following an alleged incident of misconduct described by Education Code 21.006(b) [see DP]. *Education Code 21.006(b-2); 19 TAC 249.14(e)*

General Requirements

All resignations shall be submitted in writing to the Superintendent or other person designated by Board action in accordance with this policy. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

At-Will Employees

The Superintendent shall be authorized to accept the resignation of an at-will employee at any time. The Superintendent may delegate to other administrators the authority to accept a resignation of an at-will employee.

Contract Employees

The Superintendent or other person designated by Board action shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action. The resignation requires no further action by the District and is accepted upon receipt by the Superintendent or other person designated by Board action.

The Superintendent, the deputy superintendent, assistant superintendent of human resources services, or other person designated by Board action shall be authorized to accept a contract employee's resignation submitted or effective at any other time; however, the deputy superintendent or assistant superintendent of human resources services shall be authorized to accept the resignation of a contract employee only in the event of the Superintendent's absence. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action. The Superintendent or other person designated by Board action shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

Withdrawal of Resignation

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

Employee Free Speech

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969) [See also GKD]

Whistleblower Protection

A board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by a district or another public employee to an appropriate law enforcement authority.

A "report" is made to an "appropriate law enforcement authority" if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov't Code 554.002

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov't Code 554.008*

Definitions

"Employee" means an employee or appointed officer who is paid to perform services for a district. It does not include independent contractors. *Gov't Code 554.001(4)*

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov't Code 554.001(1)*

A "good faith" belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and

2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
   a. Regulate under or enforce the law alleged to be violated in the report, or
   b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dep't of Transp. v. Needham, 82 S.W.3d 314 (Tex. 2002)

Whistleblower Complaints

An employee who alleges a violation of whistleblower protection may sue a district for injunctive relief, actual damages, court costs, and attorney's fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

Initiate Grievance

Before suing, an employee must initiate action under a district's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke a district's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

Legal Action

If a board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust a district's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or
2. Terminate district grievance procedures and sue within the timelines established by Government Code 554.005 and 554.006.

Gov't Code 554.005, 554.006 [See DGBA regarding grievance procedures]

Burden of Proof	If the employee brings a lawsuit, the employee has the burden of proof unless the suspension, termination, or adverse personnel action occurred within 90 days after the employee reported a violation of law, in which case the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.
Affirmative Defense	It is an affirmative defense to a whistleblower suit that the district would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under the whistleblower law. *Gov't Code 554.004*
Notice of Rights	A board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. *Gov't Code 554.009*

Right to Report a Crime

A district employee may report a crime witnessed at the school to any peace officer with authority to investigate the crime. A district may not adopt a policy requiring a school employee to refrain from reporting a crime witnessed at the school or to report a crime witnessed at the school only to certain persons or peace officers. *Education Code 37.148*

Protection for Reporting Child Abuse

A district may not suspend or terminate the employment of, discriminate against, or take other adverse employment action against a professional employee who in good faith:

1. Reports child abuse or neglect to:
    a. The person's supervisor,
    b. An administrator of the facility where the person is employed,
    c. A state regulatory agency, or
    d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

"Adverse employment action" means an action that affects an employee 's compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect under Family Code 261.101.

A person may sue for injunctive relief, damages, or both if the person is suspended or terminated from the person's employment; is discriminated against; or suffers any other adverse employment action.

A district employee who has a cause of action under the provisions at Whistleblower Protection, above, may not bring an action under Protection for Reporting Child Abuse.

Family Code 261.110(a)–(c), (l)

Protection from Disciplinary Proceedings

For purposes of the following provisions, "disciplinary proceeding" means discharge or suspension of a professional employee, or termination or nonrenewal of a professional employee's term contract. [See DGC regarding immunity] *Education Code 22.0512(b)*

Reporting Child Abuse or Maltreatment

A district employee may not be subject to any disciplinary proceeding resulting from an action taken in compliance with Education Code 38.0041 [prevention of child abuse and other maltreatment, see FFG]. *Education Code 38.0041(g)*

Use of Physical Force

A professional employee may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Penal Code 9.62. This provision does not prohibit a district from enforcing a policy relating to corporal punishment or bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment. *Education Code 22.0512(a); Tex. Att'y Gen. Op. GA-0202 (2004)*

Penal Code 9.62 provides that the use of force, other than deadly force, against a person is justified:

1. If the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and
2. When and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

Penal Code 9.62

Failure to Follow Scope and Sequence

A district may not penalize a teacher who does not follow a recommended or designated scope and sequence for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level based on the teacher's determination that the teacher's students need more or less time in a specific area to demonstrate proficiency in the essential knowledge and skills for that subject and grade level [see EHAA].

A district may take appropriate action with respect to a teacher for conduct described above based on documented evidence of a deficiency in classroom instruction obtained through observation or substantiated and documented third-party information.

Education Code 28.0027(b), (c)

Instructional Materials and Technological Equipment

A board may not require an employee who acts in good faith to pay for instructional materials or technological equipment that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

Exception

A district may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic instructional material or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the employee to use the electronic instructional material or technological equipment for personal business.

The written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to enter into such an agreement as a condition of employment.

Education Code 31.104(e); 19 TAC 66.107(c)

Controversial Topics in Social Studies Courses

For any social studies course in the required curriculum, a teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs. *Education Code 28.002(h-3)*

Note: For requirements for any social studies course in the required curriculum, including requirements for student discussion, see EMB.

Jury Duty

A district may not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States. An employee who is discharged, threatened with discharge, intimidated, or coerced is entitled to return to the same employment that the employee held when summoned for jury or grand jury service if the employee, as soon as practical after release from jury or grand jury service, gives the employer actual notice that the employee intends to return. *Civ. Prac. and Rem. Code 122.001*

A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against a school district employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a school district shall pay the employee the employee's normal daily compensation [see DEC]. *Education Code 22.006(a), (b)*

Breaks for Nursing Mothers—Nonexempt Employees

A district shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. The district shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

A district is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

A district that employs fewer than 50 employees is not subject to these requirements if the requirements would impose an undue hardship by causing the district significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the district.

29 U.S.C. 207(r)

Right to Express Breast Milk

A district employee is entitled to express breast milk at the employee's workplace. *Gov't Code 619.002*

The district shall develop a written policy on the expression of breast milk by employees under Government Code Chapter 619. The policy must state that the district shall support the practice of expressing breast milk and make reasonable accommodations for the needs of employees who express breast milk.

A district shall provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk. The district shall provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

A district may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under Government Code Chapter 619. Government Code Chapter 619 does not create a private or state cause of action against a district.

Gov't Code Ch. 619

Charitable Contributions

A board or a district employee may not directly or indirectly require or coerce any district employee to:

1. Make a contribution to a charitable organization or in response to a fund-raiser; or
2. Attend a meeting called for the purpose of soliciting charitable contributions.

A board or district employee may not directly or indirectly require or coerce any district employee to refrain from the same acts.

Education Code 22.011

Protection of Nurses

A district may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;
2. Constitutes a minor incident, as defined at Occupations Code 301.419; or
3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the district at the time of the refusal that this is the reason for refusing to engage in the act or omission.

Occupations Code 301.352(a)

Immunity from Individual Liability

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

Professional Employees

A professional employee of a district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion, except in circumstances where, in disciplining a student, the employee uses excessive force or his or her negligence results in bodily injury to the student.

"Professional employee of a district" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with a district to provide the teacher's services to the district; a supervisor; social worker; school counselor; nurse; teacher's aide; a student in an education preparation program participating in a field experience or internship; a DPS-certified school bus driver, and any other person whose employment requires certification and the exercise of discretion.

Motor Vehicle Exception

Education Code 22.0511 does not apply to the operation, use, or maintenance of any motor vehicle.

Education Code 22.0511(a)–(b), .051; Hopkins v. Spring Indep. Sch. Dist., 736 S.W.2d 617 (Tex. 1987); Barr v. Bernhard, 562 S.W.2d 844 (Tex. 1978)

Individuals

In addition to the immunity described above [at Professional Employees], and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (Coverdell Act). [See Teachers, below] Nothing in Education Code 22.0511(c) shall be construed to limit or abridge any immunity or protection afforded an individual under state law. *Education Code 22.0511(c)*

No Waiver

A district may not, by policy, contract, or administrative directive:

1. Require an employee to waive the employee's immunity from liability under Education Code 22.0511; or
2. Require an employee who acts in good faith to pay for or replace property belonging to a student or other person that the employee possessed because of an act incident to or within the scope of employment. [See DG(LEGAL) at Instructional Materials and Technological Equipment]

Education Code 22.0511(d)

Teachers (Coverdell Act)

Except as provided in 20 U.S.C. Section 7946(b), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if:

1. The teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;
2. The actions of the teacher were carried out in conformity with federal, state, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;
3. If appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the state in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;
4. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and
5. The harm was not caused by the teacher's operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to:
    a. Possess an operator's license; or
    b. Maintain insurance.

"Teacher" means:

1. A teacher, instructor, principal, or administrator;
2. Another educational professional who works in a school;
3. An individual member of a school board (as distinct from the board); or
4. A professional or nonprofessional employee who works in a school, and:
    a. In the employee's job, maintains discipline or ensures safety; or

b. In an emergency, is called on to maintain discipline or ensure safety.

20 U.S.C. Sections 7943, 7946(a)

Report of Drug Offenses

A teacher, administrator, or other district employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property any of the following substances:

1. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act.
2. A dangerous drug, as defined by the Texas Dangerous Drug Act.
3. An abusable glue or aerosol paint, as defined by Health and Safety Code Chapter 485, or a volatile chemical, if the substance is used or sold for the purpose of inhaling its fumes or vapors.
4. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

Education Code 37.016

Report to Local Law Enforcement

A principal or person designated by the principal is not liable in civil damages for making a good faith report to law enforcement, as required by law, of an activity specified at Education Code 37.015. *Education Code 37.015* [See GRAA]

Child Abuse and Maltreatment

The requirements of Education Code 38.0041 [regarding prevention of abuse and other maltreatment of children, see FFG] are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Education Code 22.0511 [see Immunity from Individual Liability, above]. *Education Code 38.0041* [See DG regarding protection from disciplinary proceedings]

Attendance Committee Membership

A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee. *Education Code 25.092(c)*

Administration of Medication

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 Education Code 22.052. *Education Code 22.052(a), (b)* [See FFAC]

Immunity for Mental Health First Aid

A person who has completed a mental health first aid training program offered by a local mental health authority and who in good faith attempts to assist an individual experiencing a mental health crisis is not liable in civil damages for an act performed in attempting to assist the individual unless the act is willfully or wantonly negligent. *Health and Safety Code 1001.206.*

Immunity for Shelter Workers

An officer or employee of a district is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006, 431.085*

Liability for Causing Exposure to Pandemic Disease

A person is not liable for injury or death caused by exposing an individual to a pandemic disease during a pandemic emergency except as provided by Civil Practice and Remedies Code Chapter 148. *Civ. Prac. & Rem. Code 148.003(a)*

Educator Ethics

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

Education Code 21.041(b)(8); 19 TAC 247.1(b), (c)

Public Servants

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

Electronic Communication Policy

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes emails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or email address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

Education Code 38.027

Public Information on Private Device

A current or former board member or employee of a district who maintains public information on a privately owned device shall:

1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or

2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under 552.004(a).

Gov't Code 552.004(b) [See GB]

Loss of Retirement Annuity for Conviction of Certain Felonies

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);

2. Section 21.12 (improper relationship between educator and student); or

3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

Gov't Code 824.009

Transportation or Storage of Firearm in School Parking Area

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125, Penal Code 46.03, or other law. [See GKA]

Education Code 37.0815

Tobacco and E-Cigarettes

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

Education Code 38.006(b) [See also FNCD and GKA]

Drug and Alcohol Abuse Program

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

Federal Drug-Free Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the district's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
    a. The dangers of drug abuse in the workplace;
    b. The district's policy of maintaining a drug-free workplace;
    c. Available drug counseling, rehabilitation, and employee assistance programs; and
    d. The penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement;
4. Notifying the employee in the required statement that as a condition of employment in the grant the employee will:
    a. Abide by the terms of the statement; and
    b. Notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;
5. Notifying the granting agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of a conviction;

6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. section 8104; and

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above requirements.

41 U.S.C. 8103(a)(1)

Dietary Supplements

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute 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 duties; or

2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

Education Code 38.011

Low-THC Cannabis

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

Note: This policy addresses the prohibition against discrimination, harassment, and retaliation with respect to compensation, terms, conditions, or privileges of employment. For legally referenced material relating to the prohibition against discrimination in hiring and discharging employees, see DAA(LEGAL).

For provisions related to harassment of students, including the district's response to sexual harassment as defined by Title IX, see FFH.

Unlawful Employment Discrimination

It is an unlawful employment practice for a district to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's:

1. Race, color, or national origin;
2. Religion;
3. Sex;
4. Age;
5. Disability; or
6. Genetic information [see DAB].

Federal Law

Section 1981 of the Civil Rights Act of 1866 (Section 1981)—race. *42 U.S.C. 1981*

Title VII of the Civil Rights Act of 1964 (Title VII)—race, color, religion, sex, and national origin. *42 U.S.C. 2000e et seq.*

Age Discrimination in Employment Act of 1967 (ADEA)—age, over 40. *29 U.S.C. 621 et seq.*

Section 504 of the Rehabilitation Act of 1973 (Section 504)—disability in programs receiving federal funds. *29 U.S.C. 794*

Title I of the Americans with Disabilities Act of 1990 (ADA)—disability. *42 U.S.C. 12101 et seq.*

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)—genetic information. *42 U.S.C. 2000ff et seq.*

Note: Title VII, the ADA, and GINA do not apply to employers unless the employer has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. *42 U.S.C. 2000e(b); 42 U.S.C. 12111(5); 42 U.S.C. 2000ff(2)(B)*

State Law

Texas Commission on Human Rights Act (TCHRA)—race, color, disability, religion, sex, national origin, age, and genetic information. *Labor Code 21.051, .402*

State policy on employment of persons with disabilities. *Human Resources Code 121.003(f)*

Prohibition on Retaliation

A district may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 42 U.S.C. 12203 (ADA); Labor Code 21.055*

Harassment-Free Workplace

Harassment on the basis of a protected characteristic is a violation of Title VII. A district has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 C.F.R. 1604.11(a), 1606.8(a)*

Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

29 C.F.R. 1604.11(a), (f), (g); Labor Code 21.141

An employer commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer’s agents or supervisors know or should have known that the conduct constituting sexual harassment was occurring; and fail to take immediate and appropriate corrective action. *Labor Code 21.142*

Same-Sex Harassment

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

Criminal Offense—Official Oppression

A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.

A public servant acts under color of the public servant's office or employment if the person acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

Penal Code 39.03(a)(3), (b), (c)

Unpaid Interns

A district commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the district or its agents or supervisors know or should have known that the conduct constituting sexual harassment was occurring, and fail to take immediate and appropriate corrective action. *Labor Code 21.1065*

Prohibition on Use of Public Funds

A district may not use public money to settle or otherwise pay a sexual harassment claim made against a person who is an elected or appointed member of the board or an officer or employee of the district. *Local Gov't Code 180.008*

National Origin Harassment

Ethnic slurs and other verbal or physical conduct relating to an individual's national origin constitute harassment when this conduct:

1. Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

29 C.F.R. 1606.08(b)

Severe and Pervasive

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)*

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the

words used have sexual content or connotations. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

Prevention

A district should take all steps necessary to prevent unlawful harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. *29 C.F.R. 1604.11(f)*

Responsibility for Harassment by Third Parties

A district is responsible for acts of unlawful harassment by fellow employees and by nonemployees if the district, its agents, or its supervisory employees knew or should have known of the conduct, unless the district takes immediate and appropriate corrective action. *29 C.F.R. 1604.11(d), (e), 1606.8(d), (e)*

When no tangible employment action is taken, a district may raise the following affirmative defense:

1. That the district exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

Religious Discrimination

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless a district demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the district's business. "Undue hardship" means more than a *de minimus* (minimal) cost. *42 U.S.C. 2000e(j); 29 C.F.R. 1605.2; Labor Code 21.108*

Burden on Free Exercise

A district may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003*

Sex Discrimination

Pregnancy

The prohibition against discrimination because of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. A district shall treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k); 29 C.F.R. 1604.10; Labor Code 21.106*

Gay and Transgender	The prohibition against discrimination because of sex includes discrimination on the basis of an individual being gay or transgender. *Bostock v. Clayton County, Georgia, 17-1618, 2020 WL 3146686, (U.S. June 15, 2020)*
Gender Stereotypes	A district may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)*
Age Discrimination	The prohibition against discrimination on the basis of age applies only to discrimination against an individual 40 years of age or older. *29 U.S.C. 631; Labor Code 21.101*
Bona Fide Employee Benefit Plan	A district may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. 623(f); Labor Code 21.102*
Disability Discrimination	A district may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b); Labor Code 21.051* In addition, each district that receives assistance under the Individuals with Disabilities Education Act (IDEA) must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted by the IDEA. *34 C.F.R. 300.177(b)*
Discrimination Based on Lack of Disability	The ADA and the TCHRA do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b); Labor Code 21.005(c)*
Definition of Disability	"Disability" means: 1. An actual disability: a physical or mental impairment [see definition, below] that substantially limits one or more of an individual's major life activities; 2. A record of having such an impairment; or 3. Being regarded as having such an impairment. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

"Regarded as" Having an Impairment

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

Transitory and Minor

The "regarded as" prong of the definition does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. The "transitory" exception does not apply to the "actual disability" or "record of disability" prongs of the definition.

Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 C.F.R. 1630.2(g), (j)(1); Labor Code 21.002, .0021

Other Definitions

"Physical or mental impairment" means:

Physical or Mental Impairment

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

Major Life Activities

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

"Major life activities" also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i); Labor Code 21.002

Qualified Individual

"Qualified individual" means an individual who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and

2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to a district's judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)

Reasonable Accommodations

A district is required, absent undue hardship, to make a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the "actual disability" or "record of disability" prongs. A district is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the "regarded as" prong. *42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9; 29 U.S.C. 794; 34 C.F.R. 104.11; Labor Code 21.128* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)

	"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the district, and other factors set out in law. *42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)*
Discrimination Based on Relationship	A district shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8; 34 C.F.R. 104.11*
Illegal Drugs and Alcohol	The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when a district acts on the basis of such use.
Drug Testing	A district is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests. *42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A)* [See DHE]
Alcohol Use	The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 C.F.R. 1630.3(a); 28 C.F.R. 35.104; Labor Code 21.002(6)(A)*
Qualification Standards	It is unlawful for a district to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the district, is shown to be job related for the position in question and is consistent with business necessity. *29 C.F.R. 1630.10(a)*
Direct Threat to Health or Safety	As a qualification standard, a district may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 C.F.R. 1630.2(r); Labor Code 21.002(6)(B)*
Vision Standards and Tests	A district shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the district, is shown to be job-related for the position in question and

consistent with business necessity. *42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b); Labor Code 21.115(b)*

Communicable Diseases

A district may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. *42 U.S.C. 12113(e); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e); Labor Code 21.002(6)(B)*

Service Animals

A district that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to Section 504 of the Rehabilitation Act (employment discrimination) shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See Reasonable Accommodations, above]

A district that is not subject to either Title I or Section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. Part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FBA].

28 C.F.R. 35.140

Title IX

No person, on the basis of sex, shall be excluded from participation in, denied the benefits of, or be subjected to discrimination by a district receiving federal financial assistance. *20 U.S.C. 1681* [See FB, FFH]

Equal Pay

A district may not pay an employee at a rate less than the rate the district pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d) (Equal Pay Act); 34 C.F.R. 106.54 (Title IX)*

Grievance Procedures

Section 504

A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 C.F.R. 104.7(b), .11*

ADA

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. *28 C.F.R. 35.107, .140*

Title IX	A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 C.F.R. 106.8(c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)* [For legally referenced material relating to Title IX grievance procedures, see FFH(LEGAL).]
Compliance Coordinators	A district that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with Section 504 of the Rehabilitation Act. The district's Section 504 notification [see DAA] shall also identify the responsible employee so designated. *34 C.F.R. 104.7(a), .8(a)*
Section 504	
ADA	A district that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the ADA, including any investigation of any complaint communicated to it alleging its noncompliance with the ADA or alleging any actions that would be prohibited by the ADA. The district shall make available to all interested individuals the name, office address, and telephone number of the employee or employees so designated. *28 C.F.R. 35.107(a)*
ADEA	A district shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination in Employment Act (ADEA), including investigation of any complaints that the district receives alleging any actions that are prohibited by the ADEA. A district shall notify its employees of the identity of the responsible employee by name or title, address, and telephone number. *34 C.F.R. 110.25(a), (b)*
Title IX	A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator." The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district of the name or title, office address, electronic mail address, and telephone number of the employee(s) so designated. *34 C.F.R. 106.8(a)*

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)

Note: SBEC must publish the continuing education and training clearinghouse not later than June 1, 2022.

A district must adopt its professional development policy for district personnel not later than August 1, 2022.

Requirements

In designing educator staff development, 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-1), (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(4)

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 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.

Education Code 38.351(e), (g), (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 61.1051(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)*

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 Training

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 Training

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(g)*

Special Programs Training

Teacher Literacy Achievement 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. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.
2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.
3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

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 Training

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 in the subject matter of concussions:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL.
2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course approved by the Texas Department of Licensing and Regulation (TDLR) or a course approved for continuing education credit by the licensing authority for athletic trainers.
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, TDLR, or 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 regarding 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.]

Principal

Qualifications

A board, by local policy, shall adopt qualifications for principals. *Education Code 11.202(c)*

Certification

State Board for Educator Certification (SBEC) rules establish the requirements for receiving a principal certificate and for first-time principals in Texas. *19 TAC Ch. 241*

Duties

The principal shall be the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. *Education Code 11.202(a)*

A principal shall:

1. Approve all teacher and staff appointments for the campus. [See DK]
2. Set specific education objectives for the campus, through the planning process.
3. Develop budgets for the campus.
4. Assume administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus.
5. Assign, evaluate, and promote all personnel assigned to the campus.
6. Recommend to the superintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.
7. Perform any other duties assigned by the superintendent pursuant to board policy.
8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]
9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]
10. For high school principals, serve, or appoint someone to serve, as deputy voter registrar for the county in which the school is located. *Election Code 13.046; 1 TAC 81.7*

Education Code 11.202(b), .253(c), (h) [See also DMA]

Principal's Report to Superintendent

A principal must notify the superintendent not later than the seventh business day after the date:

Educators

1. Of an educator's termination of employment or resignation following an alleged incident of misconduct under Education Code 21.006(b); or
2. The principal knew about an educator's criminal record under Education Code 21.006(b)(1).

Education Code 21.006(b-2); 19 TAC 249.14(e) [See Required Reports at DHB(LEGAL)]

Noncertified Employees

A principal must notify the superintendent not later than the seventh business day after the date of a noncertified employee's termination or resignation following allegations that the employee:

1. Abused or otherwise committed an unlawful act with a student or minor; or
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

Education Code 22.093(e) [See Principal Notification at DHC(LEGAL)]

Sanctions and Administrative Penalty

SBEC determines whether to impose sanctions, including an administrative penalty, against a principal who fails to provide notification to a superintendent. *Education Code 21.006(f), 22.093(i); 19 TAC 249.14(e), (h)*

If a principal is required to notify a superintendent about an educator's criminal record or alleged incident of misconduct and fails to provide the notice by the required date, SBEC may impose an administrative penalty of not less than $500 and not more than $10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006 (i)*

Criminal Offense

A principal required to notify a superintendent about an employee's criminal record or alleged incident of misconduct commits a state jail felony if the principal fails to provide the notice by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(j), 22.093(k)*

School Nurse

Minimum Salary Schedule

For purposes of the minimum salary schedule, a school nurse is an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure,

and practice and has been issued a license to practice professional nursing in Texas. *19 TAC 153.1022(a)(1)(D)*

Licensed Vocational Nurse

The practice of vocational nursing must be performed under the supervision of an RN, physician, physician assistant, podiatrist, or dentist. *Occupations Code 301.353*

Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity. *22 TAC 217.11(2)*

Nursing Peer Review Committee

"Nursing peer review committee" includes a committee established under the authority of the governing body of a political subdivision for the purpose of conducting peer review.

A person shall establish a nursing peer review committee to conduct nursing peer review under Occupations Code Chapter 303 and Chapter 301:

1. For vocational nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses; and
2. For professional nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses, at least four of whom are RNs.

A person required to establish a nursing peer review committee under this section may contract with another entity to conduct peer review for the person.

Occupations Code 303.001(4), .0015

Note: Education Code 33.002 regarding certified school counselors applies only to school districts that apply for, receive, and allocate funds under Education Code 33.002(a).

Certified School Counselor

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.
2. Employing a part-time teacher who is also certified as a school counselor.

3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

Education Code 33.002

Note: Education Code 33.006 applies to all districts that employ school counselors.

School Counselor Duties

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

1. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:
   a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;
   b. In need of modified instructional strategies; or
   c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged;
2. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians;
3. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success;
4. Coordinate people and resources in the school, home, and community;
5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans;
6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum; and
7. Serve as an impartial, non-reporting resource for interpersonal conflicts and discord involving two or more students, including accusations of bullying under Education Code 37.0832.

Nothing in item 7, above, exempts a school counselor from any mandatory reporting requirements imposed by other provisions of law.

School Counselor Policy

A board shall adopt a policy that requires a school counselor to spend at least 80 percent of the school counselor's total work time on duties that are components of the district's comprehensive school counseling program under Education Code 33.005. [See FFEA] Time spent in administering assessment instruments or providing other assistance in connection with assessment instruments, except time spent in interpreting data from assessment instruments, is not considered time spent on counseling.

Each school in the district shall implement the policy. A copy of the policy shall be maintained in the office of each school in the district and made available on request during regular school hours to district employees, parents of district students, and the public.

Exception

If a board determines that, because of staffing needs in the district or at a school in the district, a school counselor must spend less than 80 percent of the school counselor's total work time on duties that are components of the district's comprehensive school counseling program, the policy shall:

1. Include the reasons why the counselor needs to spend less than 80 percent of the counselor's work time on duties that are components of the counseling program;
2. List the duties the counselor is expected to perform that are not components of the counseling program; and
3. Set the percentage of work time that the counselor is required to spend on components of the counseling program.

Counselor Contracts

A district may not include a provision in an employment contract with a school counselor under Education Code Chapter 21 that conflicts with the policy or, except as provided below, has the effect of authorizing a school principal or school district superintendent to require a school counselor to generally perform duties that are not primarily related to a counseling function.

A district that complies with the exception above may not include a provision in an employment contract under Education Code Chapter 21 with an affected school counselor that has the effect of requiring the counselor to generally perform a duty that is not primarily related to a counseling function unless the duty is specified in the district's policy as required above.

Annual Assessment

A district shall annually assess its compliance with its school counselor policy and, on request by the commissioner, provide a written

copy of the assessment to the Texas Education Agency (TEA) on or before the date specified by the commissioner.

Education Code 33.006

Nonphysician Mental Health Professional

A school district may employ or contract with one or more nonphysician mental health professionals.

In this section, "nonphysician mental health professional" means:

1. A psychologist licensed to practice in this state and designated as a health-service provider;
2. An RN with a master's or doctoral degree in psychiatric nursing;
3. A licensed clinical social worker;
4. A professional counselor licensed to practice in this state; or
5. A marriage and family therapist licensed to practice in this state.

Education Code 38.0101

Note: For information about mental health treatment, including counseling, see FFEA.

School Psychological Services

The Texas Behavioral Health Executive Council (TBHEC) has authority over the delivery of school psychological services in public schools. Recognizing the purview of the State Board of Education (SBOE) and TEA in safeguarding the rights of school children in Texas, the TBHEC adopts and enforces rules that reflect the occupational distinctions between the delivery of school psychological services in public schools and psychological services in the private sector. *22 TAC 465.38(a)*

Licensed Specialist in School Psychology (LSSP)

Licensed specialist in school psychology (LSSP) means a person who holds a license to engage in the practice of psychology under Occupations Code 501.260. *Occupations Code 501.002(2)*

School psychological services may be provided in Texas public schools only by an LSSP or other individual authorized by TBHEC in accordance with TBHEC rules. *22 TAC 465.38(e)*

Scope of Practice

An LSSP is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions that attempt to improve the learning, adjustment and behavior of students. These activities include, but are not limited to:

1. Addressing special education eligibility;
2. Conducting manifestation determinations;
3. Assisting with the development and implementation of individual educational programs (IEPs);
4. Conducting behavioral assessments; and
5. Designing and implementing behavioral interventions and supports.

The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

An LSSP may not provide psychological services in any context or capacity outside of a public or private school.

22 TAC 465.38(b), (c)

Standards

The delivery of school psychological services in Texas public schools shall be consistent with nationally recognized standards for the practice of school psychology.

Occupations Code 501.260(c); 22 TAC 465.38(b)(3)

Notice of Assignment or Subcontract

An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP shall be responsible for ensuring the school psychological services delivered comply with TBHEC standards. *22 TAC 465.38 (e)(3)*

Compliance with Applicable Education Laws

LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

1. Texas Education Code;
2. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g;
3. Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq.;
4. Texas Public Information Act, Texas Government Code, Chapter 552;
5. Section 504 of the Rehabilitation Act of 1973; and
6. Americans with Disabilities Act (ADA) 42 U.S.C. 12101.

22 TAC 465.38 (f)

Principal Qualifications

In addition to the minimal certification requirement, a principal shall have at least:

1. Working knowledge of curriculum and instruction;
2. The ability to evaluate instructional program and teaching effectiveness;
3. The ability to manage budgets and personnel and to coordinate campus functions;
4. The ability to explain policy, procedures, and data;
5. Strong communications, public relations, and interpersonal skills;
6. Prior experience in instructional leadership roles; and
7. Other qualifications deemed necessary by the Board and included in the job description.

School Counselors

In accordance with law, a school counselor shall spend 80 percent of the counselor's work time on duties that are components of a comprehensive school counseling program (CSCP). [See FFEA]

If the Board approves a determination by the administration that due to District or campus staffing needs or other reasons a school counselor is prevented from spending 80 percent of the counselor's work time on duties that are components of a CSCP, the Board shall direct the Superintendent to develop a revised job description for the school counselor that addresses the percentage of the school counselor's time that shall be spent on duties related to the components of a CSCP and the duties the school counselor is expected to perform in the remaining work time. The Superintendent shall report to the Board regarding adjustments to a school counselor's duties under this provision.

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 E: INSTRUCTION

EA	INSTRUCTIONAL GOALS AND OBJECTIVES
EB	SCHOOL YEAR
EC	SCHOOL DAY
ED	ORGANIZATION OF INSTRUCTION
EE	INSTRUCTIONAL ARRANGEMENTS
EEA	Grouping for Instruction
EEB	Class Size
EEC	Scheduling for Instruction
EED	Student Schedules
EEH	Homebound Instruction
EEJ	Individualized Learning
EEL	Contracts with Outside Agencies
EEM	Juvenile Residential Facilities
EEP	Lesson Plans
EF	INSTRUCTIONAL RESOURCES
EFA	Instructional Materials
EFB	Library Media Programs
EH	CURRICULUM DESIGN
EHA	Basic Instructional Program
EHAA	Required Instruction (All Levels)
EHAB	Required Instruction (Elementary)
EHAC	Required Instruction (Secondary)
EHAD	Elective Instruction
EHB	Special Programs
EHBA	Special Education
EHBAA	Identification, Evaluation, and Eligibility
EHBAB	ARD Committee and Individualized Education Program
EHBAC	Students in Non-District Placement
EHBAD	Transition Services
EHBAE	Procedural Requirements
EHBAF	Video/Audio Monitoring
EHBB	Gifted and Talented Students
EHBC	Compensatory/Accelerated Services
EHBD	Federal Title I
EHBE	Bilingual Education/ESL
EHBF	Career and Technical Education
EHBG	Prekindergarten
EHBH	Other Special Populations

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 E: INSTRUCTION

EHBI	Adult and Community Education
EHBJ	Innovative and Magnet Programs
EHBK	Other Instructional Initiatives
EHBL	High School Equivalency
EHBM	Travel Study
EHBN	Honors
EHD	Alternative Methods for Earning Credit
EHDA	Summer School
EHDB	Credit by Examination with Prior Instruction
EHDC	Credit by Examination without Prior Instruction
EHDD	College Course Work/Dual Credit
EHDE	Distance Learning
EI	ACADEMIC ACHIEVEMENT
EIA	Grading/Progress Reports to Parents
EIAA	Examinations
EIAB	Makeup Work
EIB	Homework
EIC	Class Ranking
EID	Honor Rolls
EIE	Retention and Promotion
EIF	Graduation
EK	TESTING PROGRAMS
EKB	State Assessment
EKBA	English Learners/Emergent Bilingual Students
EKC	Reading Assessment
EKD	Mathematics Assessment
EL	CAMPUS OR PROGRAM CHARTERS
ELA	Partnership Charters
EM	MISCELLANEOUS INSTRUCTIONAL POLICIES
EMA	Academic Freedom
EMB	Teaching About Controversial Issues
EMD	Ceremonies and Observances
EMG	Non-Service Animals
EMI	Study of Religion

Note: The Board has adopted an innovation plan[1] that affects application of provisions in this legally referenced policy.

School Start Date

A district may not begin instruction for students for a school year before the fourth Monday in August unless the district operates a year-round system (see below). A district may not receive a waiver of this requirement.

Exceptions

A district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may instead start school on any date permitted under the law of the other state.

A district with a student enrollment of 190,000 or more may begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the district if:

1. The district at the beginning of the school year provides, financed with local funds, days of instruction for students at the campus or at each of the multiple campuses, in addition to the minimum number of days of instruction required under Education Code 25.081;
2. The campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the board; and
3. A majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

Education Code 25.0811

Length of School Year

Each school year, a district shall operate for at least 75,600 minutes, including time allocated for instruction, intermissions, and recesses for students.

Exceptions

The commissioner of education may approve the operation of schools for fewer than the number of minutes specified above when disaster, flood, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of schools.

If the commissioner does not approve reduced operation time, a district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.

Education Code 25.081

The commissioner shall provide for a waiver allowing for fewer minutes of operation and instructional time than required for a district that requires each educator employed by the district to attend an approved school safety training course. *Education Code 25.0815(a)*

Last Day of School

A district may not schedule the last day of school for students for a school year before May 15. However, a district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may schedule the last day of school on any date permitted under Texas law or the law of the other state. *Education Code 25.0812*

Optional Flexible Year Program

To enable a school district to provide additional instructional days for an optional extended year program [see EHBC], the school district may, with the approval of the commissioner, provide a number of days of instruction during the regular school year that is not more than ten days fewer than 180 days. *Education Code 29.0821(b)(1)*

No Instruction on Memorial Day

A district may not provide student instruction on Memorial Day. If a district would be required to provide student instruction on Memorial Day to compensate for minutes of instruction lost because of school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity, the commissioner shall approve the instruction of students for fewer than the required number of minutes. *Education Code 25.081(f)*

Reduction of Funding

The commissioner may proportionally reduce the amount of funding a district receives under Education Code, Chapters 46, 48, or 49 and the average daily attendance calculation for the district if the district operates on a calendar that provides fewer minutes of operation than required. *Education Code 25.081(f)*

Exemption

A school district is exempt from the minimum minutes of operation requirement if the district's or program's average daily attendance is calculated in the manner provided below. *Education Code 25.081(e)*

A district or charter school is eligible to earn full average daily attendance if the district provides at least 43,200 minutes of instructional time to students enrolled in:

1. A dropout recovery school or program operating under Education Code 12.1141(c) or Education Code 39.0548;
2. An alternative education program operating under Education Code 37.008;

3. A school program located at a day treatment facility, residential treatment facility, psychiatric hospital, or medical hospital;

4. A school program offered at a correctional facility; or

5. A school operating under the adult high school charter school program.

Education Code 48.005(j)

Year-Round Schools

A district may operate its schools year-round on a single or a multi-track system. If it adopts a year-round system, it may modify:

1. The number of contract days of employees and the number of days of operation, including any time required for staff development, planning and preparation, and continuing education, otherwise required by law.

2. Testing dates, data reporting, and related matters.

3. The date of the first day of instruction of the school year under Education Code 25.0811 for a school that was operating year-round for the 2000–01 school year.

4. Students' eligibility to participate in extracurricular activities when their calendar track is not in session.

Education Code 25.084

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[1] Innovation Plan: https://www.ltisdschools.org/domain/862

Note: The Board has adopted an innovation plan[1] that affects application of provisions in this legally referenced policy.

Teacher-Student Ratio

A district shall employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. *Education Code 25.111*

High-Quality Prekindergarten Program

A district operating a prekindergarten program must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students. *Education Code 29.167(d)*

Physical Education

A district's physical education curriculum objectives and goals shall address teacher-student ratios. [See EHAA] *Education Code 25.114*

Prekindergarten–Grade 4

A district may not enroll more than 22 students in a class, prekindergarten through fourth grade, except as allowed by the commissioner of education. The limit on class size does not apply during:

1. The last 12 weeks of the school year; or
2. Any 12-week period of the school year selected by a district, if the district's average daily attendance has been adjusted due to a significant percentage of students who are migratory children under Education Code 48.005(c). A district claiming this exemption must notify the commissioner in writing not later than the 30th day after the first day of the 12-week period.

Migratory Definitions

A "migratory child" is a child or youth who made a qualifying move:

1. As a migratory agricultural worker or a migratory fisher; or
2. With, or to join, a parent or spouse who is a migratory agricultural worker or migratory fisher.

A "qualifying move" is a move due to economic necessity:

1. From one residence to another residence; and
2. From one school district to another school district, except in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.

A "migratory agricultural worker" is an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the

individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

A "migratory fisher" is an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

Education Code 25.112(a), (b); 20 U.S.C. 6399

Exception to Class Size Limits

The commissioner may except a district, on application, from the class size limits above if the limit works an undue hardship on the district. An exception expires at the end of the school year for which it is granted.

A school district seeking an exception shall notify the commissioner and apply for the exception not later than the later of:

1. October 1; or
2. The 30th day after the first school day the district exceeds the limit described above.

Education Code 25.112(d)–(e)

Notice to Parents

A campus or district that is granted an exception from class size limits shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception. The notice must be in conspicuous bold or underlined print and:

1. Specify the class for which an exception was granted;
2. State the number of children in the class; and
3. Be included in a regular mailing or other communication from the campus or district, such as information sent home with students.

The notice must be provided not later than the 31st day after the first day of the school year or the date the exception is granted, if the exception is granted after the beginning of the school year.

Education Code 25.113

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[1] Innovation Plan: https://www.ltisdschools.org/domain/862

Career and Technology Education

A board may contract with another public school district, public or private post-secondary institution, or trade or technical school that is regulated by the state, as designated in the state plan for career and technology education, to provide career and technology classes for district students. *Education Code 29.184(a)* [See EHBF]

In addition, a board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may receive specific education in a career and technology profession. *Education Code 29.187* [See also CRB and EHBF]

Students with Disabilities

A district may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. *Education Code 29.008(a)* [See EHBA]

Educational Services

A board may contract with a public or private entity for that entity to provide educational services for the district. *Education Code 11.157(a)*

Pre-K Licensing Standards

If a district contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042 and the class size requirement for prekindergarten classes imposed under Education Code 25.112(a) [see EEB]. *Education Code 29.1532(b)*

Driver Training Provider

If the district offers a driver education and traffic safety course [see EHAD], the district may contract with a driver training provider that holds a license under Education Code Chapter 1001 to conduct the course. *Education Code 29.902(c)(2)*

Military Instruction

Junior Reserve Officers' Training Corps (JROTC)

The secretary of each military department shall establish and maintain a Junior Reserve Officers' Training Corps, organized into units, at public and private secondary educational institutions which apply for a unit and meet the standards and criteria prescribed pursuant to 10 U.S.C. 2031.

Each public secondary educational institution that maintains a unit under this section shall permit membership in the unit to homeschooled students residing in the area served by the institution who are qualified for membership in the unit (but for lack of enrollment in the institution). A student who is a member of a unit pursuant to this subsection shall count toward the satisfaction by the institution concerned of the requirement relating to the minimum number of student members in the unit necessary for the continuing maintenance of the unit.

10 U.S.C. 2031(a)(1), (g)

Note: The provision below applies only to those districts in which military instruction is conducted under state or federal law requiring a district to give bond or otherwise indemnify this state, the United States, or any authorized agency for the care, safekeeping, and return of property furnished.

A board may contract with the proper governmental agency with respect to the teaching of courses in military training, and it may execute, as principal or surety, a bond to secure the contracts to procure arms, ammunition, animals, uniforms, equipment, supplies, means of transportation, or other needed property. *Education Code 29.901*

School Library

A district possesses significant discretion to determine the content of its school libraries. A district must, however, exercise its discretion in a manner consistent with the First Amendment.

Removal of Library Materials

Students' First Amendment rights are implicated by the removal of books from the shelves of a school library. A district shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees. A district may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.

Bd. of Educ. v. Pico, 457 U.S. 853 (1982)

Instructional Materials

Instructional materials selected for use in the public schools shall be furnished without cost to 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 [see CMD]. *Education Code 31.001*

Parental Access

A parent is entitled to:

1. Review all teaching materials, instructional materials, including while the child is participating in virtual or remote learning, and other teaching aids used in the classroom of the parent's child;
2. Review each test administered to the child after the test is administered; and
3. Observe virtual instruction while the parent's child is participating in virtual or remote learning to the same extent the parent would be entitled to observe in-person instruction of the child.

A district shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.

Taking Home Materials

A student's parent is entitled to request that a district allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, a district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher.

Students Without Reliable Access to Technology

A district must provide the instructional materials to the student in printed format if the student does not have reliable access to technology at the student's home. This requirement does not require a

district to purchase printed copies of instructional materials that the district would not otherwise purchase. A district may comply with this requirement by providing the student a printout of the relevant electronic instructional materials.

Education Code 26.006

Information Collection and Access

U.S. ED–Funded Surveys

Consent Required

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (ED), to submit to a survey, analysis, or evaluation that reveals information concerning the topics listed at Protected Information, below, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. *20 U.S.C. 1232h(b)*

Parental Inspection

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. ED shall be available for inspection by the parents or guardians of the children. *20 U.S.C. 1232h(a)*

Information Collection Funded by Other Sources

Policies

Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. ED Funded Surveys, above], as a condition of receiving funds for a program funded in whole or in part by the U.S. ED, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.
2. A district's arrangements to protect student privacy in the event a survey containing one or more of the items listed under Protected Information, below, is administered or distributed to a student.
3. The parent's right to inspect any instructional material used in the educational curriculum for the student and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.
4. The administration of physical examinations or screenings that a district may administer to the student.
5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling

that information. This provision does not apply to use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs.

6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). [See CRD, FFAA, FL, and FNG]

Parental Notification

A district shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in schools served by the district. At a minimum, a district shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and

2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

A district shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.

2. The administration of any survey containing one or more items described at Protected Information, below.

3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary

to protect the immediate health and safety of the student or of other students.

20 U.S.C. 1232h(c)(1)–(4) [See FFAA]

Protected Information

Protected information addressed by 20 U.S.C. 1232h includes:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom respondents have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

20 U.S.C. 1232h(b), (c)(1)(B)

"Personal Information" Defined

The term "personal information" means individually identifiable information, including a student's:

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social security identification number.

20 U.S.C. 1232h(c)(6)(E)

Request for Program

If the parents or guardians of at least 22 students at a school request a transfer for the same school year to another school in the district for the purpose of enrolling in an educational program offered at that school, the district shall offer such a program, beginning with the following school year, at the school from which the transfers were requested. The program may be offered by teleconference.

"Educational program" means a course or series of courses in the required curriculum other than a fine arts course or a career and technology course.

Education Code 28.003

Parental Requests

A parent is entitled to request, with the expectation that the request will not be unreasonably denied:

1. The addition of a specific academic class in the course of study of the parent's child in keeping with the required curriculum if sufficient interest is shown in the addition of the class to make it economically practical to offer the class.
2. That the parent's child be permitted to attend a class for credit above the child's grade level, whether in the child's school or another school, unless the board or its designated representative expects that the child cannot perform satisfactorily in the class.

The decision of the board concerning such a request is final and may not be appealed. [See FNG]

Education Code 26.003(a)(3)(A)(B), (b)

Pandemic Cancellation

A district is not liable for damages or equitable monetary relief arising from a cancellation or modification of a course, program, or activity of the district if the cancellation or modification arose during a pandemic emergency and was caused, in whole or in part, by the emergency. *Education Code 148.004*

Videotape or Recording

A district employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to regular classroom instruction. *Education Code 26.009(b)(3)*

Purpose

As a condition of accreditation, a district shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

A district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

A primary purpose of the public school curriculum is to prepare thoughtful, informed citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the fundamental democratic principles of our state and national heritage.

A district shall require the teaching of informed American patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for kindergarten through grade 12, including the founding documents of the United States. In providing instruction required by the State Board of Education under Education Code 28.002(h-1), regarding the founding documents of the United States, a district shall use those documents as part of the instructional materials for the instruction.

Education Code 28.002(h), (h-2)

Required Curriculum

Foundation Curriculum

A district that offers kindergarten through grade 12 shall offer a foundation curriculum that includes:

1. English language arts and reading;
2. Mathematics;
3. Science; and
4. Social studies, consisting of Texas, United States, and world history; government; geography; and economics with emphasis on the free enterprise system and its benefits.

Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)

Enrichment Curriculum

A district that offers kindergarten through grade 12 shall offer an enrichment curriculum that includes:

1. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the district may offer an elective course in the language;
2. Health, with emphasis on:
    a. Physical health, including the importance of proper nutrition and exercise;
    b. Mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
    c. Suicide prevention, including recognizing suicide-related risk factors and warning signs;
3. Physical education;
4. Fine arts;
5. Career and technical education;
6. Technology applications;
7. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
8. Personal financial literacy.

Education Code 28.002(a)(2), (e); 19 TAC 74.1(a)(2)

Digital Citizenship

The State Board of Education by rule shall require each district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying.

"Cyberbullying" has the meaning assigned by Education Code 37.0832. [See FFI]

"Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.

Education Code 28.002(z)

Positive Character Traits

Beginning with the 2021–22 school year, districts are required to provide instruction in the essential knowledge and skills for positive character traits outlined in 19 Administrative Code Chapter 120, Subchapter A at least once in the following grade bands: kindergarten–grade 2, grades 3–5, grades 6–8, and grades 9–12.

Districts may provide the required instruction in a variety of arrangements, including through a stand-alone course or by integrating the positive character traits standards in the essential knowledge and skills for one or more courses or subject areas at the appropriate grade levels.

19 TAC 120.1

Local Credit

A district may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.002(f); 19 TAC 74.1(b)*

Local Instructional Plan

A district's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. A district is encouraged to exceed minimum requirements of law and State Board rule.

Major Curriculum Initiatives

Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:

1. Includes teacher input;
2. Provides district employees with the opportunity to express opinions regarding the initiative; and
3. Includes a meeting of the board at which information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and members of the public and district employees are given the opportunity to comment regarding the initiative.

Education Code 28.002(g)

Common Core State Standards

A district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels. A district may not be required to offer any aspect of a common core state standards curriculum. "Common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative. *Education Code 28.002(b-1), (b-3), (b-4)*

Scope and Sequence

In adopting a recommended or designated scope and sequence for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level, a district shall ensure sufficient time is provided for teachers to teach and students to learn the essential knowledge and skills for that subject and grade level [see DG]. *Education Code 28.0027(a)*

Coordinated Health Programs

TEA shall make available to each district one or more coordinated health programs in elementary, middle, and junior high school. Each program must provide for coordinating education and services related to:

1. Physical health education, including programs designed to prevent obesity, cardiovascular disease, oral diseases, and Type 2 diabetes and programs designed to promote the role of proper nutrition;
2. Mental health education, including education about mental health conditions, mental health well-being, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making;
3. Substance abuse education, including education about alcohol abuse, prescription drug abuse, and abuse of other controlled substances;
4. Physical education and physical activity; and
5. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

A district shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the district. *Education Code 38.014*

Coordinated school health programs that are developed by districts and that meet TEA criteria may be approved and made available as approved programs. Districts must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

Physical Education

Each district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and

3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

Student/Teacher Ratio

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the district to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

Education Code 25.114, 28.002(d); 19 TAC 74.37

Classification for Physical Education

A district shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
    a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.
    b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

School Health Advisory Council

A 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 BDF regarding composition of the SHAC and FFA regarding federal wellness requirements]

Duties

The SHAC's duties include recommending:

1. The number of hours of instruction to be provided in:
    a. Health education in kindergarten through grade 8; and
    b. If the district requires health education for high school graduation, health education, including physical health education and mental health education, in grades 9 through 12.
2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns, including suicide, through coordination of:
    a. Health education, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health education;
    b. Physical education and physical activity;
    c. Nutrition services;
    d. Parental involvement;
    e. Instruction on substance abuse prevention;
    f. School health services, including mental health services;
    g. A comprehensive school counseling program under Education Code 33.005 [see FFEA];
    h. A safe and healthy school environment; and
    i. School employee wellness;
3. Appropriate grade levels and methods of instruction for human sexuality instruction;
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:

a. School health services, including physical health services and mental health services, if provided at a campus by the district or by a third party under a contract with the district;

b. A comprehensive school counseling program under Education Code 33.005 [see FFEA];

c. A safe and healthy school environment; and

d. School employee wellness;

5. If feasible, joint use agreements or strategies for collaboration between the district and community organizations or agencies. Any agreement entered into based on a recommendation of the SHAC must address liability for the district and community organization;

6. Appropriate grade levels and curriculum for instruction regarding opioid addiction and abuse and methods for administering an opioid antagonist; and

7. Strategies to increase parental awareness regarding:

a. Risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance use disorders; and

b. Available community programs and services that address risky behaviors, suicide risks, and behavioral health concerns.

Education Code 28.004(c), (n)

Policy Recommendations

The SHAC shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The SHAC must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The SHAC shall ensure that local community values are reflected in any policy recommendation made to the district concerning the importance of daily recess for elementary school students. *Education Code 28.004(l)*

The SHAC shall make policy recommendations to the district to increase parental awareness of suicide-related risk factors and warning signs and available community suicide prevention services. *Education Code 28.004(o)*

Content of Human Sexuality Instruction

Definitions

"Human sexuality instruction," "instruction in human sexuality," and "instruction relating to human sexuality" include instruction in reproductive health.

"Curriculum materials" includes the curriculum, teacher training materials, and any other materials used in providing instruction.

Education Code 28.004(p)

Board Selection

The board shall determine the specific content of a district's instruction in human sexuality. *Education Code 28.004(h)*

The board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the SHAC. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

Education Code 28.004(e)

Notice to Parents

Before each school year, a district shall provide written notice to a parent of each student enrolled in the district of the board's decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

1. A statement informing the parent of the human sexuality instruction requirements under state law;
2. A detailed description of the content of the district's human sexuality instruction and a general schedule on which the instruction will be provided;

3. A statement of the parent's right to:

    a. At the parent's discretion, review or purchase a copy of curriculum materials as provided by Education Code 28.004(j) [see EFA];

    b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

    c. Use the grievance procedure or the appeals process under Education Code 7.057 concerning a complaint of a violation of these provisions;

4. A statement that any curriculum materials in the public domain used for the district's human sexuality instruction must be posted on the district's internet website, if the district has an internet website, and the internet website address at which the curriculum materials are located; and

5. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the SHAC.

A parent may use the grievance procedure at FNG concerning a complaint of a violation of notice requirements.

Education Code 28.004(i)–(i-1)

Parent Consent Before Instruction

Before a student may be provided with human sexuality instruction, a district must obtain the written consent of the student's parent. A request for written consent may not be included with any other notification or request for written consent provided to the parent, other than the notice provided under Education Code 28.004(i), described above, and must be provided to the parent not later than the 14th day before the date on which the human sexuality instruction begins. The requirements in this paragraph expire August 1, 2024. *Education Code 28.004(i-2)–(i-3)*

Condoms

A district may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

Separate Classes

If a district provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FB regarding single-sex classes under Title IX.]

Adoption of Instructional Materials

The board shall adopt a policy establishing a process for the adoption of curriculum materials for the district's human sexuality instruction. The policy must require:

1. The board to adopt a resolution convening the local SHAC for the purpose of making recommendations regarding the curriculum materials;

2. The local SHAC to:

    a. After the board's adoption of the resolution, hold at least two public meetings on the curriculum materials before adopting recommendations; and

    b. Provide the adopted recommendations to the board at a public meeting of the board; and

3. The board, after receipt of the local SHAC's recommendations under item 2, above, to take action on the adoption of the recommendations by a record vote at a public meeting [see BDF].

Before adopting curriculum materials for the district's human sexuality instruction, the board shall ensure that the curriculum materials are:

1. Based on the advice of the local SHAC;

2. Suitable for the subject and grade level for which the curriculum materials are intended; and

3. Reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

Education Code 28.004(e)–(e-1), (e-3)

Availability of Materials

Curriculum materials proposed to be adopted for the district's human sexuality instruction must be made available as provided below, except copyrighted materials must be provided as described by items (2)(a) or (2)(c), as applicable.

A district shall make all curriculum materials used in human sexuality instruction available by:

1. For curriculum materials in the public domain:

    a. Providing a copy of the curriculum materials by mail or email to a parent of a student enrolled in the district on the parent's request; and

    b. Posting the curriculum materials on the district's internet website, if the district has an internet website; and

2. For copyrighted curriculum materials, allowing a parent of a student enrolled in the district to:

    a. Review the curriculum materials at the student's campus at any time during regular business hours;

    b. Purchase a copy of the curriculum materials from the publisher as provided by the district's purchase agreement for the curriculum materials; or

    c. Review the curriculum materials online through a secure electronic account in a manner that prevents the curriculum materials from being copied and that otherwise complies with copyright law.

For purchase agreements entered into, amended, or renewed on or after September 1, 2021, if a district purchases from a publisher copyrighted curriculum materials for use in the district's human sexuality instruction, the district shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the district may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by the district for the curriculum materials.

Education Code 28.004(e-2), (j)–(j-1)

Character Education

A district must adopt a character education program that includes the following positive character education traits and personal skills:

1. Courage;
2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
3. Integrity;
4. Respect and courtesy;
5. Responsibility, including accountability, diligence, perseverance, self-management skills, and self-control;
6. Fairness, including justice and freedom from prejudice;
7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, charity, and interpersonal skills;
8. Good citizenship, including patriotism, concern for the common good and the community, responsible decision-making skills, and respect for authority and the law;
9. School pride; and
10. Gratitude.

In developing or selecting a character education program under Education Code 29.906, a district shall consult with a committee selected by the district that consists of parents of district students, educators, and other members of the community, including community leaders.

The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

Education Code 29.906

Human Sexuality Instruction

The following process shall apply regarding the adoption of curriculum materials for the district's human sexuality instruction:

1. The Board shall adopt a resolution convening the District's school health advisory council (SHAC) to recommend curriculum materials for the instruction.
2. The SHAC shall hold at least two public meetings on the curriculum materials before adopting recommendations to present to the Board.
3. The SHAC recommendations must comply with the instructional content requirements in law, be suitable for the subject and grade level for which the materials are intended, and be reviewed by academic experts in the subject and grade level for which the materials are intended.
4. The SHAC shall present its recommendations to the Board at a public meeting.
5. After the Board ensures the recommendations from the SHAC meet the standards in law, the Board shall take action on the recommendations by a record vote at a public meeting.

Driver Education

A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

1. Conduct the course and charge a fee for the course in the amount determined by TEA to be comparable to the fee charged by a driver education provider that holds a license under Education Code Chapter 1001; or
2. Contract with a driver education provider that holds a license under Education Code Chapter 1001 to conduct the course.

Education Code 29.902(c)

Life Skills Programs

A district may provide an integrated program of educational and support services for students who are pregnant or who are parents. If a district provides such a program, the program shall include all of the following:

1. Individual counseling, peer counseling, and self-help programs.
2. Career counseling and job readiness training.
3. Day care for the students' children on the campus or at a day care facility in close proximity to the campus.
4. Transportation for children of students to and from the campus or day care facility.
5. Transportation for students, as appropriate, to and from the campus or day care facility.
6. Instruction related to knowledge and skills in child development, parenting, and home and family living.
7. Assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

A district shall solicit recommendations for obtaining community support for the students and their children in the life skills programs.

A district may operate a shared services arrangement program to operate a life skills program for student parents.

Education Code 29.085 [See EHBC and FNE]

School-Based Savings Program

A district may establish a school-based savings program to facilitate increased awareness of the importance of saving for higher

education and facilitate personal financial literacy instruction. A district may offer the program in conjunction with a personal financial literacy course under Education Code 28.0021 [see EHAC].

A school-based savings program may, through partnerships with appropriate institutions, promote:

1. General savings, by offering savings accounts or certificates of deposit through partner financial institutions; or
2. Savings dedicated for higher education, by offering through partner institutions the following accounts or bonds the primary purpose of which must be to pay expenses associated with higher education:
    a. An account authorized under Section 529, Internal Revenue Code of 1986;
    b. A Coverdell education savings account established under 26 U.S.C. Section 530;
    c. A certificate of deposit;
    d. A savings account; and
    e. A Series I savings bond.

A district establishing a program:

1. Shall seek to establish partnerships with appropriate institutions that are able to offer an account or bond above; and
2. May seek to establish partnerships with public sector partners, private businesses, nonprofit organizations, and philanthropic organizations in the community.

A partnership established between a district and:

1. An appropriate institution may allow a student in the program or the student and an adult in the student's family jointly to have an opportunity to establish an account or purchase a bond; and
2. An appropriate institution, public sector partner, private business, or nonprofit or philanthropic organization may provide:
    a. A structure for the management of the program; and
    b. Incentives that encourage contribution to a school-based account or purchase of a bond, including incentives that provide matching funds or seed funding.

Education Code 28.0024

Local Credit Courses

A district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall:

1. Be flexible in approving a course for credit for high school graduation; and
2. Approve courses in cybersecurity for credit for high school graduation.

Education Code 28.002(f) [See EIF]

Apprenticeships

A district may offer a course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate, that is approved by the board for credit without obtaining State Board of Education approval if the district meets the requirements in Education Code 28.002(g-1) and (g-2).

A district shall annually report to TEA the names of the locally developed courses, programs, institutions of higher education, and internships in which the district's students have enrolled under this section. TEA shall make information provided under this section available to other districts.

Education Code 28.002(g-1)–(g-2); 19 TAC 74.11(m)

Cybersecurity

A district may offer a course in cybersecurity that is approved by the board for credit without obtaining State Board of Education approval if the district partners with a public or private institution of higher education that offers an undergraduate degree program in cybersecurity to develop and provide the course. *Education Code 28.002(g-3)*

A district shall annually report to TEA the names of cybersecurity courses approved by the board for credit and institutions of higher education in which the district's students have enrolled as authorized by the above section. TEA shall make information provided under this section available to other districts. *19 TAC 74.11(n)*

Admission, Review, and Dismissal Committee

Each district must establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full individual and initial evaluation is conducted. The ARD committee is the individualized education program (IEP) team defined in federal law and regulations, including 34 C.F.R. 300.321.

The district is responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including the responsibilities listed at 19 Administrative Code 89.1050.

19 TAC 89.1050(a); 34 C.F.R. 300.116(a), .321(a)

Committee Members

A district shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a student with a disability;
2. At least one regular education teacher of the student (if the student is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the student;
4. A representative of the district who:
    a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;
    b. Is knowledgeable about the general education curriculum; and
    c. Is knowledgeable about the availability of resources of the district;
5. Other individuals who have knowledge or special expertise regarding the student at the discretion of the district or the parent;
6. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee described in items 2–5;
7. The student, if appropriate;
8. For a student with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of students with auditory impairments;

9. For a student with a visual impairment, including deaf-blindness, a teacher who is certified in the education of students with visual impairments;

10. For a student with limited English proficiency, a member of the language-proficiency assessment committee (LPAC), who may also be a member as described at items 2 or 3;

11. A representative of any participating agency likely to be responsible for providing transition services for a student, as appropriate, and with the consent of the student's parents or a student who has reached the age of majority; and

12. When considering initial or continued placement of a student in a career and technical education program, a representative from career and technical education, preferably the teacher.

20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.321; 19 TAC 75.1023(d)(1), 89.1050(c)

A district member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and the district agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

A district member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and the district consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 C.F.R. 300.321(e)

Regular Education Teacher

If an ARD committee is required to include a regular education teacher, the regular education teacher must, to the extent practicable, be a teacher who is responsible for implementing a portion of the child's IEP. *Education Code 29.005(a)*

Parent Involvement

A district shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include the purpose, time, and location of the meeting, who will be in attendance, that persons with knowledge or special expertise may be invited by either the parent or the district, and

that the Part C service coordinator or other representatives of the Part C system may be invited to the initial meeting for a child previously served under a Part C early childhood intervention program); and

2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the district will invite the student, and identify any other agency that will be invited to send a representative.

34 C.F.R. 300.322(a)–(b); 19 TAC 89.1050(d)

Alternative Means of Meeting Participation

If neither parent can attend an ARD meeting, the district must allow other methods of participation, such as through telephone calls or video conferencing. *20 U.S.C. 1414(f); 34 C.F.R. 300.322(c); 19 TAC 89.1050(d)*

An ARD meeting may be conducted without a parent in attendance if a district is unable to convince the parents that they should attend, but the district shall have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted and the results of any of those actions. *34 C.F.R. 300.322(d)*

Meetings

A district shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once a year.

A "meeting" does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A "meeting" also does not include preparatory activities that district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 C.F.R. 300.116(b)(1), .324(b), (c)(1), .501(b)(3)

Meeting at Parent's Request

Upon receipt of a written request for an ARD committee meeting from a parent, the school district must schedule and convene a meeting in accordance with the procedures in 19 Administrative Code 89.1050(d) or within five school days, provide the parent with

written notice explaining why the district refuses to convene a meeting. *19 TAC 89.1050(e)*

Written Notice

If a parent is unable to speak English, a district must provide the parent with a written notice regarding the ARD committee meeting required under 19 Administrative Code 89.1050(d) (notice for purposes of scheduling) or (e)(2) (notice explaining why the district refuses to convene a meeting) in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice. *19 TAC 89.1050(f)*

Transfer Students

In-State Transfers

When a student transfers to a new district within the state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new school district must meet the requirements of 34 C.F.R. 300.323(e) regarding the provision of special education services. The timeline for completing the requirements outlined in 34 C.F.R. 300.323(e)(1) or (2) is 30 school days from the date the student is verified as being a student eligible for special education services.

Transfers from Another State

When a student transfers from a district in another state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new district must meet the requirements of 34 C.F.R. 300.323(f) regarding the provision of special education services. If the new district determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the timelines established by 19 Administrative Code 89.1011(c) and (e). The timeline for completing the requirements in 34 C.F.R. 300.323(f)(2), if appropriate, is 30 calendar days from the date of the completion of the evaluation report. If the school district determines that an evaluation is not necessary, the timeline for completing the requirements outlined in 34 C.F.R. 300.323(f)(2) is 30 school days from the date the student is verified as being a student eligible for special education services.

19 TAC 89.1050(j)

Transfer of Records

The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of

special education or related services to the child, from the previous district.

The previous district shall take reasonable steps to promptly respond to the request from the new district and must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the tenth working day after the date a request for the information is received by the previous school district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 C.F.R. 300.323(g); 19 TAC 89.1050(j)(3)

Students Who Are Homeless or in Substitute Care

When a student who is homeless or in substitute care transfers into a district after being referred by a previous district for a special education evaluation, the receiving district must accept the referral and ensure that any written report of a full individual and initial evaluation must be completed in accordance with the timelines established in 19 Administrative Code 89.1011 (relating to Full Individual and Initial Evaluation).

When a student who is already eligible for special education and is homeless or in substitute care transfers into a district during the school year, the receiving district must ensure that it meets the student transfer requirements of 19 Administrative Code 89.1050(j) (relating to the Admission, Review, and Dismissal Committee).

19 TAC 89.1615

Military Dependents

A district shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, C* [See FDD]

Individualized Education Program

A district shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4); 34 C.F.R. 300.320(a)*

At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A); 34 C.F.R. 300.323(a)*

The term “individualized education program” means a written statement for each student with a disability that documents the decisions of the ARD committee with respect to issues discussed at each committee meeting and includes:

1. A statement of the student’s present levels of academic achievement and functional performance;

2. A statement of measurable annual goals, including academic and functional goals;

3. A description of how the student's progress toward the annual goals will be measured and when periodic reports on the progress of the student will be provided;

4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student;

5. A statement of the program modifications or supports for school personnel that will be provided for the student;

6. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and nonacademic activities;

7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;

8. A statement of any individual appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the student on state or district-wide assessments;

9. If the ARD committee determines that the student must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the student cannot participate in the regular assessment and why the particular assessment selected is appropriate for the student;

10. If the ARD committee determines that a student is in need of extended school year (ESY) services, identification of the goals and objectives that will be addressed during ESY services;

11. Beginning not later than when a student reaches 14 years of age and updated annually thereafter, the ARD committee's consideration and decisions regarding the transition issues under 19 Administrative Code 89.1055(h) [see EHBAD];

12. Beginning not later than the first IEP to be in effect when the student is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate measurable postsecondary goals and transition services needed to assist the student in reaching those goals [see EHBAD];

13. Beginning not later than one year before the student reaches the age of 17, a statement that the student has been informed of the rights that will transfer to the student upon reaching the age of majority;

14. The date of the meeting;

15. The name, position, and signature of each member participating in the meeting; and

16. An indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee.

20 U.S.C. 1414(d); 34 C.F.R. 300.320; Education Code 29.005(b-1), .011; 19 TAC 89.1055

The written statement of a student's IEP may be required to include only information included in the model form developed by TEA under Education Code 29.0051(a) and posted on the TEA website. A district may use the model form to comply with the requirements for an IEP under 20 U.S.C. 1414(d). *Education Code 29.005(f), .0051*

IEP Supplement

For each child who was enrolled in a district's special education program during the 2019–20 school year or the 2020–21 school year, the district is required to prepare a supplement to be included with the written statement of the IEP. For more information about the required supplement, see Education Code 29.0052 and the commissioner rules, when adopted. This requirement expires September 1, 2023. *Education Code 29.0052*

Supplemental Special Education Services

A student's ARD committee shall develop a student's IEP without consideration of any supplemental special education services that may be provided under the program under Education Code Chapter 29, Subchapter A-1.

The ARD committee of a student approved for participation in the supplemental special education services and instructional materials program shall provide to the student's parent at an ARD committee meeting for the student:

1. Information regarding the types of supplemental special education services available under the program and provided by agency-approved providers for which an account maintained under Education Code 29.042(b) for the student may be used; and

2. Instructions regarding accessing the account.

The supplemental special education services and instructional materials program expires September 1, 2024.

Education Code 29.048

Behavioral Intervention Plan

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student for whom the committee has developed an IEP. If the committee makes that determination, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. *Education Code 29.005(g); 19 TAC 89.1055(g)*

If a behavior improvement plan or a behavioral intervention plan is included as part of a student's individualized education program, the committee shall review the plan at least annually and more frequently if appropriate to address the safety of the student or others or changes in a student's circumstances that may impact the student's behavior, such as:

1. The placement of the student in a different educational setting;
2. An increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
3. A pattern of unexcused absences; or
4. An unauthorized unsupervised departure from an educational setting.

Education Code 29.005(h)

Translation of IEP into Native Language

If the parent is unable to speak English and Spanish is the parent's native language, a district shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, a district shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language. *Education Code 29.005(d)*

A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.

An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the student's IEP in English is orally translated into the target language

and recorded with an audio device. A district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English.

If a parent's native language is not a written language, the district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.

Under 34 C.F.R. 300.322(f), a district must give a parent a written copy of the student's IEP at no cost to the parent. A school district meets this requirement by providing a parent with a written copy of the student's IEP in English or by providing a parent with a written translation of the student's IEP in the parent's native language as provided above.

19 TAC 89.1050(i)

Autism/Pervasive Developmental Disorder

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and postsecondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress

based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;

8. Communication interventions, including language forms and functions that enhance effective communication across settings;

9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;

10. Professional educator/staff support; and

11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f)

Visual Impairment

If a district provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (staff access to resources). *19 TAC 89.1075(b)*

Collaborative Process

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions of the ARD committee concerning the required elements of the IEP shall be made by mutual agreement, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

Ten-Day Recess

When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;

2. The student has committed an expellable offense; or

3. The student has committed an offense that may lead to placement in a disciplinary alternative education program. [See FOF]

These requirements do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

Failure to Reach Agreement

If a recess is implemented and the ARD committee still cannot reach mutual agreement, a district shall implement the IEP it has determined to be appropriate for the student. Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

If the IEP is not developed by agreement, the written statement of the program must include the basis of the disagreement. Each member of the ARD committee who disagrees with the IEP developed by the committee is entitled to include a statement of disagreement in the written statement of the program.

Education Code 29.005(c); 19 TAC 89.1050(g)

Modification of Existing IEP

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

After the annual IEP meeting for a school year, the parent and district may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, a district shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 C.F.R. 300.324(a)(4)–(6)

Teacher Access to IEP

Each district must ensure that each teacher who provides instruction to a student with a disability has access to relevant sections of the student's current IEP, is informed of the teacher's specific re-

sponsibilities related to implementation of the IEP, and has an opportunity to request assistance regarding implementation of the student's IEP. *19 TAC 89.1075(c)*

Teacher Request to Review IEP

Each district shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

1. To request a review of the student's IEP;
2. To provide input in the development of the student's IEP;
3. That provides for a timely district response to the teacher's request; and
4. That provides for notification to the student's parent or legal guardian of that response.

Education Code 29.001(11); 19 TAC 89.1075(d)

A district shall establish a process for identifying and serving gifted and talented students and shall establish a program for those students in each grade level. Under this provision, a district may establish a shared services arrangement with other districts.

A district shall adopt a policy regarding the use of funds to support the district's program for gifted and talented students.

Education Code 29.122

Definition

"Gifted and talented student" means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

1. Exhibits high performance capability in an intellectual, creative, or artistic area;
2. Possesses an unusual capacity for leadership; or
3. Excels in a specific academic field.

Education Code 29.121

Identification

Students shall be identified as gifted/talented in accordance with a written policy that includes:

1. Provisions for ongoing screening and selection of students who perform or show potential for performing at remarkably high levels of accomplishment in the areas defined in Education Code 29.121.
2. Assessment measures collected from multiple sources according to each area defined in the Texas State Plan for the Education of Gifted/Talented Students.
3. Data and procedures designed to ensure that students from all populations in a district have access to assessment and, if identified, to services provided for the gifted/talented program.
4. Provisions for final selection of students to be made by a committee of at least three local district educators who have received training in the nature and needs of gifted students.
5. Provisions regarding furloughs, reassessment, exiting of students from program services, transfer students, and appeals of district decisions regarding program placement.

19 TAC 89.1

Learning Opportunities

A district shall provide an array of learning opportunities for gifted/talented students in kindergarten through grade 12 and shall inform parents of the opportunities. Options shall include:

1. Instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently.
2. A continuum of learning experiences that leads to the development of advanced-level products and performances.
3. In-school, and when possible, out-of-school options relevant to the student's area of strength that are available during the entire school year.
4. Opportunities to accelerate in areas of strength.

19 TAC 89.3

Note: See DMA(LEGAL) for training requirements for teachers of gifted and talented education.

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Compensatory Education Allotment

On a schedule determined by the commissioner of education and in accordance with Education Code 48.104, each district shall report to the agency the census block group in which each student enrolled in the district who is educationally disadvantaged resides. *Education Code 48.104(i)*

Census Block

Use

At least 55 percent of the district's compensatory education funds must be used to:

1. Fund supplemental programs and services, including services provided by an instructional coach, designed to eliminate any disparity in performance on assessment instruments administered under Education Code Chapter 39, Subchapter B or disparity in the rates of high school completion between:
    a. Students who are educationally disadvantaged and students who are not educationally disadvantaged; and
    b. Students at risk of dropping out of school, as defined below, and all other students; or
2. Support a program eligible under Title I of the Elementary and Secondary Education Act of 1965 [see AID], and its subsequent amendments, and by federal regulations implementing that Act.

Education Code 48.104(k)

Dropout Prevention Strategies

A district with a high dropout rate, as determined by the commissioner, shall submit a plan to the commissioner describing the manner in which the district intends to use its compensatory education allotment for developing and implementing research-based strategies for dropout prevention.

A district shall submit the plan not later than December 1 of each school year preceding the school year in which the district will receive the compensatory education allotment to which the plan applies.

A district may not spend or obligate more than 25 percent of the district's compensatory education allotment unless the commissioner approves the plan.

A district's plan shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;

2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

    a. High-quality, college readiness instruction with strong academic and social supports;

    b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

    c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose; and

3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

A district may enter into a partnership with a public junior college in accordance with Education Code 29.402 [see GNC] in order to fulfill a plan.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918

Educationally Disadvantaged Students

Student Eligibility

To be considered educationally disadvantaged in order to be counted to generate the compensatory education allotment pursuant to Education Code 48.104, a student must meet the income requirements for eligibility under the National School Lunch Program (NSLP), authorized by 42 U.S.C. 1751, et seq.

Districts may use the following approved methods for the purpose of receiving the compensatory education allotment pursuant to Education Code 48.104:

1. Parent certification, where the parent or guardian asserts meeting the income requirements for eligibility;

2. Direct certification, where the process by which eligible children are certified for free meals without the need for a household application based on household participation in one or more federal assistance programs; or

3. Direct verification, where public records are used to verify a student's eligibility for free or reduced-price meals when verification of student eligibility is required.

19 TAC 61.1027(a)

Virtual School Network

Districts must request prior approval from the commissioner to claim students receiving a full-time virtual education through the state virtual school network in their counts of educationally disadvantaged students. The request must include a plan detailing the enhanced services to be delivered to full-time state virtual school network students and submitted in a manner and with a deadline specified by the commissioner. *19 TAC 61.1027(b)(3)(B)*

Definition of At-Risk Student

"Student at risk of dropping out of school" includes each student who is under 26 years of age and who:

1. Except as provided by TEA rule or if retained in prekindergarten under Education Code 28.02124 [see EIE], was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;
2. If the student is in grades 7–12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
4. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
5. Is pregnant or is a parent;
6. Has been placed in a DAEP in accordance with Education Code 37.006 during the preceding or current school year;
7. Has been expelled in accordance with Education Code 37.007 during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

10. Is an emergent bilingual student, as defined by Section 29.052;

11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

12. Is homeless [see FD];

13. Resided in the preceding school year or resides in the current school year in a residential placement facility in a district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, cottage home operation, specialized child-care home, or general residential operation;

14. Has been incarcerated, or has a parent or guardian who has been incarcerated, within the lifetime of the student, in a penal institution as defined by Penal Code 1.07; or

15. Is enrolled in a district or a campus that is designated as a dropout recovery school under Education Code 39.0548.

Education Code 29.081(d)(1)

Regardless of the student's age, a student who participates in an adult education program provided under the adult high school charter school program is considered a "student at risk of dropping out of high school." *Education Code 29.081(d)(2)*

Local Eligibility Criteria

In addition to students described above, a student who satisfies local eligibility criteria adopted by a board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the district during the preceding school year. *Education Code 29.081(g)*

Designing and Implementing Services

A district shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to perform at grade level at the conclusion of the next regular school term. *Education Code 29.081(a)*

Services After Unsatisfactory Performance on State Assessments

Accelerated Learning Committee

A district shall establish an accelerated learning committee for each student who does not perform satisfactorily on the following state assessment instruments [see EKB]:

1. The third grade mathematics or reading assessment;
2. The fifth grade mathematics or reading assessment; or
3. The eighth grade mathematics or reading assessment.

Education Code 28.0211(a)

Composition

The accelerated learning committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the accelerated learning committee and the purpose of the committee. *Education Code 28.0221(c)*

Educational Plan

An accelerated learning committee shall, not later than the start of the subsequent school year, develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. The educational plan must be documented in writing, and a copy must be provided to the student's parent or guardian.

During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the educational plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.

The board shall adopt a policy consistent with the grievance procedure adopted under Education Code 26.011 [see FNG] to allow a parent to contest the content or implementation of an educational plan.

Education Code 28.0211(f)–(f-3)

Failure in a Subsequent School Year

If a student who fails to perform satisfactorily on the third, fifth, or eighth grade math or reading assessment fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject, the superintendent, or the superintendent's designee, shall meet with the student's accelerated learning committee to:

1. Identify the reason the student did not perform satisfactorily; and

2. Determine, in order to ensure the student performs satisfactorily on the assessment instrument at the next administration of the assessment instrument, whether the educational plan developed for the student must be modified to provide the necessary accelerated instruction for that student and any additional resources are required for that student.

The superintendent's designee may be an employee of a regional education service center and may not be a person who served on the student's accelerated learning committee.

Education Code 28.0211(f-4)–(f-5)

ARD Meeting

The admission, review, and dismissal (ARD) committee of a student who does not perform satisfactorily on a third, fifth, or eighth grade math or reading assessment must meet to determine the manner in which the student will participate in an accelerated instruction program. *Education Code 28.0211(i)*

Parent Request

Each district shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on a third, fifth, or eighth grade math or reading assessment to make a request for district consideration that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available. *Education Code 28.0211(a-5)*

Classroom Assignment

A student who fails to perform satisfactorily on a third, fifth, or eighth grade math or reading assessment and is promoted to the next grade level must be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily on the applicable assessment instrument to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

In a manner consistent with federal law and notwithstanding any other law, the commissioner may waive the requirement regarding the assignment of a student to an appropriately certified classroom teacher on the request of a district.

Education Code 28.0211(n)–(n-1)

Accelerated Instruction

Each time a student fails to perform satisfactorily on a state assessment instrument in the third, fourth, fifth, sixth, seventh, or eighth grade [see EKB], the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and either:

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under the local optional teacher designation system [see DEAA] for the subsequent school year in the applicable subject area; or

2. Provide the student supplemental instruction under Education Code 28.0211(a-4) [see below].

Participation Requirements

Accelerated instruction provided during the following school year may require participation of the student before or after normal school hours.

In providing accelerated instruction, a district may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

1. Instruction in the foundation curriculum and enrichment curriculum adopted under Education Code 28.002 [see EHA series] for the grade level in which the student is enrolled; or

2. Recess or other physical activity that is available to other students enrolled in the same grade level.

Supplemental Instruction Requirements

If a district receives funding under Education Code 29.0881, the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then supplemental instruction provided by a district must:

1. Include targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;

2. Be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;

3. Be provided for no less than 30 total hours during the subsequent summer or school year and, unless the instruction is provided fully during summer, include instruction no less than once per week during the school year;

4. Be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;

5. Include effective instructional materials designed for supplemental instruction;

6. Be provided to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group;

7. Be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of the district; and

8. To the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

Education Code 28.0211(a-1)–(a-4)

Transportation

A district shall provide students required to attend the accelerated programs described above with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j)*

Notice to Parents of Performance and Accelerated Instruction

Whenever a district is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, the district shall make a good-faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to understand, and is written in English or in the parent or guardian's native language. *Education Code 28.0211 (h)*

Assessments Not Required

Education Code 28.0211 does not require the administration of a fifth or eighth grade assessment instrument in a subject under Education Code 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

1. Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Education Code 39.023(a) [see EKB] that aligns with the curriculum for the course in which the student is enrolled; or

2. Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument [see EKB] for the course.

Notwithstanding any other provision of Education Code 28.0211, the student may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student, nor may a student in grade 5 or grade 8 be denied promotion to the next grade on the basis of failure to perform satisfactorily on a reading or mathematics assessment instrument intended for use above the student's grade level.

Education Code 28.0211(o)–(p)

Accelerated Instruction After EOC Assessments

A district shall provide accelerated instruction to an enrolled student who has taken an end-of-course (EOC) assessment instrument and has not performed satisfactorily or who is at risk of dropping out of school.

A district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

A district that is required to provide accelerated instruction must separately budget sufficient funds for that purpose. [See CE]

A district shall evaluate the effectiveness of accelerated instruction programs and annually hold a public hearing to consider the results.

Education Code 29.081(b), (b-1), (b-2), (b-3), 39.025(b-1)

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(c), the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area.

Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations and must comply with the requirements for accelerated instruction provided under Education Code 28.0211 [see above].

Education Code 28.0217

Effectiveness

A district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students. *Education Code 29.081(c)*

Dropout Recovery Education Programs

A district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The program may be offered at a campus or through the use of an online program that leads to a high school diploma and prepares the student to enter the workforce. A campus-based dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-1)(1)–(5). An online dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-2)(1)–(8).

Students in attendance at a dropout recovery education program shall be included in a district's average daily attendance for funding purposes.

Education Code 29.081(e)–(f)

Communities in Schools

An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least ten percent of the number of students in average daily attendance at the school, as determined by TEA. *Education Code 33.157*

Optional Extended Year Program

A district may set aside an amount from the district's compensatory education allotment or may apply to the agency for funding of an extended year program. *Education Code 29.082(a); 19 TAC 105.1001*

Optional Flexible Year Program

A district may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level. *Education Code 29.0821; 19 TAC 129.1029*

Optional Flexible School Day Program

Notwithstanding Education Code 25.081 or 25.082, a district may apply to the commissioner to provide a flexible school day program (OFSDP) for students who:

1. Have dropped out of school or are at risk of dropping out of school as defined by Education Code 29.081;
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or
3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

Education Code 29.0822

A district may apply to the commissioner to provide an OFSDP for students, in accordance with 19 Administrative Code 129.1027.

A board must approve the application. The board must include the OFSDP as an item on the regular agenda for a board meeting in compliance with 19 Administrative Code 129.1027(h)(2) before applying to operate an OFSDP. The application shall include the information described in 19 Administrative Code 129.1027.

19 TAC 129.1027(c)

Tutorial Services

A district may provide tutorial services at district schools. If a district provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials. [See EC for provisions on loss of class time.]

A district may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

Education Code 29.084

Basic Skills Programs

A district may apply to the commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner.

With the consent of a student's parent or guardian, a district may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

Education Code 29.086(a)

After-School and Summer Intensive Mathematics and Science Programs

A district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the district.

Before providing a program, a board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
    a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
    b. Provides for considering teacher recommendations in determining eligibility;

2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

3. Ensuring that eligible students are encouraged to attend the program;

4. Ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and

5. Measuring student progress on completion of the program.

Education Code 29.088, .090; 19 TAC 102.1041

Mentoring Services Program

A district may provide a mentoring services program to students at risk of dropping out of school. A board may arrange for any public or nonprofit community-based organization to come to the district's schools and implement the program.

A board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

Education Code 29.089

Accelerated Reading Instruction Program

A district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The district shall determine the form, content, and timing of the program.

A district shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

Education Code 28.006(g), (g-1)

Intensive Program of Instruction

State Assessments

A district shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the district.

The program shall be designed to:

1. Enable the student to:

    a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or

b. Attain a standard of annual growth specified by a district and reported by the district to TEA; and

2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Students Receiving Special Education Services

For a student in a special education program who does not perform satisfactorily on an assessment instrument administered under Education Code 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and

2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Graduation Requirements

A district shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

No Cause of Action

A district's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

Education Code 28.0213

College Preparatory Courses

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the 12th grade level whose performance on:

   a. An end-of-course assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or

   b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.334 [Texas Success Initiative (TSI) assessment] indicates that the student is not ready to perform entry-level college coursework; and

2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through an institution of higher education with which the district partners.

Faculty	Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.
Notice	Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.
Credit Earned	A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).
Dual Credit	A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.
Instructional Materials	Each district, in consultation with each institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices. *Education Code 28.014*
End-of-Course Exam	A student enrolled in a college preparatory mathematics or English language arts course under Education Code 28.014 who satisfies the TSI college readiness benchmarks on an assessment instrument administered at the end of the course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course assessment instruments, as applicable, as prescribed by Education Code 39.023(c) [see EKB], even if the student did not perform satisfactorily on a previous administration of the applicable end-of-course assessment instrument. A student who fails to perform satisfactorily on the assessment instrument may retake that assessment instrument or may take the appropriate end-of-course assessment instrument. *Education Code 39.025(a-1)*

Each student who has been identified as being at risk of dropping out of school, who is not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment shall be provided accelerated and/or compensatory educational services.

Accelerated Instruction

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily on a state-mandated assessment.

Accelerated Learning Committee

When a student fails to perform satisfactorily on a math or reading state-mandated assessment in grades 3, 5, or 8, an accelerated learning committee shall develop a written educational plan in accordance with law. If a parent requests that the student be assigned to a particular teacher the following school year, the request shall be addressed in accordance with the District's administrative procedures.

A parent complaint about the content or implementation of the educational plan shall be filed in accordance with FNG.

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Note: The terms emergent bilingual, English language learner (ELL), English learner, and limited English proficiency (LEP) student are used interchangeably.

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

“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” means a state-approved bilingual program model in accordance with Education Code 29.066.

“Emergent bilingual student” 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.

“English learner (EL)” is a student who is in the process of acquiring English and has another language as the primary or home language.

“Exit” refers to the point when a student is no longer classified as LEP/EL (i.e., the student is reclassified), no longer requires bilingual or ESL program services, and is classified as non-LEP/English proficient (EP) in the Texas Student Data System Public Education Information Management System. The term "exit" is synonymous with the description in Education Code, Chapter 29, of "transferring out" of bilingual or special language programming.

“Parent” includes the parent or legal guardian of the student in accordance with Education Code 29.052.

Education Code 29.052; 19 TAC 89.1203(2)–(3), (7)–(8), (13)

District Responsibility

Each district shall:

1. Identify English learners based on criteria established by the state;

2. Provide bilingual education and ESL programs as integral parts of the general program;

3. Seek appropriately certified teaching personnel to ensure that English learners are afforded full opportunity to master the essential knowledge and skills; and

4. Assess achievement for essential knowledge and skills in accordance with Education Code Chapter 29 to ensure accountability for English learners 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 language proficiency assessment committee (LPAC) shall determine and report to the board the number of emergent bilingual 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 TEA before November 1 each year. *Education Code 29.053(b)*

Language Proficiency Assessment Committees (LPAC)

Each district that is required to offer bilingual and special language programs shall, by local board policy, establish an LPAC. A district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of English learners. A district shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

Membership of LPAC

The LPAC shall include:

1. An appropriately certified bilingual educator (for students served through a bilingual education program);

2. An appropriately certified English as a second language (ESL) educator (for students served through an ESL program);

3. A parent of an English learner participating in a bilingual or ESL program; and

4. A campus administrator.

A district may add other trained members to the committee.

No parent serving on the LPAC shall be an employee of the school 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 and training of all members, including the parents, of the LPAC.

Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)

Duties

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.

Home Language Survey

A district shall administer only one home language survey to each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through grade 12. The district shall 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 through 12.

It is the district's responsibility to ensure that the student's parent understands the language used in the survey and its implications. The original copy of the survey shall be kept in the student's permanent record.

The home language survey shall be provided in English, Spanish, and Vietnamese. For students of other language groups, the home language survey shall be translated into the primary language whenever possible.

The home language survey shall elicit one language answer to each of the following questions:

1. "What language is used in the child's home most of the time?"
2. "What language does the child use most of the time?"

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 Administrative Code 89.1226 (Testing and Classification of Students).

19 TAC 89.1215(a)–(c), .1226

Emergent Bilingual Classification

The LPAC may classify a student as emergent bilingual 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 tenth day after the date of the student's classification as emergent bilingual, 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 primary language that their child has been classified as an English learner and recommended for placement in the required bilingual education or ESL program. The district shall comply with the parent notification requirements described by 19 Administrative Code 89.1240(a).

The entry or placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent in order to have the student included in the bilingual education allotment. The parent's approval shall be considered valid for the student's continued participation in the required bilingual education or ESL program 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.

19 TAC 89.1240(a); Education Code 29.056(a)

Pending parental approval of an English learner's entry into a bilingual program recommended by the LPAC, a district shall place the student in the recommended program. Only English learners with parent approval who are receiving services will be included in the bilingual education allotment.

A district may place or exit a student in 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)

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 English proficient students shall not exceed 40 percent of the number of students enrolled in the program district-wide. *19 TAC 89.1233(c)*

Students with Disabilities

Districts shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with 19 Administrative Code Chapter 89, Subchapter AA. The district shall establish placement procedures that ensure that placement in a bilingual education or ESL program is not refused solely because the student has a disability. LPAC members shall meet in conjunction with admission, review, and dismissal (ARD) committee members to review and provide recommendations about the education needs of each English learner who qualifies for services in the special education program. [See EHBAB] *19 TAC 89.1230*

Bilingual and ESL Programs

Each district with an enrollment of 20 or more emergent bilingual students in any language classification in the same grade level shall offer a bilingual education or special language program.

Each district that is required to offer bilingual education and special language programs under this section shall offer the following for emergent bilingual students:

1. Bilingual education in kindergarten through the elementary grades;

2. Bilingual education, instruction in English as a second language, or other transitional language instruction approved by the agency in post-elementary grades through grade 8; and

3. Instruction in English as a second language in grades 9 through 12.

Education Code 29.053(c)–(d); 19 TAC 89.1205

The district shall provide an ESL program to all English learners for whom a district is not required to offer a bilingual education pro-

gram, regardless of the students' grade levels and primary 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]. *19 TAC 89.1205(c)*

A district is authorized to establish a bilingual education program even if the district has fewer than 20 English learners in any language classification in the same grade level district-wide and are not required to do so under the law. A district is also authorized to establish bilingual education programs at grade levels at which the district is not required under the law to establish bilingual programs. 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 education 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 bilingual education and ESL program shall apply for an exception or waiver to the certification requirement on or before November 1. *19 TAC 89.1245(b)*

Program Design

A district that is required to offer a bilingual education or ESL program shall provide each English learner the opportunity to be enrolled in the required program at his or her grade level.

A district's bilingual education program shall comply with the program content and design requirements of 19 Administrative Code 89.1210. A district shall provide for ongoing coordination between the ESL program and the regular educational program.

19 TAC 89.1210

English learners shall participate with their English-speaking 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 students 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

The bilingual education program 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 as English learners through English instruction by a teacher appropriately certified in ESL under Education Code 29.061(c), through English language arts and reading, mathematics, science, and social studies. The goal of content-based ESL is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading, mathematics, science, and social studies.

2. An ESL/pull-out program model is an English acquisition program that serves students identified as English learners through English instruction provided by an appropriately certified ESL teacher under Education Code 29.061(c), through English language arts and reading. The goal of ESL pull-out is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading. Instruction shall be provided by the ESL teacher in a pull-out or inclusionary delivery model.

19 TAC 89.1210(d)

Dual Language Immersion Program

A district may adopt a dual language immersion program (DLIP) for students enrolled in elementary school grades. *Education Code 28.005(c), .0051(c)*

Implementation

Program implementation shall:

1. Begin at prekindergarten or kindergarten, as applicable;

2. Continue without interruption incrementally through the elementary grades; and

3. Consider expansion to middle school and high school whenever possible.

19 TAC 89.1227(e)

Minimum Requirements

A DLIP shall:

1. Address all curriculum requirements specified at 19 Administrative Code Chapter 74, Subchapter A (Required Curriculum) to include foundation and enrichment areas, English language proficiency standards, and college and career readiness standards.
2. Be a full-time program of academic instruction in English and another language.
3. Provide equitable resources in English and the additional program language whenever possible.
4. Provide a minimum of 50 percent of instructional time in the language other than English for the duration of the program.
5. Be developmentally appropriate and based on current best practices identified in research.

19 TAC 89.1227

Two-Way DLIP Enrollment

Student enrollment in a two-way DLIP is optional for English proficient 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. A district must obtain written parental approval for English proficient students through a district-developed process.

A district implementing a two-way DLIP shall develop a policy on enrollment and continuation for students in the program. The policy must address:

1. Eligibility criteria;
2. Program purpose;
3. The district's commitment to providing equitable access to services for English learners.
4. Grade levels in which the program will be implemented;
5. Support of program goals as stated in 19 Administrative Code 89.1210 (Program Content and Design); and
6. Expectations for students and parents.

19 TAC 89.1228(c)

Two-Way DLIP State Assessment

A district implementing a two-way DLIP shall determine the appropriate assessment option for program participants as follows:

1. For English learners, the LPAC shall convene before the administration of the state criterion-referenced test each year to determine the appropriate assessment option for each English learner in accordance with 19 Administrative Code 89.1220(i) (Language Proficiency Assessment Committee).
2. For English proficient students, the appropriate assessment option for the administration of the state criterion-referenced test each year is determined through a district-developed process.

19 TAC 89.1228(e)

School District Recognition

A district may recognize one or more of its schools that implement an exceptional DLIP if the school meets all of the following criteria:

1. The school must meet the minimum requirements stated in 19 Administrative Code 89.1227.
2. The school must receive an acceptable performance rating in the state accountability system.

The school must not be identified for any stage of intervention for the district's bilingual and/or ESL program under the performance-based monitoring system.

Student Recognition

A student participating in a DLIP or any other state-approved bilingual or ESL program may be recognized by the program and the board by earning a performance acknowledgement in accordance with 19 Administrative Code 74.14. [See EIF]

19 TAC 89.1229

Facilities

Bilingual education 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 concentrate the programs at a limited number of facilities within the district. Recent immigrant English learners 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 availability of the programs shall be publicized throughout the districts involved.

A district may allow a nonresident emergent bilingual student to enroll in or attend its bilingual education or special language pro-

grams 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 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 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 emergent bilingual 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 established 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 or special language programs for emergent bilingual 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

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)

Teachers assigned to ESL programs must be appropriately certified for ESL. *Education Code 29.061(c)*

A district that is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates may request the activation of the appropriate permits in accordance with 19 Administrative Code Chapter 230. A district that is unable to provide the required bilingual education program because of an insufficient number of appropriately certified teachers shall request from the commissioner an exception to the bilingual education program and the approval of an alternative language program. English learners with parental approval for program services under a bilingual education exception will be included in the bilingual education allotment designated for an alternative language program. [See Exceptions and Waivers, above] *19 TAC 89.1207(a)–(b), .1245(a); Education Code 29.054*

Emergent Bilingual Students and State Assessments

In kindergarten–grade 12, an emergent bilingual 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 emergent bilingual 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)

Notice to Parents

A district shall give written notification to the student's parent of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program and acquire written approval. Students meeting reclassification requirements may continue in the bilingual education or ESL program with parental approval. *19 TAC 89.1240(b)*

Post-Exit Monitoring and Reenrollment

The language proficiency assessment committee 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 conduct a bilingual education or ESL program shall conduct an 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.

A district shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to English learners.

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 English learners. [See BQB]

19 TAC 89.1265

Notice to Parents

In accordance with Education Code 28.010 [see EHDD], a district shall notify the parent of each student enrolled in grade 9 or above of the availability of career and technology education programs or other work-based education programs. *Education Code 28.010(a)(1)(B)*

Career and Technology Program

Each public school student shall master the basic skills and knowledge necessary for managing the dual roles of family member and wage earner and for gaining entry-level employment in a high-skill, high-wage job or continuing the student's education at the post-secondary level. *Education Code 29.181.*

The board may conduct and supervise career and technology classes and other educational programs for students and for other persons of all ages and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the board shall consider the state plan for career and technology education. *Education Code 29.183* [See EEL]

Distinguished Achievement in Career and Technology Education

The board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum [see EHAA] and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards;
2. Obtain from a district an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this section is not in lieu of a diploma or certificate of coursework completion. [See EI]

In developing the program, the board shall consider the state plan for career and technology education. The board must submit the proposed program to the commissioner of education in accordance with criteria established by the commissioner.

Contracts with Other Entities

The board may contract with an entity listed in Education Code 29.184(a) [see EEL] for assistance in developing the program or providing instruction to district students participating in the program. The board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area.

Education Code 29.187

Insurance The board may provide insurance to protect a business that contracts with a district under this provision. [See CRB] *Education Code 29.191*

Applicability The following provisions apply only to districts receiving federal career and technical education funds. *19 TAC 75.1021*

Federal CTE Funding

An eligible secondary entity seeking financial assistance under the Carl D. Perkins Act of 2006 shall submit a local plan to the Texas Education Agency (TEA) as described in 20 U.S.C. 2354, in accordance with requirements establish by TEA. Each eligible recipient that receives funding under the Carl D. Perkins Act of 2006 shall use the funds to improve career and technical education programs in compliance with 20 U.S.C. 2355. *19 TAC 75.1022*

For information regarding federal career and technical funds under the "Strengthening Career and Technical Education for the 21st Century Act" (the reauthorization of the Carl D. Perkins Act of 2006), see 20 U.S.C. 2301 et seq.

Program Evaluation A district shall annually evaluate its career and technical education programs. *19 TAC 75.1025*

Special Populations Members of special populations shall be provided career and technical services in accordance with all applicable federal and state laws, regulations, and rules. *19 TAC 75.1023(a)*

Definition For purposes of this section, a "member of a special population" includes:

1. An individual with a disability [see EHBAB];
2. An individual from an economically disadvantaged family, including low-income youth and adults;
3. An individual preparing for nontraditional fields;
4. A single parent, including a single pregnant woman;
5. An out-of-workforce individual;
6. An English learner;
7. A homeless individual described in Section 725 of the McKinney-Vento Homeless Assistance Act;
8. Youth who are in, or have aged out of, the foster care system; and
9. Youth with a parent who is a member of the armed forces and is on active duty.

20 U.S.C. 2302(29)

Students with Disabilities

A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (IDEA) of 2004 and its implementing regulations, state statutes, and rules of the SBOE and the commissioner.

A student with a disability shall be instructed in accordance with the student's individualized education program (IEP), in the least restrictive environment, as determined by the admission, review, and dismissal (ARD) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as career and technical education for students with disabilities (CTED). [See EHBA]

A student with a disability identified in accordance with IDEA of 2004 is an eligible participant in career and technical education when the following requirements are met:

1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;
2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;
3. A district shall monitor to determine if the instruction being provided a student with a disability in career and technical education classes is consistent with the student's IEP;
4. A district shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. A district shall help fulfill the transitional service requirements of the IDEA of 2004 and implementing regulations, state statutes, and rules of the commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses; and
6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition

plan, the IEP, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA of 2004 and its implementing regulations.

19 TAC 75.1023

Student Organizations

A district may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. A student shall not, however, be required to join a career and technical student organization. Student participation in career and technical student organizations shall be governed in accordance with 19 Administrative Code Chapter 76 (extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. FFA;
5. Family, Career, and Community Leaders of America (FCCLA);
6. Health Occupations Students of America (HOSA);
7. Technology Student Association (TSA); and
8. SkillsUSA.

19 TAC 75.1024 [See FM]

Certification Subsidy

A student is entitled to a subsidy for a certification exam if:

1. The student:
   a. Successfully completes the career and technology program of a school district in which the student receives training and instruction for employment; or
   b. Is enrolled in a special education program under Education Code Chapter 29, Subchapter A; and
2. The student passes a certification examination to qualify for a license or certificate that is an industry certification for purposes of state accountability [see AIA], administered while the student is enrolled in a school district.

A student may not receive more than one subsidy under Education Code 29.190.

To obtain reimbursement for a subsidy paid under this provision, a district must pay the fee for the examination and submit to the commissioner a written application on a form prescribed by the commissioner stating the amount of the fee paid for the certification examination.

Education Code 29.190

A district is entitled to reimbursement for the amount of a subsidy paid by the district for a student's certification examination under these provisions. *Education Code 48.156*

Note: Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

Tuition-Free Prekindergarten Program

A district shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. A district may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.

A district may not charge tuition for a prekindergarten program offered under these provisions.

Definitions

In this section:

1. "Child" includes a stepchild.
2. "Parent" includes a stepparent.

Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless [see FD] regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty;
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201 or foster care in another state or territory, if the child resides in Texas; or
7. Is the child of a person eligible for the Star of Texas Award as:
    a. A peace officer under Government Code 3106.002;
    b. A firefighter under Government Code 3106.003; or
    c. An emergency medical first responder under Government Code 3106.004.

A child who is eligible for enrollment for free prekindergarten at the age of three and enrolls in prekindergarten class at the age of three remains eligible for enrollment in a prekindergarten class for the following school year.

A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

Education Code 29.153(a)–(b), (e-1), (f)

Parent Election

Subject to a district's decision to convene a retention committee [see EIE], a parent or guardian may elect for a student to enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under the eligibility described above and the student has not yet enrolled in kindergarten, or to repeat prekindergarten. *Education Code 28.02124(a)(1)–(2)*

Notice

A district shall develop a system to notify the population in the district with children who are eligible for enrollment in a free prekindergarten program of the availability of the program. The system must include public notices issued in English and Spanish. *Education Code 29.153(e)*

Half-Day or Full-Day

A prekindergarten class may be operated on a half-day basis for children under four years of age and shall be operated on a full-day basis for children who are at least four years of age.

Transportation

A district is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

Education Code 29.153(c)

High-Quality Prekindergarten Required

A prekindergarten class for children who are least four years of age must comply with the program standards required for high-quality prekindergarten programs under Education Code Chapter 29, Subchapter E-1. [See High-Quality Prekindergarten Program, below]

Exemption

The commissioner of education shall exempt a district from the application of all or any part of Education Code Chapter 29, Subchapter E-1 for a prekindergarten class for children who are at least four years of age, if the commissioner determines that:

1. The district would be required to construct classroom facilities in order to provide prekindergarten classes; or

2. Implementing any part of this section would result in fewer eligible children being enrolled in a prekindergarten class under this section.

A district may not receive an exemption unless the district has solicited proposals for partnerships with public or private entities regarding prekindergarten classes required under this section in accordance with guidance provided by the Texas Education Agency (TEA) and considered submitted proposals at a public meeting. A decision of the board regarding a partnership described by this provision is final.

An exemption may not be granted for a period longer than three school years and may be renewed only once.

Education Code 29.153(c-1)–(d-2)

Constructing, Repurposing, or Leasing a Facility

Before a district may construct, repurpose, or lease a classroom facility, or issue bonds for the construction or repurposing of a classroom facility, to provide the prekindergarten classes required under Education Code 29.153, the district must solicit and consider proposals for partnerships to provide those classes with community-based child-care providers who:

1. Are a Texas Rising Star Program provider with a three-star certification or higher;
2. Are nationally accredited;
3. Are a Head Start program provider;
4. Are a Texas School Ready! participant; or
5. Meet the requirements under Education Code 29.1532.

Education Code 29.153(g)

Tuition-Supported or District-Financed

A district may offer on a tuition basis or use district funds to provide:

1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten who are under four years of age; and
2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

A district may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (PEIMS data for prekindergarten programs).

A district must submit its proposed tuition rate to the commissioner for approval.

Education Code 29.1531

Program Design

A district's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. *Education Code 29.1532(a)*

Shared Site

Before establishing a new prekindergarten program, a district shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. *Education Code 29.1533*

Prekindergarten Licensing Standards

If a district contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042 and the class size requirements for prekindergarten classes imposed under Education Code 25.112(a) [see EEB]. *Education Code 29.1532(b)*

Daily Physical Activity

A district shall require students in full-day prekindergarten to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the district's physical education program or through structured activity during a campus's daily recess.

To the extent practicable, a district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

If a district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

A district must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

Education Code 28.002(l)

High-Quality Prekindergarten Program

"Program" means a high quality prekindergarten program for eligible children who are at least four years of age required to be provided free of tuition or fees.

Curriculum Requirements

A district shall select and implement a curriculum for a prekindergarten program that:

1. Includes the prekindergarten guidelines established by TEA;
2. Measures the progress of students in meeting the recommended learning outcomes; and
3. Does not use national curriculum standards developed by the Common Core State Standards Initiative.

Education Code 29.164, .167(a)

A school district shall implement a curriculum for a high-quality prekindergarten program that addresses the 2015 Texas Prekindergarten Guidelines in the domains listed in 19 Administrative Code 102.1003(b). The district shall measure student progress and kindergarten preparation in accordance with 19 Administrative Code 102.1003(c). *19 TAC 102.1003*

Teacher Requirements

Each teacher for a prekindergarten program class must be certified under Education Code Chapter 21, Subchapter B and have one of the following additional qualifications:

1. A Child Development Associate (CDA) credential or another early childhood education credential approved by TEA;
2. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education;
3. At least eight years' experience of teaching in a nationally accredited child-care program;
4. A graduate or undergraduate degree in early childhood education or early childhood special education or a non-early childhood education degree with a documented minimum of 15 units of coursework in early childhood education;
5. Documented completion of the Texas School Ready Training Program (TSR Comprehensive);
6. Be employed as a prekindergarten teacher in a district that has met the requirements of 19 Administrative Code 102.1003(d)(6); or
7. An equivalent qualification.

A district may allow a teacher employed by the district to receive the training required to be awarded a CDA credential from a regional education service center. Training may not include national curriculum standards developed by the Common Core State Standards Initiative.

A district must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students.

19 TAC 102.1003(d), (h); Education Code 29.167(b)–(d)

Family Engagement Plan

A district shall develop, implement, and make available on the district or campus website by November 1 of each school year, a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education. An effective family engagement plan creates a foundation for the collaboration of mutual partners, embraces the individuality and uniqueness of families, and promotes a culture of learning that is child centered, age appropriate, and family driven.

The family engagement plan shall meet the requirements of 19 Administrative Code 102.1003(e)(2).

19 TAC 102.1003(e); Education Code 29.168(a)

Report and Evaluation

In a format prescribed by TEA, a district shall report information in compliance with 19 Administrative Code 102.1003(f).

A district shall:

1. Select and implement appropriate methods for evaluating the district's high-quality prekindergarten program by measuring student progress; and
2. Make data from the results of program evaluations available to parents.

A district may administer diagnostic assessments to students in a program class to evaluate student progress but may not administer a state standardized assessment instrument.

An assessment instrument administered to a prekindergarten program class must be selected from a list of appropriate prekindergarten assessment instruments identified by the commissioner.

19 TAC 102.1003(f)–(g); Education Code 29.169

Eligible Private Providers

A district that offers a high-quality prekindergarten program may enter into a contract with an eligible private provider to provide services or equipment for the program.

To be eligible to contract with a district to provide a program or part of a program, a private provider must be licensed by and in good standing with the Department of Family and Protective Services. A private provider is in good standing with the Department of Family and Protective Services if the department has not taken an action against the provider's license during the 24-month period preceding the date of a contract with a district. The private provider must also:

1. Be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the commissioner;
2. Be a Texas Rising Star Program provider with a three-star certification or higher;
3. Be a Texas School Ready! participant;
4. Have an existing partnership with a district to provide a prekindergarten program not provided under Subchapter E-1; or
5. Be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

A prekindergarten program provided by a private provider under Education Code 29.171 is subject to the requirements of Education Code Chapter 29, Subchapter E-1 and the class size requirement for prekindergarten classes imposed by Education Code 25.112(a) [see EEB].

Education Code 29.171

Prekindergarten Expansion Grant

A district may use funds from grants administered by the commissioner to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.

A district may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs.

A district may use funds granted under this program in contracting with another entity, including a private entity.

Education Code 29.155(a), (b), (i)

Ready to Read Grant

A district that operates a prekindergarten program is eligible to apply for a Ready to Read grant if at least 75 percent of the children enrolled in the program are low-income students, as determined by commissioner rule.

Grants shall be used to provide scientific, research-based pre-reading instruction for the purpose of directly improving pre-reading skills and for identifying cost-effective models for pre-reading intervention. Grants funds shall be used for:

1. Professional staff development in pre-reading instruction;
2. Pre-reading curriculum and materials;
3. Pre-reading skills assessment materials; and
4. Employment of pre-reading instructors.

Education Code 29.157(b), (c)

Statewide Information Referral Network

A district shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. A district shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

"Child-care and education services" includes child-care and education services provided by a district through a prekindergarten or after-school program. *Gov't Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, a district shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services. On certifying eligibility, a district shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

A district shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

Gov't Code 531.0312(c)–(e)

Mandatory Recognition Dates

A district shall regularly observe the following recognition days, weeks, and months by appropriate programs, celebrations, and activities:

Women's Independence Day

August 26: Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051*

Hydrocephalus Awareness Month

September: Hydrocephalus Awareness Month, to:

1. Increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and
2. Encourage the development of partnerships between the federal government, health-care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Hydrocephalus Awareness Month shall be regularly observed by appropriate activities in public schools to increase awareness of hydrocephalus.

Gov't Code 662.106

Texas First Responders Day

September 11: Texas First Responders Day, in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools to honor Texas first responders. A district may determine the appropriate ceremonies by which Texas observes Texas First Responders Day. *Gov't Code 662.050*

September 11

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary and secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the required period of observance, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The required period of observance may be held in conjunction with the minute of silence required by Education Code 25.082. [See EC] *Education Code 25.0821*

Constitution Day

September 17: A district that receives federal funds for a fiscal year shall hold an educational program on the United States

Constitution for the students served by the district. *Pub. L. 108-447 (2004)*

Celebrate Freedom Week

Week of September 17: Celebrate Freedom Week, to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded. *Education Code 29.907*

Appropriate Instruction

Each social studies class shall include, during Celebrate Freedom Week or during another full school week as determined by the board, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context.

The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

19 TAC 74.33(a)

Recitation

Each district shall require that, during Celebrate Freedom Week or other prescribed week of instruction, students in grades 3–12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their Just Powers from the Consent of the Governed."

Exception

Each district shall excuse from recitation a student:

1. Whose parent or guardian submits to the district a written request that the student be excused;
2. Who, as determined by the district, has a conscientious objection to the recitation; or
3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

19 TAC 74.33(b), .36

American Indian Heritage Day

The last Friday in September is in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to Texas. American Indian Heritage Day shall

	be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in Texas and to celebrate the rich traditional and contemporary American Indian culture. *Gov't Code 662.056*
Father of Texas Day	November 3: Father of Texas Day, in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this beloved state. *Gov't Code 662.045*
Sam Rayburn Day	January 6: Sam Rayburn Day, in memory of that great Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in the public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041*
State of Texas Anniversary Remembrance Day	February 19: State of Texas Anniversary Remembrance Day (STAR Day), in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the state of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state. *Gov't Code 662.047*
Texas History Month	March: Texas History Month, in honor of those Texans who helped shape the history of the state of Texas and in recognition of events throughout Texas's history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history. *Gov't Code 662.102*
Texas Girls in STEM Day	March 1 is designated as Texas Girls in STEM Day to celebrate and encourage the participation of girls in this state in fields related to science, technology, engineering, and mathematics. Texas Girls in STEM Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools, public institutions of higher education, and other places to: 1. Encourage girls in this state to consider career fields in science, technology, engineering, and mathematics; and 2. Celebrate and honor the women of this state who have excelled in those fields. *Gov't Code 662.073*

In recognition of Texas Girls in STEM Day, each district may include throughout the month of March appropriate instruction, activities, and programs to encourage and celebrate women in career fields related to science, technology, engineering, and mathematics. The instruction may include programs that profile women in those fields and related fields, including finance, information technology, data analytics, cybersecurity, and health-care cloud architecture. *Education Code 29.925*

Public School Paraprofessional Day

The second Wednesday in May: Public School Paraprofessional Day, in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in the public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process. *Gov't Code 662.049*

Texas Military Heroes Day

To educate students about the sacrifices made by brave Texans who have served in the armed forces of the United States, the governor shall designate a day to be known as Texas Military Heroes Day in public schools.

Texas Military Heroes Day shall include appropriate instruction, as determined by each district. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which the district is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071

Generation Texas Week

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as Generation Texas Week. During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information about the pursuit of higher education, including:

1. Higher education options;
2. Standard admission requirements for institutions of higher education, including:
    a. Overall high school grade point average;

b. Required curriculum;

c. College readiness standards and expectations as determined under Education Code 28.008; and

d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

3. Automatic admission of certain students to general academic teaching institutions under Education Code 51.803 [see EIC]; and

4. Financial aid availability and requirements, including the financial aid information provided by school counselors under Education Code 33.007(b) [see FFEA].

In addition, each middle school, junior high school, and high school shall provide to students at least one public speaker to promote the importance of higher education.

Education Code 29.911

Holocaust Remembrance Week

To educate students about the Holocaust and inspire in students a sense of responsibility to recognize and uphold human value and to prevent future atrocities, the governor shall designate a week to be known as Holocaust Remembrance Week in public schools.

Holocaust Remembrance Week shall include age-appropriate instruction, as determined by each district. Instruction shall include:

1. Information about the history of and lessons learned from the Holocaust;

2. Participation, in person or using technology, in learning projects about the Holocaust; and

3. The use of materials developed or approved by the Texas Holocaust, Genocide, and Antisemitism Advisory Commission.

Education Code 29.9072

Optional Recognition Dates

In addition, a district may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:

Dr. Hector P. Garcia Day

Third Wednesday of September: Dr. Hector P. Garcia Day, in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the

	founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States. Dr. Hector P. Garcia Day may be regularly observed by appropriate ceremonies and activities in the public schools to properly commemorate the importance of the contributions made by Dr. Garcia. *Gov't Code 662.055*
Persons with Disabilities History and Awareness Month	October: Persons with Disabilities History and Awareness Month, to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities. A district may elect to observe Persons with Disabilities History and Awareness Month and determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month. *Gov't Code 662.109*
Texas Native Plant Week	Third week in October: Texas Native Plant Week, to celebrate the native plants of Texas. Texas Native Plant Week may be regularly observed in public schools with programs to appreciate, explore, and study Texas native plants. *Gov't Code 662.154*
Lung Cancer Awareness Month	November: Lung Cancer Awareness Month, to increase awareness of lung cancer and encourage funding of research and more effective treatments. Lung Cancer Awareness Month may be regularly observed by appropriate activities in public schools to increase the awareness of lung cancer and support for lung cancer research. *Gov't Code 662.104*
Human Trafficking Prevention Month	January: Human Trafficking Prevention Month, to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking. Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking. *Gov't Code 662.107*
Law Enforcement Appreciation Day	January 9: Law Enforcement Appreciation Day may be regularly observed in public schools and other places through appropriate activities. *Gov't Code 662.067*
Iwo Jima Day	February 19: Iwo Jima Day, in memory of the heroism and courage of the men and women of the armed forces of the United States who participated in the successful capture of the island of Iwo Jima beginning February 19, 1945. Iwo Jima Day may be regularly observed through appropriate activities in public schools and other places. *Gov't Code 662.062*

Child Safety Month	April: Child Safety Month, in recognition of the children of this state as this state's most precious resource. Child Safety Month is meant to ensure that the children of this state grow up in a safe and supportive environment by promoting their protection and care through increased public awareness of ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms, and the dangers presented to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather. Child Safety Month may be regularly observed by appropriate celebrations and activities in public schools to promote the protection and care of children in this state. *Gov't Code 662.105*
Sexual Assault Awareness Month	April: Sexual Assault Awareness Month, to increase awareness and prevention of sexual assault. Sexual Assault Awareness Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of sexual assault. *Gov't Code 662.111*

Student Elections

An election for the participation of students in kindergarten through grade 12 may be held in conjunction with a general, special, or primary election. The student election may be ordered by:

1. The commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority;
2. The governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or
3. The county executive committee, for a student election held in conjunction with a primary election.

A student election may be held only on election day or the day before election day.

The authority ordering a student election shall specify in the order each grade that may participate in the election. A student in a specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

The election officers serving in the official election may not serve in the student election. The authority ordering a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election. The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

Election Code 276.007

Notice to Parents

Each school year, a district shall notify the parent of each student enrolled in grade 9 or above of the availability of:

1. Programs under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs;
2. Career and technology education programs or other work-based education programs in the district, including any internship, externship, or apprenticeship programs or a P-TECH (Pathways in Technology Early College High School) program [see EHB]; and
3. Subsidies based on financial need available for fees paid to take college advanced placement tests or international baccalaureate examinations under Education Code 28.054.

Districts must also notify parents of the qualifications for enrolling in programs described by items 1 and 2 above.

The notice must include the name and contact information of any public or private entity offering such a program in the district.

A district may provide the notice on the district's internet website.

Education Code 28.010

Note: For information on dual credit courses available through the Texas Virtual School Network[1] (TXVSN), see EHDE.

College Credit Program

A district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. If requested by the district, a public institution of higher education in this state shall assist the district in developing and implementing the program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

Annually, a district shall report to the Texas Education Agency (TEA):

1. The number of students, including career and technical students, who have participated in the program and earned college credit; and

2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

The program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board (THECB); and

2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;

2. A career and technical education course; or

3. A foreign language course.

The requirements above do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

A district is not required to pay a student’s tuition or other associated costs for taking a course under this section.

Agreements

Any agreement, including a memorandum of understanding or articulation agreement, between a school district and public institution of higher education to provide a dual credit program must:

1. Include specific program goals aligned with statewide goals developed jointly by TEA and the THECB;

2. Establish common advising strategies and terminology related to dual credit and college readiness;

3. Provide for the alignment of endorsements offered by the district [see EIF] and dual credit courses offered under the

agreement that apply towards those endorsements, with post-secondary pathways and credentials at the institution and in-dustry certifications;

4. Identify tools, including tools developed by TEA, THECB, or the Texas Workforce Commission, to assist school counse-lors, students, and families in selecting endorsements offered by the district and dual credit courses offered under the agreement;

5. Establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including by developing a course equivalency crosswalk or other method for equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;

6. Describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;

7. Establish the district's and the institution's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program;

8. State the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program;

9. Require the district and the institution to consider the use of free or low-cost open educational resources in courses of-fered under the program;

10. Be posted each year on the district's and the institution's re-spective websites; and

11. Designate at least one employee of the district or institution as responsible for providing academic advising to a student who enrolls in a dual credit course under the program before the student begins the course.

Education Code 28.009; 19 TAC 4.84

College-Level Courses

A board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools;

2. Middle States Association of Colleges and Schools;
3. New England Association of Colleges and Schools;
4. North Central Association of Colleges and Schools;
5. Western Association of Colleges and Schools; or
6. Northwest Association of Colleges and Schools.

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by a district. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25

Dual Credit Programs

Definitions

For purposes of the following provisions, "college" means any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined by Education Code 61.003.

"Dual credit" means the system under which an eligible high school student enrolls in college course(s) and receives credit for the course(s) from both the college and high school.

19 TAC 4.83(4), (7); Education Code 61.003(8)

Partnership Agreements with Public Colleges

A district may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

Community College Jurisdiction

A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008.

A course offered for joint high school and junior college credit must be:

1. In the core curriculum of the public junior college;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a course offered for joint high school and junior college credit to a student as part of the early college education program established under Education Code 29.908

or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Education Code 130.008(a-1), (a-2), (d)

Student Eligibility

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b).

To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

19 TAC 4.85(b)

Faculty Selection, Supervision, and Evaluation

The college shall select, supervise, and evaluate instructors in accordance with 19 Administrative Code 4.85(e). *19 TAC 4.85(e)*

Transcript

For dual credit courses, high school as well as college credit should be transcripted immediately upon a student's completion of the performance required in the course. *19 TAC 4.85(h)*

Qualified Instructor

A course offered for joint high school and junior college credit must be taught by a qualified instructor approved or selected by the public junior college. An instructor is qualified if the instructor holds:

1. A doctoral or master's degree in the discipline that is the subject of the course;
2. A master's degree in another discipline with a concentration that required completion of a minimum of 18 graduate semester hours in the discipline that is the subject of the course; or
3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program:
    a. A degree described above;
    b. A baccalaureate degree in the discipline that is the subject of the course; or

c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as determined by the THECB.

Not later than the 60th day after receipt, a public junior college shall approve or reject an application for approval to teach a course at a high school that is submitted by an instructor employed by the district with which the junior college entered into an agreement to offer the course.

Education Code 130.008(g), (h)

Attendance Accounting

The time during which a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 48.005(g)* [See FEB]

The commissioner of education may approve instructional programs provided off campus by an entity other than a district as a program in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 48.007(a)*

Reporting Off-Campus Programs

A board may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (High School Credit for College Courses).

To be eligible, a student must:

1. Be in grade 11 or 12;
2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the *Student Attendance Accounting Handbook*;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code

48.007(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 48.005(h)*

Dual Credit Agreement

For any dual credit partnership between a secondary school and a public college, an agreement must be approved by the governing boards or designated authorities (e.g., principal and chief academic officer) of both the school district and the public college prior to the offering of such courses.

Any agreement entered into or renewed between a public institution of higher education and school district on or after September 1, 2019, including a memorandum of understanding or articulation agreement, must meet the requirements of 19 Administrative Code 4.84(c).

Any dual credit agreement must also address:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and gathering;
7. Academic policies and student support services;
8. Transcripting of credit;
9. Funding; and
10. Defined sequences of courses, where applicable.

19 TAC 4.84

Instructional Partnerships with Community College Districts

Types of instructional partnerships between a district and a community college district include:

1. Award of High School Credit Only (see High School Credit-Only Courses, below).
2. Award of Dual Credit (see Dual Credit Programs, above).
3. Tech-Prep Programs (see Tech-Prep Programs, below).
4. Remedial or Developmental Instruction for High School Graduates (see Remedial Programs, below).

5. College Preparatory Courses for High School Students (see College Preparatory Courses, below)

19 TAC 9.143

Agreement

For any educational partnership between a district and a community college district, an agreement must be approved by the board or designee of both the district and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcripting of credit.
8. Funding provisions.

19 TAC 9.144

High School Credit-Only Courses

A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*

Tech-Prep Programs

A district may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*

Remedial Programs

A board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college.

Community colleges may provide instruction to high school students for either remedial course work to prepare students to pass the required State of Texas Assessments of Academic Readiness End-of-Course (STAAR EOC) assessments or developmental

course work to prepare the students to pass an assessment instrument approved by the board under 19 Administrative Code 4.56 (Assessment Instruments).

High school students who have passed all of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a community college at the college's discretion if a need for such course work is indicated by student performance on an assessment instrument approved by the board under 19 Administrative Code 4.56 (see below).

The district and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit.

Education Code 130.090; 19 TAC 9.125, .143(d), .146

An institution of higher education shall use the Texas Success Initiative (TSI) Assessment offered by the College Board as the only THECB-approved assessment instrument. *19 TAC 4.56*

College Preparatory Courses

College preparatory courses are locally developed through a memorandum of understanding created between school districts and community colleges. *19 TAC 9.147*

Certain Academies

A district shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*

Off-Campus Program Provided by an Institution of Higher Education

The commissioner of education may approve instructional programs provided off campus by an entity other than a district as a program in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 48.007(a)*

Reporting Off-Campus Programs

A board may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (High School Credit for College Courses).

To be eligible, a student must:

1. Be in grade 11 or 12;

2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the *Student Attendance Accounting Handbook*;

3. Meet any eligibility requirements adopted by the institution of higher education; and

4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code 48.007(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 48.005(h)*

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[1] Texas Virtual School Network: https://www.txvsn.org

Award of Credit

The award of credit for a course affirms that a student has satisfactorily met state and local requirements. *19 TAC 74.26(a)*

Early Award of Credit

A district may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record (transcript) shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. *19 TAC 74.26(b)*

Partial Award

In accordance with a district's local policy, a student who is able to successfully complete only half of a course can be awarded credit proportionately. *19 TAC 74.26(d)*

A district shall award credit proportionately to a student who is homeless or in substitute care who successfully completes only half of a course. *19 TAC 74.26(e)*

Attendance for Credit or Final Grade

Unless credit is awarded by the attendance committee, or regained in accordance with a principal's plan [see FEC], a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered. *Education Code 25.092*

Homeless or Substitute Care

Each district must adopt a local policy to assist with awarding to a student who is homeless or in substitute care credit for a course that was earned prior to the student enrolling in or transferring to the district, as required by 19 Administrative Code 74.26 (Award of Credit).

Each district must examine how credit is awarded based on satisfactorily meeting all state and local requirements for a course upon enrollment, as required by 19 Administrative Code 74.26. [For information on credit by exam for students who are homeless or in substitute care, see EHDC].

Each district must:

1. Develop a credit recovery plan for students who were denied credits outside the district;
2. Create a course transition plan for students who have been denied credit;

3. Develop and administer a personal graduation plan for each student in junior high or middle school, as required by Education Code 28.0212 [see EIF];

4. Ensure that school staff engage with the student, parent, or guardian, as applicable, to develop a credit recovery plan upon enrollment if the student has a credit deficit that would impede on-time promotion or graduation; and

5. Comply with Education Code 28.025(i), concerning the award of diplomas for students who are homeless or in substitute care who are in grade 11 or 12.

19 TAC 89.1607(a), (d)–(e)

[For information on transition assistance for students who are homeless or in substitute care, including enrollment and placement in education programs and courses, see FFC.]

Graduation Requirements

Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. *19 TAC 74.26(a)(1), (c)*

Academic Achievement Record

Following guidelines developed by the commissioner of education, a district shall use an academic achievement record (transcript) form that includes student demographics, school data, student data, and the record of courses and credits earned.

The academic achievement record (transcript) shall serve as the academic record for each student and shall be maintained permanently by a district.

Any credit earned by a student must be recorded on the academic achievement record (transcript), regardless of when the credit was earned.

A student's performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c) [see EKB], must be included in the student's academic achievement record (transcript).

Copies of the record shall be made available to students transferring to another district. A district shall respond promptly to all requests for student records from receiving districts. [See also FD, FDA, and FL]

Education Code 28.025(e), 39.023(c-5); 19 TAC 74.5(b)–(d)

Transcript Seals	Students who complete high school graduation requirements shall have attached to the academic achievement record (transcript) a seal approved by the State Board of Education. *19 TAC 74.5(e)*
Endorsement	Students who complete the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record (transcript).
Performance Acknowledgment	Students who earn a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record (transcript).
Distinguished Level of Achievement	Students who earn the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record (transcript).
Speech Requirements	Students who demonstrate proficiency in speech as specified in 19 Administrative Code 74.11 shall have completion of the speech requirement clearly indicated on the academic achievement record (transcript).
CPR	Students who complete the required instruction in cardiopulmonary resuscitation (CPR) as specified in 19 Administrative Code 74.38 in grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record (transcript).
Proper Interaction with Peace Officers	Students who complete the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record (transcript). A district shall clearly indicate on the academic achievement record the year in which the instruction was provided to the student.
Languages Other Than English	Students who satisfy a language other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school in accordance with 19 Administrative Code 74.12 shall have the credit clearly indicated on the academic achievement record (transcript).
FAFSA/TASFA Completion	A student who completes and submits a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) or submits the Texas Education Agency-approved opt-out form shall have the completion of the financial aid application requirement clearly indicated on the academic achievement record. *Education Code 28.025; 19 TAC 74.5(f)–(m), .11(b), .39(e)*
Notation on Transcript or Diploma	A district shall ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete: 1. The recommended or advanced high school curriculum; or

2. For a district that is covered by Education Code 56.304(f)(1) (unavailability of courses), the required portion of the recommended or advanced high school curriculum offered at the district's high school.

The district must include this information on the student's transcript not later than the end of the student's junior year.

Education Code 56.308

Certificate of Coursework Completion

A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record (transcript) shall include a notation of the date a certificate of completion was issued to the student. [See FMH for participation in the graduation ceremony.] *19 TAC 74.5(m)*

Student Advancement

A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level. [See EI]

In determining promotion, a district shall consider:

1. The recommendation of the student's teacher;
2. The student's grade in each subject or course;
3. The student's score on an assessment instrument administered under Education Code 39.023(a), (b), or (l), to the extent applicable; and
4. Any other necessary academic information, as determined by the district.

Education Code 28.021(a), (c)

Advancement Requirements

By the start of the school year, a district shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(d)*

Retention After Assessment

A district is not precluded from retaining, in accordance with state law or board policy, a student who performs satisfactorily on a grade advancement test. *Education Code 28.0211(g)*

Parental Option to Retain

A parent or guardian may elect for a student to:

1. Repeat prekindergarten;
2. Enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Education Code 29.153(b) [see EHBG] and the student has not yet enrolled in kindergarten;
3. Repeat kindergarten;
4. Enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade; or
5. For grades 1 through 3, repeat the grade in which the student was enrolled during the previous school year.

Note: For provisions regarding retention of students in grades 4 through 8 and for courses taken for high school credit, see Education Code 28.02124(a-1)–(a-4). These provisions expire September 1, 2022.

An election made by a parent or guardian shall be made in writing to a district.

Retention Committee

If a district disagrees with the election, the district must convene a retention committee and meet with the parent or guardian to discuss retention. The meeting shall be conducted in person unless an alternative means is agreeable to the parent or guardian. A student may not be retained for a grade or retake a course under this provision if the parent or guardian does not meet with the retention committee.

A retention committee shall be composed of:

1. The principal or the principal's designee;
2. The student's parent or guardian;
3. The teacher who taught the grade or course for which the parent wants the student retained or repeated; and
4. Additional teachers at the discretion of the principal, if the student will potentially repeat multiple courses.

A retention committee shall:

1. Discuss the merits of and concerns with advancement and retention; and
2. Review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course.

If established, after the parent or guardian has participated in a retention committee meeting, the parent or guardian shall decide whether the student should be retained or retake a grade or course. The district must abide by the decision of the parent or guardian.

Retention Considerations

Except as provided by this provision or other law, retention of a student pursuant to a parent's or guardian's election under this provision shall be considered the same as retention of a student by a district.

Transfer of Rights

The rights of a parent or guardian under this provision transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age.

Education Code 28.02124

Students with Dyslexia

In measuring the academic achievement or proficiency of a student who has dyslexia, the student's potential for achievement or proficiency in the area must be considered. *Education Code 28.021(b); 19 TAC 101.2003(g)* [See policies at EHB, EKB, and FB]

Age-Appropriate Assignment

A board may establish a policy that provides for the placement of retained students in an age-appropriate learning environment. In accordance with local grade configurations for elementary, middle, and high school campuses, a board may specify the age by which a retained student should be placed on the next level campus even though not yet promoted to the grade of that campus. *19 TAC 101.2019(b)*

Optional Extended-Year Program

A student who does not meet district standards or policies for promotion on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level shall be eligible for services under the optional extended-year program. *19 TAC 105.1001(c)*

A student who attends at least 90 percent of the extended-year program days and who satisfies the requirements for promotion (academic achievement or demonstrated proficiency of the subject matter of the course or grade level) shall be promoted to the next grade level at the beginning of the next school year. However, if the student's parent presents a written request to the school principal asking that the student not be promoted, the principal shall hold a formal meeting with the parent, the teacher, and the school counselor, as soon as practicable after receiving such a request. During the meeting, the principal, teacher, or school counselor shall explain the possible effects of not promoting a student. If the parent withdraws the request after the meeting, the student shall be promoted, and the district shall continue to use innovative practices to ensure that the student is successful in school in succeeding school years.

If a district provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

Education Code 29.082(e)–(f) [See EHBC]

Curriculum Mastery

Grade-level promotion and earning of course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory, intensive, and/or accelerated services. [See EHBC] The District shall comply with applicable state and federal requirements when determining methods for students with disabilities [see FB] or students who are English language learners [see EHBE and EKBA] to demonstrate mastery of the curriculum.

Students Receiving Special Education Services

Any modified promotion standards for a student receiving special education services shall be determined by the student's admission, review, and dismissal (ARD) committee and documented in the student's individualized education program (IEP). [See EHBA series and EKB]

Standards for Mastery

In addition to the factors in law that must be considered for promotion, mastery shall be determined as follows:

1. Course assignments and unit evaluation shall be used to determine student grades in a subject. An average of 70 or higher shall be considered a passing grade.
2. Mastery of the skills necessary for success at the next level shall be validated by assessments that may either be incorporated into unit, nine weeks, or final exams or may be administered separately. Mastery of at least 70 percent of the objectives shall be required.

Kindergarten–Grade 2

In kindergarten–grade 2, promotion to the next grade level shall be based on an overall average of 3 on a scale of 1–4 based on course-level, grade-level standards (essential knowledge and skills) for language arts and mathematics.

Grades 3–8

In grades 3–8, a student shall be promoted to the next grade level if the student:

1. Has earned a final grade of 70 or above in both language arts and mathematics;
2. Has an overall average of 70 or above as determined by averaging final grades for language arts, mathematics, social studies, and science; and
3. Has not failed either social studies or science for two consecutive years.

Grades 9–12

Grade-level advancement for students in grades 9–12 shall be earned by course credits. Changes in grade-level classification shall be made at the beginning of the fall semester. [See EI]

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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.

A district shall adopt a form to be used for purposes of this provision. The form must be approved by the Texas Education Agency (TEA), provide the student or the student’s parent or other person standing in parental relation, as applicable, the opportunity to decline to complete and submit a financial aid application, and be made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program under Education Code Subchapter B, Chapter 29, in the district.

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)

Individual Graduation Committee

Without complying with the requirements above, 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)*

English Language Learners

For provisions related to an IGC and English language learners (ELL), see EKB.

Students Who Entered Grade 9 Before the 2011–12 School Year

In accordance with Education Code 28.02541, a district may award a high school diploma to an individual who:

1. Entered grade 9 before the 2011–12 school year;
2. Successfully completed the curriculum requirements for high school graduation applicable when the individual entered grade 9;

3. Has not performed satisfactorily on the exit-level assessment instrument or part of an assessment instrument required for high school graduation, including an alternative assessment instrument offered under Education Code 39.025(c-2);

4. Has been administered at least three times the required subject-area test(s) for which the individual has not performed satisfactorily on the exit-level assessment instrument applicable to the individual when the individual entered grade 9; and

5. Meets the alternative requirements for graduation in accordance with 19 Administrative Code 74.1027(c) or the local alternative requirements approved by the board in accordance with 19 Administrative Code 74.1027(d).

19 TAC 74.1027(a); Education Code 28.02541

District Determination — The district in which the individual is enrolled or was last enrolled shall determine whether the individual may qualify to graduate and receive a high school diploma on the basis of the alternative requirements for graduation. *19 TAC 74.1027(b)*

Alternative Requirements — The alternative requirements for graduation are listed at 19 Administrative Code 74.1027(c).

Local Alternative Requirements — With approval by the board, a district may develop recommendations for local alternative requirements if the requirements would allow an individual to demonstrate proficiency in the content related to an examination for which the individual has not performed satisfactorily. *19 TAC 74.1027(d)*

Appeals — A decision regarding whether the individual qualifies to graduate and receive a high school diploma is final and may not be appealed. *19 TAC 74.1027(e); Education Code 28.02541*

Documentation — The district shall maintain documentation to support the decision to award or not award an individual a high school diploma. *19 TAC 74.1027(f)*

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 Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

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 may issue a high school diploma to a student 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)

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

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 110–118, 126, 127, and 130 are followed.

Education Code 28.025; 19 TAC 74.13

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 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 Substitutions

Other Physical Activity

In accordance with local district policy, the required physical education credit may be earned through completion of any TEKS-based course 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. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner of education 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

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.

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.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6)

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

All credit for graduation must be earned no later than grade 12. *19 TAC 74.61(b), .71(b)*

Minimum High School Program

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 tenth 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

Other Physical Activity

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

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

All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

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, 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:

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.

Student with Physical Limitations

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.

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)

Transfers from Out-of-State or Nonpublic Schools

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, correspondence 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 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)*

Modified Curriculum and Content

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

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must 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. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070 (b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(g)–(h)*

Students Entering Grade 9 in or After the 2014–15 School Year

A student entering grade 9 in the 2014–15 school year and thereafter who receives special education services may graduate and be awarded a regular high school 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 and satisfactorily completed credit requirements for graduation under the foundation high school program applicable to students in general education as well as satisfactory performance as established in Education Code Chapter 39, on the required EOC assessment instruments.

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 and 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 but the student's ARD committee has determined that satisfactory performance on the required EOC assessment instruments is not necessary for graduation.

3. 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 and satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance as established in Education Code Chapter 39, 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 necessary 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.

c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.

d. The student no longer meets age eligibility requirements.

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)

Students Entering Grade 9 Before the 2014–15 School Year

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a high school diploma under the foundation high school program in accordance with 19 Administrative Code 89.1070.

Graduation of Military Dependents

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.

Course Waiver

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 tenth 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)*

Local Achievement Testing

In addition to the state-administered assessment instruments, a district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, "assessment instrument" means a district-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to a board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to a district for verification. A district shall have 90 days to verify the accuracy of test data and report the results to the board.

A district shall follow procedures for test security and confidentiality set forth in 19 Administrative Code Chapter 101, Subchapter C. [See EKB]

Education Code 39.026, .032; 19 TAC 101.101

Assessment Instrument Limitations

In any subject area for which a state assessment is administered, a district may not administer locally required assessments designed to prepare students for state assessments to any student on more than ten percent of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to ten percent or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*

Benchmark Assessment Instruments

"Benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

A district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with commissioner of education rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263

Designed to Prepare

For purposes of Education Code 39.0262 and 39.0263, an assessment instrument designed to prepare students for state-administered assessment instruments is an assessment that:

1. Evaluates students' potential performance relative to the state's blueprint in whole for a state-administered assessment; or
2. Is primarily focused on test-taking techniques.

This provision does not include an assessment designed to evaluate students' mastery of parts of the Texas Essential Knowledge and Skills or the efficacy of instructional practice.

19 TAC 101.6003

College Preparation Assessments

Each school year, and at state cost, a district may administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade, for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade, for the purpose of measuring a student's progress toward readiness for college and the workplace.

The provisions of Education Code 39.0261(a)(1) and (a)(2), above, apply only if the legislature appropriates funds for those purposes.

Education Code 39.0261(a)(1)–(a)(2), (f)

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost:

1. One of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes; or
2. The assessment instrument designated by the Texas Higher Education Coordinating Board under Education Code 51.334.

A high school student is not prohibited from taking the test more than once, at the student's own expense.

Education Code 39.0261(a)(3), (e)

A district is entitled to reimbursement for the amount of fees paid by the district for the administration of an assessment instrument under Education Code 39.0261(a)(3), above. *Education Code 48.155*

Homeschooled Students

The following provisions apply to a homeschooled student entitled under Education Code 25.001 to attend school in a district.

A district shall permit a homeschooled student to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the district.

"Homeschooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

Fees

A district shall require a homeschooled student to pay the same fee to participate in such a test that a student enrolled in the district is required to pay.

Notice

A district shall post on an internet website maintained by the district the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice must state that the PSAT/NMSQT or the advanced placement test is available for homeschooled students eligible to attend school in the district and describe the procedures for a homeschooled student to register for the test.

A district that does not maintain an internet website must publish the notice in a newspaper in the district. If a newspaper is not published in the district, the district shall provide for the publication of notice in at least one newspaper in the county in which the district's central administrative office is located.

The required notice must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a district school.

Education Code 29.916

Armed Services Vocational Aptitude Battery Test

Each school year each school district shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery (ASVAB) test and consult with a military recruiter.

The test must be scheduled:

1. During normal school hours; and

2. To optimize student participation, at a time that limits conflicts with extracurricular activities.

Each school district shall provide each student in grades 10 through 12 and the student's parent or person standing in parental relation to the student a notice of the date, time, and location of the scheduled administration of the ASVAB test.

A school district may elect not to provide the ASVAB test only if the district or school provides an alternative test that:

1. Assesses a student's aptitude for success in a career field other than a career field that requires postsecondary education;

2. Is free to administer;

3. Requires minimal training and support of district or school faculty and staff to administer the test; and

4. Provides the student with a professional interpretation of the test results that allows the student to:

    a. Explore occupations that are consistent with the student's interests and skills; and

    b. Develop strategies to attain the student's career goals.

A school district or high school that, before September 1, 2017, entered into a contract under which a vocational aptitude test that does not comply with the requirements for an alternative test is provided to students in grades 10 through 12, may elect not to provide the ASVAB test for the term of the contract. On the expiration of the contract term, this exemption is not applicable.

Education Code 29.9015

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State Assessment of Academic Skills

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see Testing in Grades 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5*

A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course (EOC) assessment instruments [see End-of-Course Assessments, below]. *Education Code 39.025(a); 19 TAC 101.4001*

Emergent Bilingual Students

In grades 3–12, an emergent bilingual student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with commissioner rules at 19 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

Special Education

The Texas Education Agency (TEA) shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee, including assessment instruments approved by the commissioner of education that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Education Code 39.023(b)–(c), .025(a-4)

Military Dependents

If the student is a military dependent, the district shall incorporate procedures to accept:

1. Exit or EOC exams required for graduation from the sending state;

2. National norm-referenced achievement tests; or

3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then Education Code 162.002 article VII, section C, shall apply.

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 achieving a score on an assessment instrument 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 grade 10 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 [See EIF]

Administration

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for administering tests. *19 TAC 101.25, .27*

Schedule

The commissioner shall specify the schedule for testing that is in compliance with Education Code 39.023(c-3) and supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

Alternate Test Dates

The commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate

test dates will only be allowed if the campus or district is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect a district's or campus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause a district or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the commissioner may prohibit a district or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the district, campus, and students.

19 TAC 101.5003

Test Administration Training

The commissioner may require training for district employees involved in the administration of the assessment instruments. The commissioner may only require for 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)*

Notice to Parents and Students

A superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the district, and no later than the beginning of the

student's first-grade year for all other students. The superintendent shall also provide such notice for students in grades 1–8 who are new to the district.

2. The testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The superintendent shall also provide such notice for students in grades 7–12 who are new to the district. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012

Testing in Grades 3–8

Except as provided below, all students, other than students who are assessed under Education Code 39.023(b) (alternative assessment instrument) or 39.023(l) (emergent bilingual students) or exempted under Education Code 39.027, shall be assessed in:

1. Mathematics, annually in grades 3–8;
2. Reading, annually in grades 3–8;
3. Social studies in grade 8;
4. Science in grades 5 and 8; and
5. Any other subject and grade required by federal law.

Education Code 39.023(a)

Exception

For purposes of federal accountability, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

For purposes of federal accountability, a grade 3–8 student who is accelerated in mathematics, reading/language arts, or science and on schedule to complete the high school end-of-course assessments in that same content area prior to high school shall be assessed at least once in high school with the ACT or the SAT.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is on schedule to complete instruction in the entire curriculum for that subject during the semester the assessment is administered.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

Education Code 28.0211(o)–(p), 39.023(a-2); 19 TAC 101.3011(a)(1)–(4)

Kindergarten Assessment

An assessment instrument under Education Code 39.023 may not be administered to a kindergarten student except for the purpose of determining whether the student is entitled to the benefit of the Foundation School Program [see FD]. *Education Code 39.023(a-16)*

Prekindergarten Assessment

Performance on an assessment instrument administered to students in prekindergarten may not be considered for any purpose related to Education Code Chapters 39 and 39A. *Education Code 39.0237*

Accommodations

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by a board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

A student's ARD committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP). [See Special Education, above]

19 TAC 101.3013; Education Code 39.023(a)–(c), (n); 34 C.F.R. 300.320(a)(6)

End-of-Course Assessments

Beginning with students first enrolled in grade 9 in the 2011–12 school year, a student enrolled in a course for which an EOC assessment exists as required by Education 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*

TEA shall adopt EOC assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I EOC assessment instrument must be

administered with the aid of technology, but may include one or more parts that prohibit the use of technology. The English I and English II EOC assessment instruments must each assess essential knowledge and skills in both reading and writing and must provide a single score. A district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this provision.

If a student is in a special education program, the student's ARD committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this provision.

Education Code 39.023(c)

Students Enrolled Below High School Level

Beginning in the 2011–12 school year, a student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 Administrative Code 101.3022. *19 TAC 101.3021(d)*

Assessment Requirements for Graduation

A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

Exceptions

English I or English II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English language learners who meet the criteria in 19 Administrative Code 101.1007. [See EKBA]

Credits Earned Prior to Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a

student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022

Substitute Assessments

The commissioner adopts certain assessments as substitute assessments that a student may use in place of a corresponding EOC assessment to meet the student's assessment graduation requirements. A satisfactory score on an approved assessment may be used in place of only one specific EOC assessment, except as provided by 19 Administrative Code 101.4002(d)(1) (student who qualifies for use of the Texas Success Initiative (TSI) as a substitute assessment and is enrolled in certain college preparatory courses).

A student at any grade level is eligible to use a substitute assessment as provided in the commissioner's chart at 19 Administrative Code 101.4002(b) if the student:

1. Was administered an approved substitute assessment for an equivalent course in which the student was enrolled;
2. Received a satisfactory score on the substitute assessment as determined by the commissioner and provided in the chart at 19 Administrative Code 101.4002(b); and
3. Using a Texas Success Initiative Assessment (TSIA) or a Texas Success Initiative Assessment, Version 2.0 (TSIA2) also meets the additional criteria of 19 Administrative Code 101.4002(d).

TSI Additional Criteria

A student must meet the criteria established in 19 Administrative Code 101.4002(d) in order to qualify to use TSIA or TSIA2 as a substitute assessment.

Accountability Testing

A student electing to substitute an assessment for graduation purposes must still take the corresponding EOC assessment required under Education Code 39.023(c) at least once for accountability purposes. If a student sits for an EOC assessment, a district may not void or invalidate the test in lieu of a substitute assessment.

A student who fails to perform satisfactorily on a PSAT, PLAN, or Aspire test (or any versions of these tests) as indicated in the chart in 19 Administrative Code 101.4003(b) must take the appropriate EOC assessment required under Education Code 39.023(c). However, a student who does not receive a passing score on the EOC

assessment and retakes a PSAT, PLAN, or Aspire test (or any versions of these tests) is eligible to meet the requirements specified in 19 Administrative Code 101.4002(c).

19 TAC 101.4002

Verification of Results

An eligible student is responsible for providing a district an official copy of the student's scores from the substitute assessment.

Upon receipt of official results of an approved substitute assessment, a district must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the commissioner.

19 TAC 101.4005

Satisfactory Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*

Individual Graduation Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC). [See EIF] *Education Code 28.0258, 39.025(a-5)*

Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 Administrative Code 89.1070 (Graduation Requirements) and 19 Administrative Code 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC

assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. [See Individual Graduation Committee, above]

19 TAC 101.3022(f)

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 Texas 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.

Beginning with the 2011–12 school year, all grades 9–12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 Administrative Code 101.3011(b)(2).

19 TAC 101.3023(a), (b)

Credit by Examination

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 Administrative Code 74.24. [See EHDB, EHDC] *19 TAC 101.3021(c)*

Additional State Assessments

TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student's performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments. *Education Code 39.023(c-2)*

Retakes

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See Satisfactory Performance, above]

A student is not required to retake a course as a condition of retaking an EOC assessment instrument.

If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)

Reporting Results

To the Public

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

To the Board

A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.

To Parents, Students, and Teachers

A district shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated at Confidentiality of Results, below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, a district shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. [See BQ series, FD, and FL]

19 TAC 101.3014

TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

Parents Right-to-Know Under ESEA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i)*

Parental Access

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, .006(a)(2)*

Out-of-State Transfers

A district shall accurately report to TEA whether that student transferred into the district from out of state during the current school year.

Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. A district shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to districts from the results of the district's other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014

Accelerated Instruction

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and either:

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under the local optional teacher designation system [see DEAA] for the subsequent school year in the applicable subject area; or
2. Provide the student supplemental instruction under Education Code 28.0211(a-4). [See EHBC]

Education Code 28.0211(a-1)

A district shall provide each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction under Education Code 28.0217 in the subject assessed by the assessment instrument. *Education Code 39.025(b-1)* [See EHBC]

College Readiness

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the grade 12 level whose performance on:
    a. An EOC assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
    b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code

51.334(a) indicates that the student is not ready to perform entry-level college coursework; and

2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through the institution of higher education with which the district partners.

Faculty — Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

Notice — Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

Credit Earned — A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

Dual Credit — A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.

Instructional Materials — Each district, in consultation with the institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

Education Code 28.014

Security and Confidentiality — All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

Districts and campuses and the superintendent and campus principals in each district and campus shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as the district becomes aware of any alleged or suspected violation of the security or confidential integrity of a test [see Violations, below];
3. Report all confirmed testing violations to TEA within ten working days of the district becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure test materials are district employees who have:
    a. Met the requirements to participate in the student assessment program;
    b. Received annual training in test security and test administration procedures; and
    c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and
5. Ensure the security of the test materials as required by 19 Administrative Code 101.3031(a)(2)(E).

19 TAC 101.3031(a)(1)–(a)(2)

Violations

Violations of the security and confidential integrity of a test include:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying holistic ratings or student responses;
4. Viewing secure test content before, during, or after an administration unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing secure test content or student responses;
6. Scoring students' tests, either formally or informally;

7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;

8. Responding to secure test questions;

9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;

10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);

11. Encouraging or assisting an individual to engage in the conduct described above or in any other serious violation of security and confidentiality;

12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in the above conduct or in any other serious violation of security and confidentiality under this provision;

13. Failing to implement sufficient procedures to prevent student cheating; and

14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

Consequences

If a district determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, the district shall invalidate the student's test results.

Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;

2. Referring certified educators to the State Board for Educator Certification (SBEC) for sanctions in accordance with 19 Administrative Code Chapter 247 (Educators' Code of Ethics) and Chapter 249 (Disciplinary Proceedings, Sanctions, and Contested Cases); and

3. Lowering the district's accreditation status or a district's or campus's accountability rating in accordance with Education Code 39.057(d) (redesignated to Education Code 39.003), or appointment of a monitor, conservator, or management team to the district in accordance with Education Code Chapter 39A.

Test Administration Procedures	Test administration procedures shall be delineated in the test administration materials provided to districts annually. Districts must comply with all of the applicable requirements specified in the test administration materials. Districts shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.
Records Retention	As part of test administration procedures, the commissioner shall require districts to maintain records related to the security of assessment instruments for five years. *19 TAC 101.3031(a-3)–(d)*
Disciplinary Action and Penalties	SBEC may take disciplinary action against a person who has violated the security or integrity of any assessment required by Education Code Chapter 39, Subchapter B or has committed an act that is a departure from the test administration procedures established by the commissioner under 19 Administrative Code Chapter 101. The superintendent and campus principal must develop procedures to ensure the security and confidentiality of the tests and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of a test. Failure to report can subject the person responsible to the applicable penalties. *19 TAC 249.15(a)–(b), (g)*
Minimize Disruptions	In implementing the commissioner's procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, a district shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*
Confidentiality of Results	Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b)* [See FL and GBA]

Note: The terms English language learner, English learner, limited English proficient student, and emergent bilingual student are used interchangeably.

Language Proficiency Assessment Committee (LPAC)

The language proficiency assessment committee (LPAC) [see EHBE] shall select the appropriate assessment option for English language learners, as defined by Education Code Chapter 29, Subchapter B, as a student of limited English proficiency (LEP), in accordance with 19 Administrative Code 101.1005. The LPAC assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA.

Documentation

The LPAC shall document in the student's permanent record file:

1. The decisions and justifications related to English language proficiency assessments under 19 Administrative Code 101.1003;
2. The decisions and justifications related to selecting the appropriate assessment option under 19 Administrative Code 101.1005; and
3. In conjunction with the admission, review, and dismissal (ARD) committee, the need for allowable testing accommodations under 19 Administrative Code 101.1003 and .1005.

19 TAC 101.1003(b), (c), .1005(a), (c)

Definitions

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. *Education Code 39.027(g)*

"Unschooled asylee or refugee" means a student who:

1. Initially enrolled in a school in the United States as:
   a. An asylee as defined by 45 C.F.R. 400.41; or
   b. A refugee as defined by 8 U.S.C. 1101;
2. Has a visa issued by the U.S. Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the U.S. Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and

3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the LPAC established under Education Code 29.063.

Education Code 39.027(a-1); 19 TAC 101.1005(c)

"Inadequate schooling outside the United States" is defined as little or no formal schooling outside the United States such that the asylee or refugee lacks basic literacy in his or her primary language upon enrollment in school in the United States. *19 TAC 101.1005(d)*

English Language Proficiency Tests

In kindergarten through grade 12, an English learner shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill state assessment requirements under Education Code Chapter 39, Subchapter B, [see EKB] and federal requirements. *19 TAC 101.1003(a)*

Limitations on Exemptions

First Year After Enrollment

An emergent bilingual student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an emergent bilingual student. *Education Code 39.027(a)(1)*

Subsequent Years

An emergent bilingual student granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or

2. An additional four years if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student's academic progress in a valid, reliable manner.

Minimum Days for Enrollment

Regardless of the date on which the student initially enrolled in a school in the United States, unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Education Code 39.027(a)(1), (2), or (3).

Education Code 39.027(a)(1)–(2), (a-1), (a-2), (g)

Testing in Grades 3–8

An English language learner shall participate in the grades 3–8 assessments and, except as provided below, shall be administered the general form of the English-version state assessment.

Spanish-Version Assessment

A Spanish-speaking English language learner in grades 3–5 may be administered the state's Spanish-version assessment if an assessment in Spanish will provide the most appropriate measure of the student's academic progress.

Linguistically Accommodated Assessments

An English language learner in grade 3 or higher may be administered the linguistically accommodated English version of the state's mathematics, science, or social studies assessment if:

1. A Spanish-version assessment does not exist or is not the most appropriate measure of the student's academic progress;
2. The student has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above [see English Language Proficiency Tests, above]; and
3. The student has been enrolled in U.S. schools for three school years or less or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less [see Definitions, above].

Exemption for Asylee or Refugee

An unschooled asylee or refugee who meets the criteria at Spanish-Version Assessment and Linguistically Accommodated Assessments above shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school.

19 TAC 101.1005(b), (c)

Refusal of Services

An English language learner whose parent or guardian has declined bilingual education/ESL services is not eligible for special assessment, accommodation, or accountability provisions made

available to English language learners on the basis of limited English proficiency. *19 TAC 101.1005(f)*

End-of-Course Assessments

An English language learner shall participate in the end-of-course assessments as required by Education Code 39.023(c) and, except as provided below, shall be administered the general form of the English-version state assessment. *19 TAC 101.1005(b)*

An English language learner shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, except as provided below.

Exception

If an English language learner enrolled in English I or English for Speakers of Other Languages I has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above [see English Language Proficiency Tests, above] and has been enrolled in U.S. schools for three school years or less, or qualifies as an unschooled asylee or refugee enrolled in U.S. schools [see Definitions, above] for five school years or less, then he or she shall not be required to retake the applicable English I assessment in which the student is enrolled each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment [See EKB]

19 TAC 101.1007(a), (b)

Non-LEP Students

School districts may administer the assessment of academic skills in Spanish to a student who is not identified as limited English proficient but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. *19 TAC 101.1005(g)*

Special Education

Selecting Assessments

For each English language learner who receives special education services, the student's ARD committee in conjunction with the student's LPAC shall select the appropriate assessments.

The ARD committee shall document the decisions and justifications in the student's individualized education program (IEP).

19 TAC 101.1005(a)

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an English learner who receives special education services to participate in the general required English language proficiency assessment [see English Language Proficiency Tests, above] for reasons associated with the student's particular disability. Students with the most significant cognitive disabilities who cannot participate in the general English

language proficiency assessment, even with allowable accommodations, shall participate in the alternate English language proficiency assessment to meet federal requirements. The ARD committee shall document the decisions and justifications in the student's IEP, and the LPAC shall document the decisions and justifications in the student's permanent record file. *19 TAC 101.1003(b)*

In the case of an English learner who receives special education services, the ARD committee in conjunction with the LPAC shall determine and document the need for allowable testing accommodations in accordance with administrative procedures established by TEA. *19 TAC 101.1003(c)*

Alternative Assessment Instruments

In certain cases, an English learner who receives special education services may, as a result of his or her particular disabling condition, qualify to be administered an alternative assessment instrument based on alternative achievement standards. *19 TAC 101.1005(b)*

An unschooled asylee or refugee who meets these criteria shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school. *19 TAC 101.1005(c)*

Testing Accommodations

The LPAC in conjunction with the ARD committee shall determine and document any allowable testing accommodations for assessments in accordance with administrative procedures established by TEA. *19 TAC 101.1005(e)*

Grade Advancement Requirements

The LPAC shall determine appropriate assessment and accelerated instruction for an English language learner who is administered a grade advancement test in English or Spanish, except as provided by 19 Administrative Code 101.1005. The grade placement committee for an English language learner shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)* [See EIE]

Definition

For the purpose of this policy, “parent” is the person who is indicated on the student registration form at the campus. The signature of only one parent of a student is required for a charter created by petition or a cooperative program charter. *Education Code 12.051(1), .052(b), .053(b)*

Policy

A district shall adopt a campus charter and program charter policy, which shall specify the:

1. Process for approval of a campus charter or program charter;
2. Statutory requirements with which a campus charter or program charter must comply; and
3. Items that must be included in a charter application.

Education Code 12.058

Campus or Program Charter

A board may grant a charter to parents and teachers for a campus or a program on a campus.

A board shall grant or deny the charter, through a public vote, if the board is presented with a petition signed by:

1. The parents of a majority of the students at that campus; and
2. A majority of the classroom teachers at that campus.

A board may not arbitrarily deny a charter.

Education Code 12.052

New Campus or Contract Charter

A board may grant a charter for:

1. A new district campus; or
2. A program that is operated:
    a. By an entity that has entered into a contract with the district under Education Code 11.157 [see EEL] to provide educational services to the district through the campus or program; and
    b. At a facility located in the boundaries of the district.

Voluntary Enrollment

A student’s parent or guardian may choose to enroll the student at a campus or in a program charter. A district may not assign a student to the campus or program unless the student’s parent or guardian has voluntarily enrolled the student.

Parental Removal

A student’s parent or guardian may, at any time, remove the student from the campus or program and enroll the student at the campus to which the student would ordinarily be assigned.

Teacher Assignment	A district may not assign to the campus or program a teacher who has signed a written statement that the teacher does not agree to that assignment. *Education Code 12.0521*
Contract Charter Funding	Beginning with the 2019–20 school year, a district is eligible to receive funding under Education Code 48.252 on the renewal of a contract. A district under contract with an open-enrollment charter school to jointly operate a campus or campus program during the 2017–18 school year and under any renewal of that contract during the 2018–19 school year is eligible to receive funding under former Education Code 42.2511 for each student or the portion of each student's school day under the direction of the open-enrollment charter school. *Education Code 11.157(b); 19 TAC 61.1010*
District Charter	A board may grant a district charter to a campus.
Enrollment Limit	A district charter may be granted only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year.
Exception	The percentage limit may not prevent a district from granting a district charter to at least one feeder pattern of schools, including an elementary, middle or junior high, and high school. A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C, Chapter 39, Education Code.
Open-Enrollment Charter School	Subchapter D, Chapter 39, Education Code (open-enrollment charter schools) applies to a campus granted a district charter as though the campus were granted a charter under that subchapter, and the campus is considered an open-enrollment charter school. A district charter is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Education Code 12.101. *Education Code 12.0522*
Cooperative Campus Charter	A board may grant a charter to parents and teachers at two or more campuses in the district for a cooperative charter program if the board is presented with a petition signed by: 1. The parents of a majority of the students at each school; and 2. A majority of the classroom teachers at each school. *Education Code 12.053*

Performance Contract

A board that grants a charter shall enter into a performance contract with the principal or equivalent chief operating officer of the campus or program. The performance contract must specify enhanced authority granted to the principal or equivalent officer in order to achieve the academic goals that must be met by campus or program students.

Duration of Charter

A charter granted by the board expires ten years from the date the charter is granted unless the specified goals are substantially met, as determined by the board.

Education Code 12.0531

Neighborhood School

A board may determine that a campus granted a charter will be a neighborhood school.

The principal or equivalent chief operating officer of a neighborhood school shall manage the funding provided for the school under the Education Code and any other funding provided for the school in the manner the principal or other officer determines best meets the needs of the school's students. The district in which the school is located may retain that portion of funding that the district generally withholds from a campus for costs associated with the salary of the superintendent or other district governance.

The principal or equivalent chief operating officer of a neighborhood school may use school funding to purchase from the school district in which the school is located services for the school, including bus service, facilities maintenance services, and other services generally provided by a school district to district campuses. The school shall pay for each service an amount that reflects the actual cost to the district of providing the service for the number of the school's students for which the service is provided.

Education Code 12.0532

Student Eligibility

Eligibility criteria for admission of students to the charter campus or program must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student’s age, grade level, or academic credentials, in general or in a specific area, as necessary for the type of program offered.

The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Education Code 12.065

Exemption

A campus or program for which a charter is granted is exempt from the instructional and academic rules and policies of the board from which the campus or program is specifically exempted in the charter and retains the authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter. *Education Code 12.054*

Charter Contract

A charter shall be in the form and substance of a written contract signed by a board president and the chief operating officer of the campus or program for which the charter is granted. *Education Code 12.060*

Each charter shall:

1. Satisfy the requirements governing charter campuses and programs; and
2. Include all information required to be in the content of the charter consistent with the information provided in the application and any modification a board requires.

Education Code 12.061

Content of Charter

Each charter granted must:

1. Describe the educational program to be offered, which may be a general or specialized program;
2. Provide that continuation of the charter is contingent on satisfactory student performance on state-required assessment instruments, satisfactory financial performance under state financial accountability provisions, and on compliance with other applicable accountability provisions;
3. Specify any basis, in addition to a basis specified in Education Code Chapter 12, Subchapter C, on which the charter may be revoked;
4. Prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;
5. Describe the governing structure of the campus or program;
6. Specify any procedure or requirement, in addition to those under Education Code Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and
7. Describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be

conducted, including the manner in which the campus or program will provide information necessary for the district in which it is located to participate in PEIMS.

Education Code 12.059

Revision

A charter created by petition or a cooperative charter program may be revised with board approval and on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

A charter created without a petition may be revised with the approval of the board of trustees that granted the charter. The charter may be revised only before the first day of instruction or after the final day of instruction of a school year.

Education Code 12.062

Failure to Discharge or Refuse to Hire

A charter campus or program commits a material violation of its charter if the campus or program fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under Education Codes 12.1059, 22.085, or 22.092. *Education Code 12.0631*

Applicability of Laws

A charter campus or program is subject to federal and state laws and rules governing public schools, except that the charter campus or program is subject to the Education Code and rules adopted thereunder only to the extent that the code or rule specifically provides. *Education Code 12.055(a)*

Education Code

A charter campus or program has the powers granted to schools under the Education Code.

A charter campus or program is subject to:

1. Provisions of the Education Code establishing criminal offenses;
2. Prohibitions, restrictions, or requirements of the Education Code, or a rule adopted under the Education Code, relating to:
    a. PEIMS, to the extent necessary to monitor compliance, as determined by the commissioner;
    b. Criminal history records under Subchapter C, Chapter 22;
    c. High school graduation under Section 28.025;
    d. Special education programs under Subchapter A, Chapter 29;

e. Bilingual education under Subchapter B, Chapter 29;

f. Prekindergarten programs under Subchapter E, Chapter 29, except class size limits for prekindergarten classes imposed under Education Code 25.112 [see EEB], which do not apply;

g. Extracurricular activities under Section 33.081 (i.e., "no pass-no play");

h. Health and safety under Chapter 38 (including immunizations, dyslexia and related disorders, child abuse reporting, protective eye devices, tobacco and alcohol use, steroid use, access to medical records, and referrals to outside counselors);

i. The provisions of Subchapter A, Chapter 39;

j. Public school accountability and special investigations under Subchapters A, B, C, D, F, and J, Chapter 39, and Chapter 39A;

k. The duty to discharge or refuse to hire certain employees or applicants for employment under Education Code 12.1059; and

l. Parental options to retain a student under Education Code 28.02124. [See EIE]

Education Code 12.056

Open Meetings and Public Information Acts

With respect to the operation of a campus or program charter, the governing body of the charter campus or program is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.057(a)*

Teacher Retirement System

A district may contract with another district or an open-enrollment charter holder for services at a campus charter. An employee of the district or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder. *Education Code 12.055(b)*

An employee of an independent school district who is employed on a charter campus or program who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school

district who is employed on a regularly operating campus or in a regularly operating program.

An employee of a charter holder who is employed on a campus or in a program granted a charter and who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

Education Code 12.057(b), (b-1)

Liability

A charter campus or program, and its employees and volunteers, are immune from liability to the same extent as a district, its employees, and volunteers, respectively. *Education Code 12.057(c)*

Placement on Probation or Revocation

A board may place on probation or revoke a charter it grants if the board determines that the campus or program:

1. Committed a material violation of the charter, including by failure to comply with the duty to discharge or refuse to hire certain employees or applicants for employment, as provided by Education Code 12.0631;

2. Failed to satisfy generally accepted accounting standards of fiscal management; or

3. Failed to comply with law governing a charter campus or program, another law, or a state agency rule.

The action a board takes under any item above shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

Education Code 12.063

Procedure

Each board that grants a charter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

This procedure must provide an opportunity for a hearing to the campus or program for which the charter is granted and to parents and guardians of students at the campus or in the program. A hearing must be held on the campus or on one of the campuses in the case of a cooperative charter program.

Education Code 12.064

Exemption from Instruction

A parent or person standing in parental relation may remove the parent's child from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity.

Limitations

A parent or person standing in parental relation is not entitled to remove the parent's child from a class or other school activity to avoid a test or to prevent the child from taking a subject for an entire semester. This policy does not exempt a child from satisfying grade level or graduation requirements in a manner acceptable to the district and the Texas Education Agency (TEA).

Education Code 26.002, .010

Required Social Studies Course Restrictions

The following requirements apply to any social studies course in the required curriculum.

Controversial Topics

A teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs.

A teacher who chooses to discuss a topic described above shall, to the best of the teacher's ability, strive to explore the topic from diverse and contending perspectives without giving deference to any one perspective.

Education Code 28.002(h-3)(1)–(2)

Political Activism and Advocacy Participation

A district or teacher may not require, make part of a course, or award a grade or course credit, including extra credit, for a student's:

1. Political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or
2. Participation in any internship, practicum, or similar activity involving social or public policy advocacy.

Private Funding for Activism and Advocacy

A district may not accept private funding for the purpose of developing a curriculum, purchasing or selecting curriculum materials, or providing teacher training or professional development for a course described above.

Education Code 28.002(h-3)(3), (h-5)

Training, Orientation, and Therapy

A teacher, administrator, or other employee of a district may not be required to engage in training, orientation, or therapy that presents

any form of race or sex stereotyping or blame on the basis of race or sex.

Concepts Prohibited

A teacher, administrator, or other employee of a district may not require or make part of a course the concept that:

1. One race or sex is inherently superior to another race or sex;
2. An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
3. An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;
4. Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
5. An individual's moral character, standing, or worth is necessarily determined by the individual's race or sex;
6. An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
7. An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
8. Meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
9. The advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
10. With respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality.

A teacher, administrator, or other employee of a district may not require an understanding of The 1619 Project.

Student Discussion

A district may not implement, interpret, or enforce any rules or student code of conduct in a manner that would result in the punishment of a student for discussing, or have a chilling effect on student discussion of, the concepts described above.

Education Code 28.002(h-3)(4), (h-5)

Secular Program

A district may instruct students in the study of comparative religion or the history of religion and its relationship to the advancement of civilization. The study of the Bible or of religion for its literary and historic qualities, when presented objectively as part of a secular program of education, is consistent with the First Amendment. *School Dist. of Abington v. Schempp, 374 U.S. 203 (1963)*

Academic Freedom

A district shall not require teaching and learning to be tailored to the principles or prohibitions of any religious sect or dogma. A district shall not adopt programs or practices that aid or oppose any religion. *Epperson v. Arkansas, 393 U.S. 97 (1968) (holding unconstitutional a prohibition against teaching evolution); Edwards v. Aguillard, 482 U.S. 578 (1987) (holding unconstitutional a requirement that creationism be taught with evolution)*

Religious Exercises

A district shall not prescribe a religious exercise as part of the curricular activities of students even if the religious exercise is denominationally neutral or its observance on the part of the students is voluntary. *School Dist. of Abington v. Schempp, 374 U.S. 203 (1963) (holding unconstitutional a requirement of daily Bible readings and recitation of the Lord's Prayer); Engel v. Vitale, 370 U.S. 421 (1962) (holding unconstitutional required recitation of state-adopted prayer)*

[For information on student expression of religious viewpoints in class assignments, see FNA]

Elective Courses

In accordance with Education Code 28.011 and 19 Administrative Code 74.36, a district may offer to students in grade 6 or above, and grant elective credit for:

1. An elective course on the Hebrew Scriptures (Old Testament) and its impact and an elective course on the New Testament and its impact; or
2. An elective course that combines the courses described above.

If, for a particular semester, fewer than 15 students at a school district campus register to enroll in a course required by this section, the district is not required to offer the course at that campus for that semester.

A board may offer an elective course based on the books of a religion other than Christianity. In determining whether to offer such a course, the board may consider various factors, including student and parent demand for such a course and the impact such books have had on history and culture.

A district may offer a course, other than the course authorized by Education Code 28.011, in the academic study of the Hebrew Scriptures, the New Testament, or both for local credit or for state elective credit towards high school graduation.

[See DMA for the requirements for a teacher of an elective Bible course.]

Education Code 28.011; 19 TAC 74.36; Att'y Gen. Op. GA-657 (2008)

General Eligibility

A board or its designee shall admit into the public schools of a district free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

Student and Parent

The person and either parent reside in the district.

Conservator

The person does not reside in the district, but one of the parents resides in the district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.

Guardian or Person Having Lawful Control

The person and his or her guardian or other person having lawful control under an order of a court reside in the district.

Students Living Separate and Apart

The person is under the age of 18 and has established a separate residence in the district apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the district is not for the primary purpose of participation in extracurricular activities. A board is not required to admit such person, however, if the person has:

1. Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
2. Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or
3. Been convicted of a criminal offense and is on probation or other conditional release.

Education Code 25.001(a)–(b), (d)

Students Who Are Homeless

The person is homeless. [See also FDC]

1. "Child who is homeless," "person who is homeless," and "student who is homeless" have the meaning assigned to the term homeless children and youths under the McKinney-Vento Homeless Assistance Act.
2. "Homeless children" under the McKinney-Vento Homeless Assistance Act, means children or youths who lack a fixed, regular, and adequate nighttime residence; and includes:

a. Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

b. Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

c. Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

d. Migratory children living in circumstances described above. “Migratory child’’ means a child who made a qualifying move in the preceding 36 months:

(1) As a migratory agricultural worker or a migratory fisher; or

(2) With, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher. [See EEB]

Education Code 5.001(1-a), 25.001(b)(5); 20 U.S.C. 6399; 42 U.S.C. 11434a(2)

[For information regarding the transfer of records and other transition requirements for a student who is homeless, see FFC.]

Foreign Exchange Students

The person is a foreign exchange student placed with a host family that resides in the district by a nationally recognized foreign exchange program, unless the district has applied for and been granted a waiver by the commissioner of education because:

1. This requirement would impose a financial or staffing hardship on the district;

2. The admission would diminish the district’s ability to provide high-quality education services for the district’s domestic students; or

3. The admission would require domestic students to compete with foreign exchange students for educational resources.

Education Code 25.001(b)(6), (e)

Students in Residential Facility	The person resides at a residential facility, as defined in Education Code 5.001, located in the district. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located. *Education Code 25.001(b)(7), 29.012(c)*
Students Over 18	The person resides in the district and is 18 or older or the person's disabilities of minority have been removed. *Education Code 25.001(b)(8)*
Resident Grandparent	The person does not reside in the district but the grandparent of the person: 1. Resides in the district; and 2. Provides a substantial amount of after-school care for the person as determined by the board. *Education Code 25.001(b)(9)*
Residence Homestead	The person and either parent of the person reside in a residence homestead, as defined by Tax Code 11.13(j), that is located on a parcel of property any part of which is located in the district. *Education Code 25.001(b)(10)*
Proof of Eligibility	A district may require evidence that a person is eligible to attend the public schools of the district at the time it considers an application for admission of the person. A board or its designee shall establish minimum proof of residency acceptable to a district. A board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under the provision at Students Living Separate and Apart above, a board shall determine whether an applicant qualifies as a resident of a district and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*
"Residence" Defined	"Residence" requires living in the district and having the present intention to remain there. *Martinez v. Bynum, 461 U.S. 321 (1983*) A district may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*
Active-Duty Parent	A person whose parent or guardian is an active-duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, may establish residency for purposes of eligibility of admission by providing to the district a copy of a military order requiring the parent's or guardian's transfer to a military installation in or adjacent to the district 's attendance zone. *Education Code 25.001(c-1)*

A person who establishes residency under Education Code 25.001(c-1) shall provide to the district proof of residence in the district's attendance zone not later than the tenth day after the arrival date specified in the military order. For purposes of this provision, "residence" includes residence in a military temporary lodging facility. *Education Code 25.001(c-2)*

Immigration Status

Denying enrollment based upon immigration status to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Plyler v. Doe, 457 U.S. 202 (1982)*

High School Equivalency Certificate

A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. *Education Code 29.087(h)*

Substitute for Parent or Guardian

A board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. *Education Code 25.001(j)*

Authorization Agreement

"Adult caregiver" means an adult person whom a parent has authorized to provide temporary care for a child under Family Code Chapter 34. *Family Code 34.0015(1)*

A parent, as defined in Family Code 101.024, or both parents of a child may enter into an authorization agreement with an adult caregiver to authorize the adult caregiver to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the district; and
3. Authorizing the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

Family Code 34.002

A parent may enter into an authorization agreement with an adult caregiver with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) to allow the person to perform the acts described above with regard to the child during an investigation of

abuse or neglect or while the department is providing services to the parent. *Family Code 34.0021*

The authorization agreement must conform to the requirements of Family Code Chapter 34.

A child who is the subject of an authorization agreement is not considered to be placed in foster care and the parties to the agreement are not subject to any law or rule governing foster care providers. *Family Code 34.0022(b)*

An authorization agreement does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the adult caregiver has legal custody of the child. *Family Code 34.007(b)*

Only one authorization agreement may be in effect for a child at any time. Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect. *Family Code 34.002(d), .008(f)*

An authorization agreement is for a term of six months and renews automatically for six-month terms unless an earlier expiration date is stated in the agreement, the agreement is terminated under Family Code 34.008, or a court authorizes continuation. *Family Code 34.0075*

Immunity

A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34. *Family Code 34.007(a)*

Note: The Authorization Agreement for Nonparent Relative (PDF)[1] is available on the DFPS website.

Temporary Authorization for Care

A person eligible to consent to treatment of a child under Family Code 32.001 or a person eligible to enter an authorization agreement [see Authorization Agreement, above] may seek a court order for temporary authorization for care of a child by filing a petition in the district court in the county in which the person resides if:

1. The child has resided with the person for at least the 30 days preceding the date the petition was filed; and

2. The person does not have an authorization agreement or other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child.

Family Code 35.001–.002

The order may authorize the petitioner to, among other things:

1. Consent to medical, dental, psychological, and surgical treatment and immunization of the child;
2. Enroll the child in the district; and
3. Authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

A temporary authorization order does not affect the rights of the child's parent, conservator, or guardian regarding the care, custody, and control of the child, and does not establish legal custody of the child. *Family Code 35.007(b)*

Immunity

A person who relies in good faith on a temporary authorization order is not subject to civil or criminal liability to any person, or to professional disciplinary action. *Family Code 35.007(a)*

Students in Foster Care

A child placed in foster care by an agency of the state or a political subdivision shall be permitted to attend schools in the district in which the foster parents reside free of any charge to the foster parents or to the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by a district. *Education Code 25.001(f)*

A student who was enrolled in a primary or secondary public school before the student entered the conservatorship of DFPS and who is placed at a residence outside the attendance area for a school or outside a district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g)*

If a student who is in the conservatorship of DFPS is enrolled in a primary or secondary public school, other than the school in which the student was enrolled at the time the student was placed in the

conservatorship of DFPS, the student is entitled to continue to attend that school without payment of tuition until the student successfully completes the highest grade level offered by the school at the time of enrollment in the school, even if the child's placement is changed to a residence outside the attendance area for that school or outside the district. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g-1)*

A written case plan for any child in foster care under the responsibility of the state must include a plan for ensuring the educational stability of the child while in foster care, including:

1. Assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child in enrolled at the time of placement; and

2. An assurance that the appropriate state agency has coordinated with a district to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or if remaining in that school is not in the best interests of the child, assurances by the state agency and the district to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

42 U.S.C. 675(1)(G), 675a [See CNA]

[For information regarding the transfer of records and other transition requirements for a student who is in substitute care, see FFC.]

Transfers from Other States

A district shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to a district. *Education Code 25.003*

Students Holding F-1 Student Visas

If a student is required, as a condition of obtaining or holding the appropriate U.S. student visa, to pay tuition to the district that the student attends to cover the cost of the student’s education provided by the district, the district shall accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student’s education for the period of the student's attendance at school in the district.

The commissioner shall develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education. A district may not accept tuition in an amount greater than the amount computed under the commissioner's guidelines unless the commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the district.

The attendance of a student for whom a district accepts tuition is not counted for purposes of allocating state funds to the district.

Education Code 25.0031

Note: Enrolling students with F-1 visas is optional. If the district is interested in enrolling students with F-1 visas, it must comply with the federal Student and Exchange Visitor Program[2] (SEVP) under the Department of Homeland Security.

Texas Juvenile Justice Department

A school-age child of an employee of the Texas Juvenile Justice Department (TJJD) residing in an adjacent district may attend school in a district free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TJJD facility. *Education Code 25.042*

Enrollment

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. A district shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

Legal Surname

A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

Required Documentation

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.

Education Code 25.002(a); 19 TAC 129.1(a)–(b)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1)

Residential Facility

Except for a juvenile pre-adjudication secure detention facility or a juvenile post-adjudication secure correctional facility, a residential facility shall provide to a district that provides educational services to a student placed in the facility any information retained by the facility relating to:

1. The student's school records, including records regarding special education eligibility or services, behavioral intervention plans, school-related disciplinary actions, and other documents related to the student's educational needs;

2. Any other behavioral history information regarding the student that is not confidential under another law; and

3. The student's record of convictions or the student's probation, community supervision or parole status, as provided to the facility, if necessary to provide education services to the student.

Education Code 29.012(f), (g)

Summer School Enrollment

A district shall permit a person who is eligible under Education Code 25.001 [see General Eligibility, above] to attend school in the

district but who is not enrolled in school in the district to enroll in a district summer school course on the same basis as a district student, including satisfaction of any course eligibility requirement and payment of any fee authorized under Education Code 11.158 [see FP] that is charged in connection with the course.

This requirement does not apply to enrollment in a Summer Intensive Mathematics Instruction Program under Education Code 29.088, a Summer Intensive Science Instruction Program under Education Code 29.090, or in a similar intensive program.

Education Code 25.008

Enrollment in Prekindergarten and Kindergarten

A parent or guardian may elect for a student to enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Education Code 29.153(b) [see EHBG] and the student has not yet enrolled in kindergarten, or enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade. *Education Code 28.02124* [See EIE]

Food Allergy Information

On enrollment, a district shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety [see FB and FFAF]; and specify the food to which the child is allergic and the nature of the allergic reaction.

The district shall maintain the confidentiality of the provided information, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Education Code 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. [See FL]

"Severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Education Code 25.0022(a)–(c)

Child in DFPS Possession

A district shall enroll a child without the required documentation if DFPS has taken possession of the child. DFPS shall ensure that the required documentation is furnished to a district not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

Inconsistent Documentation

If a child is enrolled under a name other than the name that appears in the identifying documents or records, a district shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.

Missing Documentation

If the required documents and other records are not furnished to a district within 30 days after enrollment, the district shall notify the police department of the city or the sheriff's department of the county in which the district is located and request a determination of whether the child has been reported as missing.

Education Code 25.002(b)–(c)

Parent Contact Information

The parent of a student enrolled in a district shall provide in writing to the district:

1. On enrollment of the student in the district and not later than two weeks after the beginning of each school year, the parent's address, phone number, and email address; and
2. If the parent's contact information changes during the school year, not later than two weeks after the date the information changes, the parent's updated information.

Education Code 26.0125

Students Under 11

On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

1. Request from the person enrolling the child the name of each previous school attended by the child;
2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and
3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
    a. A certified copy of the child's birth certificate; or
    b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

Code of Criminal Procedure 63.019

False Information

When accepting a child for enrollment, a district shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in a district is liable to the district if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee a district may charge [see FDA] or the amount a district has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

A district may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

Placement of Transfers

Credits and Records

A district shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at a 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)*

A district shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in TJJD educational programs. *Education Code 30.104(a)*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. *Education Code 37.011(d)*

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)*

[For information regarding educational placement of students who are homeless or in substitute care, see FFC.]

Foundation School Program

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person:
    a. Is at least five years of age and under 21 years of age, and has not graduated from high school;
    b. Is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma; or
    c. Is at least 18 years of age and under 50 years of age and is enrolled in an adult education program provided under the adult high school charter school program under Education Code Chapter 12, Subchapter G.
2. The person is enrolled in prekindergarten under Education Code 29.153 [see EHBG].
3. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and a district has adopted a policy to admit students younger than five years of age.
4. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

Education Code 25.001(a), 48.003

Screening

The principal of each district school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

Pest Control Information

Chief administrators or the integrated pest management (IPM) coordinators of schools must notify the parents or guardians of children attending the facility in writing that pesticides are periodically applied indoors and outdoors, and that information on the times

and types of applications and prior notification is available upon request. Such notification must be made at the time of the students' registration. Telephonic, written, or electronic notification of planned applications will meet the notification requirements. *4 TAC 7.148(c); Occupations Code 1951.455(b)* [See CLB]

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[1] Authorization Agreement for Nonparent Relative (PDF): https://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2638.pdf
[2] Student and Exchange Visitor Program: https://www.ice.gov/sevis

Agreement Between Districts

The board may, by means of a mutual agreement with the board of an adjoining district, transfer any student to the jurisdiction of that adjoining district. All transfers shall be made pursuant to the requirements of Education Code 25.032 through 25.034. The board, together with the board of the adjoining district, shall agree to the transfer of school funds proportionate to the transfer of attendance when such interdistrict transfers are made. *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. *Education Code 25.036* [See also FD]

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

The 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*

Tuition

The 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 to the district 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*

Tuition for Education Outside District

Home districts that do not offer each grade, kindergarten–grade 12, shall pay tuition to the district if they have a contract to educate students in grades not taught in the home district. If the home district has contracted for students to attend another district(s), it shall not be required to pay tuition to any district with which it has not contracted. A contract under this section may not be for a period exceeding five years.

The amount of tuition paid may not exceed the greater of:

1. The amount by which the district's actual expenditure per student in average daily attendance exceeds the sum the district receives from state aid sources, as provided by Education Code 25.037. However, the district may not charge more than the tuition charge for the preceding school year unless a tuition fee is set out in a transfer agreement; or
2. The calculated tuition limit specified by commissioner's rule.

Under the commissioner's rule, tuition charged to the home district for a transfer student in payment for that student's education may not exceed the district's calculated tuition limit. The calculated tuition limit applies only to tuition paid to the district for the education of a student at a grade level not offered in the home district.

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 accordance with 19 Administrative Code 61.1012(b).

Education Code 25.038, .039; 19 TAC 61.1012

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. The 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)*

An eligible student may attend a public school in the district in which the student resides or may use a public education grant to attend any other district chosen by the student's parent. *Education Code 29.201*

Eligible Students

A student is eligible to receive a public education grant or to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus assigned an unacceptable rating that is made publicly available under Education Code 39.054.

After a student has used a public education grant to attend a school in a district other than the district in which the student resides:

1. The student does not become ineligible for the grant if the school on which the student's initial eligibility is based no longer meets the criteria described above; and
2. The student becomes ineligible for the grant if the student is assigned to attend a school that does not meet the criteria described above.

Education Code 29.201, .202

Funding

A district is entitled to a public education grant allotment for each eligible student using a public education grant.

A district is entitled to additional facilities assistance under Education Code 48.301 if the district agrees to:

1. Accept a number of students using public education grants that is at least one percent of the district's average daily attendance for the preceding school year; and
2. Provide services to each student until the student either voluntarily decides to attend a school in a different district or graduates from high school.

Average Daily Attendance

A student who uses a public education grant to attend a public school in a district other than the district in which the student resides is included in the average daily attendance of the district in which the student attends school.

Education Code 29.203(a)–(c)

Admission

A district chosen by a student's parent under Education Code 29.201 above is entitled to accept or reject the application for the student to attend school in that district, but may not use criteria that discriminate on the basis of the student's race, ethnicity, academic

achievement, athletic abilities, language proficiency, sex, or socio-economic status.

Priorities — A district that has more acceptable applicants for attendance under public education grants than available positions must give priority to students at risk of dropping out of school, as defined by Education Code 29.081 [see EHBC] and must fill the available positions by lottery.

Exception — To achieve continuity in education, however, a district may give preference over at-risk students to:

1. Enrolled students; and
2. Siblings or other children residing in the same household as enrolled students, for the convenience of parents, guardians, or custodians of those children.

Tuition — A district chosen by a student's parent under a public education grant may not charge the student tuition.

Education Code 29.203(d)–(e)

Transportation — The district in which a student resides shall provide each student attending a school in another district under a public education grant transportation free of charge to and from the school the student would otherwise attend. *Education Code 29.203(f)*

Contract for Services — The board may contract for the provision of educational services to a student eligible to receive a public education grant. *Education Code 29.205*

Notice to Parent — Not later than February 1 of each year, a district shall notify the parent of each student in the district assigned to attend a campus described by Education Code 29.202 above that the student is eligible for a public education grant. The notice must contain a clear, concise explanation of the public education grant program and of the manner in which the parent may obtain further information about the program. *Education Code 29.204(b)*

Assignments

A board or its designee may assign and transfer any student from one school facility or classroom to another facility or classroom within its jurisdiction. *Education Code 25.031*

A board or its designee must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032*

Multiple Birth Siblings

"Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.

"Parent" includes a person standing in parental relation.

Placement

The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing, not later than the 14th day after the first day of enrollment, that the school place the siblings in the same classroom or in separate classrooms.

A school shall provide the placement requested, except that a district is not required to place multiple birth siblings in separate classrooms if the request would require the district to add an additional class to the grade level of the siblings.

The school may recommend to a parent the appropriate classroom placement and may provide professional educational advice to assist the parent with the decision.

These provisions do not affect:

1. A right or obligation regarding the individual placement decisions of the admission, review, and dismissal (ARD) committee with respect to students receiving special education services [see EHBAB]; or
2. The right of a district or teacher to remove a student from a classroom under Chapter 37 [see FOA].

Reassignment by Principal

At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

Appeal

A parent may appeal the principal's classroom placement in the manner provided by district policy. During an appeal, the siblings shall remain in the classroom chosen by the parent. [See FNG]

Education Code 25.043

Placement of Older Students

A person who is 21 years of age or older who is admitted by a district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. This restriction does not prevent the student from attending a school-sponsored event that is open to the public as a member of the public. *Education Code 25.001(b-2)*

Petitions and Objections

The parent or person standing in parental relation to any student may by written petition either:

1. Request the assignment or transfer of the student to a designated school or to a school to be designated by the board; or
2. File objections to the assignment of the student to the school to which the student has been assigned.

Education Code 25.033, 26.003(a)(1)

Procedure

Upon receiving a written petition, a board shall proceed as follows:

1. If no hearing is requested, act on the petition not later than the 30th day after the petition is submitted and notify the petitioner of its conclusion; or
2. If a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the petition is submitted.

If a hearing is requested, it shall be conducted by a board in compliance with the following:

1. The petitioner may present evidence relevant to the student.
2. The board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

Board's Decision

The board must grant the request made in the petition unless the board determines that there is a reasonable basis for denying the request. The decision of a board, with or without a hearing, is final, unless the student, or the parent, guardian, or custodian of the student as next friend, files an exception to the decision as constituting a denial of any right of the student guaranteed under the U.S. Constitution.

If such an exception is filed, a board may reconsider its decision. If a board has not ruled on the exception before the 16th day after the date of the filing, the objection is considered overruled. If the

exception is overruled, an appeal of a board's decision may be filed in the district court of the county in which the board is located.

Education Code 25.034

Students Who Are Victims of Bullying

On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, a board or its designee shall transfer the victim to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred.

Students Who Engage in Bullying

The board may transfer the student who engaged in bullying to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

Education Code 37.004 (Placement of Students with Disabilities) applies to a transfer under this provision of a student with a disability who receives special education services.

Definition

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Verification

A board or designee shall verify that a student has been a victim of bullying before transferring the student. A board may consider past student behavior when identifying a bully.

The determination by a board or designee is final and may not be appealed. The procedures set forth at Education Code 25.034 [see Petitions and Objections—Procedure, above] do not apply to a transfer under this provision.

A district is not required to provide transportation to a student who transfers to another campus under this provision.

Education Code 25.0342

Note: For bullying rising to the level of prohibited harassment, see FFH. For all other bullying, see FFI. For transfers related to sexual assault or school safety, see FDE.

Others in Special Education Student's Household

If a district assigns a student to a district campus other than the campus the student would attend based on the student's residence, for purposes of receiving special education services, the district shall permit the student's parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the household of the student receiving special education services, provided that:

1. The other student is entitled to attend school in the district [see FD]; and
2. The appropriate grade level for the other student is offered at the campus.

This provision does not apply if the student receiving special education services resides in a residential facility.

Education Code 25.034 [see Petitions and Objections—Procedure, above] does not apply to a transfer under this provision.

Transportation

A district is not required to provide transportation to a student who transfers to another campus under this provision. This provision does not affect any transportation services provided by a district in accordance with other law for the student receiving special education services.

Education Code 25.0343

Students in Unacceptable Schools

A student is eligible to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus assigned an unacceptable rating that is made publicly available under Education Code 39.054. *Education Code 29.202(a)* [See FDAA]

Students in Schools Identified for Support and Improvement

A district may provide all students enrolled in a school identified by TEA for comprehensive support and improvement under 20 U.S.C. 6311(c)(4)(D)(i) with the option to transfer to another public school served by the district, unless such an option is prohibited by state law.

A district shall give priority to the lowest achieving children from low-income families. A student who uses the option to transfer shall be enrolled in classes and other activities in the public school to which the student transfers in the same manner as all other students at the public school.

A district shall permit a student who transfers to another school to remain in that school until the child has completed the highest grade in that school. A district may spend an amount equal to not

more than five percent of its allocation under 20 U.S.C. Chapter 70, Part A, Subpart 2 (Title I basic program allocations) to pay for the provision of transportation for students who transfer under these provisions to the schools to which they transfer.

20 U.S.C. 6311(d)(1)(D)

Note: See FDE for the school safety transfer option in Title I programs.

Class Changes

A parent or person standing in parental relation is entitled to reasonable access to the school principal, or to a designated administrator with authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student. The decision of a board regarding such a request is final and may not be appealed. *Education Code 26.002, .003(a)(2), (b)* [See FNG]

School Safety Choice Option

The Texas Education Agency (TEA) shall establish and implement a statewide policy requiring that a student be allowed to attend a safe public elementary or secondary school within a district, including a public charter school, if the student:

1. Attends a persistently dangerous public elementary or secondary school, as determined by TEA; or
2. Becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of the public elementary or secondary school that the student attends.

20 U.S.C. 7912

Sexual Assault Transfer

These provisions apply to:

1. A student (the "assailant"):
    a. Who has been convicted of continuous sexual abuse of a young child or disabled individual, convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault committed against another student who, at the time the offense occurred, was assigned to the same campus as the student convicted or placed on deferred adjudication (the "conduct");
    b. Who has been adjudicated under Family Code 53.03 for engaging in the conduct;
    c. Whose prosecution under Family Code 53.03 for engaging in the conduct has been deferred; or
    d. Who has been placed on probation under Family Code 54.04(d)(1) for engaging in the conduct; and
2. A student who is the victim of the conduct (the "victim").

These provisions apply regardless of whether the conduct occurred on or off of school property.

Transfer of Victim

On the request of a parent or other person with authority to act on behalf of the victim of the conduct, a board shall transfer the victim to:

1. A district campus other than the campus to which:
    a. The victim was assigned at the time the conduct occurred; or
    b. The assailant is assigned, if the assailant has been assigned to a different campus since the conduct occurred; or

2. A neighboring school district, if there is only one campus in the district serving the grade level in which the victim is enrolled.

The transfer must be to a campus or school district, as applicable, agreeable to the parent or other person with authority to act on the victim's behalf.

Transfer of Assailant

If the victim does not wish to transfer to another campus or district, a board shall transfer the assailant to:

1. A district campus other than the campus to which the victim is assigned; or

2. A district's disciplinary alternative education program or juvenile justice alternative education program, if there is only one campus in the district serving the grade level in which the assailant is enrolled. [See FOC]

To the extent permitted under federal law [see FL], a district shall notify the parent or other person with authority to act on behalf of the victim of the campus or program to which the assailant is assigned.

Education Code 25.034 [see FDB] does not apply to a transfer under this provision.

A district is not required to provide transportation to a student who transfers to another campus or district under this provision.

Education Code 25.0341

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.

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.]

Compulsory Attendance

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their 19th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. On enrollment in prekindergarten or kindergarten, a student shall attend school. *Education Code 25.085(a)–(c)*

Voluntary Enrollment of Students 19 and Over

A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. A board may adopt a policy requiring the student who is under 21 years of age to attend school until the end of the school year.

After the third unexcused absence of a person who voluntarily enrolls, a district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

A district may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester, except a school district may not revoke the enrollment of a person under this provision on a day on which the person is physically present at school.

A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

As an alternative to revoking a person's enrollment, a school district may impose a behavior improvement plan described by Education Code 25.0915(a-1)(1).

Education Code 25.085(e)–(h)

Accelerated / Compensatory Programs

Unless specifically exempted, a student must also attend:

1. An extended-year program for which the student is eligible that is provided by a district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];

4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or

5. A summer program provided:

   a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of removal. *Education Code 37.021* [See FO]

   b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. *Education Code 37.008(l)* [See FOCA]

Education Code 25.085(d)

Additional Instructional Days

Notwithstanding any other provision in Education Code 25.085, a student enrolled in a district is not required to attend school for any additional instructional days described by Education Code 48.0051 [See Incentive for Additional Instructional Days at FEB]. *Education Code 25.085(i)*

Exemptions

A student is exempt from compulsory attendance requirements under the following statutory provisions.

Equivalency Diploma

A student is exempt from compulsory attendance requirements if the student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

Private or Home School

A student is exempt from compulsory attendance requirements if the student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. *TEA v. Leeper, 893 S.W.2d 432 (Tex. 1994)*

Special Education—Nondistrict Placement

A student is exempt from compulsory attendance requirements if the student is eligible to participate in a district's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

Medical Condition	A student is exempt from compulsory attendance requirements if the student has a temporary and remediable physical or mental condition that makes attendance infeasible and the student has a certificate from a qualified physician specifying the temporary condition, indicating the prescribed treatment, and covering the anticipated period of absence for the purpose of receiving and recuperating from remedial treatment.
Expulsion—No JJAEP	A student is exempt from compulsory attendance requirements if the student is expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]
17-Year-Old in GED Course	A student is exempt from compulsory attendance requirements if the student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and: 1. Has the permission of the student's parent or guardian to attend the course; 2. Is required by court order to attend the course; 3. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or 4. Is homeless.
High School Replacement Programs	A student is exempt from compulsory attendance requirements if the student is enrolled in the Texas Academy of Leadership in the Humanities, Texas Academy of Mathematics and Science, or Texas Academy of International Studies.
16-Year-Old in GED Program or Job Corps	A student is exempt from compulsory attendance requirements if the student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if: 1. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or 2. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801. [Note: The Workforce Investment Act of 1998 has been repealed.]
Other Exemption	A student is exempt from compulsory attendance requirements if the student is specifically exempted under another law. *Education Code 25.086*

Excused Absences for Compulsory Attendance Determinations

A district shall excuse a student from attending school as required by the following statutory provisions.

Religious Holy Days

A district shall excuse a student from attending school for the purpose of observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.

Court Appearances

A district shall excuse a student from attending school for the purpose of attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.

Citizenship Proceedings

A district shall excuse a student from attending school for the purpose of appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

A district shall excuse a student from attending school for the purpose of taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.

Election Clerks

A district shall excuse a student from attending school for the purpose of serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See Early Voting Clerks, below]

Children in Conservatorship of DFPS

If a student is in the conservatorship of the Department of Family and Protective Services (DFPS), a district shall excuse the student from attending school for the purpose of participating, as determined and documented by DFPS, in an activity:

1. Ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours, or

2. Required under a service plan under Family Code Chapter 263, Subchapter B.

Education Code 25.087(b)(1); 19 TAC 129.21(j)(3)

Health-Care Appointments

A district shall excuse a student from attending school for a temporary absence resulting from an appointment with a health-care professional for the student or the student's child if the student commences classes or returns to school on the same day of the appointment. The appointment must be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy. *Education Code 25.087(b)(2), (b-3); 19 TAC 129.21(j)(3)* [See FEB]

Serious or Life-Threatening Illness

A district shall excuse an absence resulting from a serious or life-threatening illness or related treatment that makes the student's attendance infeasible, if the student or the student's parent or guardian provides a certification from a physician licensed to practice medicine in Texas specifying the student's illness and the anticipated period of the student's absence relating to the illness or related treatment. *Education Code 25.087(b)(3)*

Higher Education Visits

A district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and

2. The district adopts:

   a. A policy to determine when an absence will be excused for this purpose; and

   b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2); 19 TAC 129.21(j)(3)

Early Voting Clerks

A district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. A

district may excuse a student for serving as an election clerk [see Election Clerks, above] or early voting clerk for a maximum of two days in a school year. *Education Code 25.087(b-1), (e)*

Military Dependents

A district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A district may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment. *Education Code 25.087(b-4)* [See FDD]

Enlistment in Armed Services

A district shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard, provided that:

1. The district may not excuse for this purpose more than four days of school during the period the student is enrolled in high school; and

2. The district verifies the student's activities related to pursuing enlistment in a branch of the armed services or the Texas National Guard.

A district shall adopt procedures to verify a student's activities as described in these provisions.

Education Code 25.087(b-5), (b-6); 19 TAC 129.21(j)(3)

Visit to a Driver's License Office

A district may excuse a student who is 15 years of age or older from attending school to visit a driver's license office to obtain a driver's license or learner license, provided that the district may not excuse more than one day of school during the period the student is enrolled in high school for each of the following purposes: obtaining a driver's license; or obtaining a learner license. The district must verify the student's visit to the driver's license office in accordance with procedures adopted by the district. *Education 25.087(b-7)*

Taps at Military Funeral

In addition, a district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran. *Education Code 25.087(c)*

No Penalty

A student whose absence is excused for a reason described beginning at Excused Absences for Compulsory Attendance Determinations, above, may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the district.

Make-Up Work

The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance.

Education Code 25.087(d)

Other Excused Absences

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled. *Education Code 25.087(a)*

Notices to Parents

Warning Notice

A district shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school year, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a).

Notice of Absences

A district shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
    a. It is the parent's duty to monitor the student's school attendance and require the student to attend school;
    b. The student is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense for the parent's failure to require a child to attend school nor for the student's failure to attend school.

Education Code 25.095

Non-Attendance

Parent Liability

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued;

2. The parent with criminal negligence fails to require the child to attend school as required by law; and

3. The child has absences for the amount of time specified under Family Code 65.003(a).

The attendance officer [see FED] or other appropriate school official shall file a complaint against the parent in an appropriate court, as permitted under Education Code 25.093.

Affirmative Defense—Parent

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of a district to determine whether to excuse the absence for another purpose.

Education Code 25.093

Student Liability

A child engages in truant conduct if the child is required to attend school under the compulsory attendance laws, and fails to attend school on ten or more days or parts of days within a six-month period in the same school year. Truant conduct may be prosecuted only as a civil case in a truancy court. *Family Code 65.003(a), (b)*

"Child" means a person who is 12 years of age or older and younger than 19 years of age. *Family Code 65.002(1)*

Truancy Courts

The following are designated as truancy courts:

1. The constitutional county court in a county with a population of 1.75 million or more;

2. Justice courts; and

3. Municipal courts.

A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.

Family Code 65.004(a)–(b)

Affirmative Defense—Student

It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven:

1. Have been excused by a school official or by the court;

2. Were involuntary; or

3. Were due to the child's voluntary absence from the child's home because of abuse, as defined by Family Code 261.001.

The affirmative defense is not available if, after deducting the absences described above, there remains a sufficient number of absences to constitute truant conduct.

In asserting an affirmative defense, the burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused, was involuntary, or was due to the child's voluntary absence from the child's home because of abuse, as defined by Family Code 261.001.

A decision by the court to excuse an absence does not affect the ability of the district to determine whether to excuse the absence for another purpose.

Family Code 65.003(c)–(f)

Truancy Prevention Measures

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described below, the district shall initiate truancy prevention measures on the student. [See FED] *Education Code 25.0915(a-4)*

District Complaint or Referral

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FED] *Education Code 25.0951*

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

Excused Absences

In addition to excused absences required by law, the District shall excuse absences for the following purposes. A student shall be required to submit verification of these absences in accordance with administrative regulations.

Higher Education Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education.

Armed Services Enlistment

The District shall excuse a student 17 years of age or older for up to four days during his or her enrollment in high school for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard.

Early Voting or Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk.

Learner or Driver's License

The District shall excuse a student 15 years of age or older for one day during his or her enrollment in high school for each of the following:

- Visiting a driver's license office to obtain a learner license; or
- Visiting a driver's license office to obtain a driver's license.

[For extracurricular activity absences, see FM.]

Withdrawal for Nonattendance

The District may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

[For District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

Students Attending Homeschools

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her

child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing Compulsory Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

Absences Considered

In order to receive credit or a final grade for a class, a student is required to attend class 90 percent of the days class is offered regardless of whether the student's absences are excused [see FEA] or unexcused. *Atty. Gen. Op. JC-0398 (2001)*

A student's excused absence under Education Code 25.087(b)(3) [see FEA] may not be considered in determining whether the student has satisfied the attendance requirement under the 90 percent rule. *Education Code 25.092(a-3)*

90 Percent Rule

Except as provided below, a student in any grade level from kindergarten through grade 12 shall not be given credit or a final grade for a class unless the student is in attendance 90 percent of the days the class is offered. This restriction does not affect a student's right to excused absences to observe religious holy days [see FEA] and does not apply to a student who receives credit by examination for a class as provided by Education Code 28.023. [See EHDC]

Principal's Plan

A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class. However, a student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit or a final grade without the consent of the judge presiding over the student's case.

Extenuating Circumstances

An attendance committee may give class credit or a final grade to a student because of extenuating circumstances. A board shall establish guidelines for determining what constitutes extenuating circumstances.

A board shall adopt policies that establish alternative ways for students to make up work or regain credit or a final grade lost because of absences. The alternative ways must include at least one option that does not require a student to pay a fee. The availability of such option must be substantially the same as the availability of the educational program for which a district may charge a fee. [See FP]

Attendance Committee

A board shall appoint one or more attendance committees to hear petitions for class credit or a final grade by students who have not met the 90 percent rule and have not earned class credit or a final grade by completing a principal's plan. Classroom teachers shall comprise a majority of the attendance committee.

Appeal

If the committee denies a student credit or a final grade, the student may appeal the decision to the board. A board's decision may

be appealed to the district court of the county in which the district's central administrative office is located.

Additional Duties

A certified employee may not be assigned additional instructional duties as a result of the above provision outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

Education Code 25.092

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 the required percentage of days under this policy.

Attendance Committees

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent shall 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 for credit or a final grade may be filed at any time the student receives notice but, in any event, no later than 30 days after the last day of classes.

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 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 shall consider the student's unique circumstances and, if necessary, shall impose 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).

District Complaint or Referral

Against Student

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FEA]

Against Parent

The district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Education Code 25.093 if the district provides evidence of the parent's criminal negligence.

A court shall dismiss a complaint made by a district against a parent that does not comply with Education Code 25.0951; does not allege the elements required for the offense; is not timely filed, unless the district delayed the referral as provided below; or is otherwise substantively defective.

Delaying a Referral

A district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the district:

1. Is applying truancy prevention measures to the student under Education Code 25.0915; and
2. Determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

Education Code 25.0951

Referral Prohibited

A district may not refer a student to truancy court if the school determines that the student's truancy is the result of pregnancy, being in the state foster program, homelessness, severe or life-threatening illness or related treatment, or being the principal income earner for the student's family. [See Truancy Prevention Measures, below] *Education Code 25.0915(a-3)*

Filing Requirements

Each referral to truancy court for conduct described by Family Code 65.003(a) must:

1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures to the student, and the measures failed to meaningfully address the student's school attendance; and
2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.

A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Family Code 65.054, if the court determines that the district's referral:

1. Does not comply with the requirement above;
2. Does not satisfy the elements required for truant conduct;
3. Is not timely filed, unless the school district delayed the referral as provided above [see Delaying a Referral, above]; or
4. Is otherwise substantively defective.

Education Code 25.0915(b), (c)

Expunction of Records

An individual who was convicted of a truancy offense under former Education Code 25.094 or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.

Regardless of whether the individual has filed a petition for expunction, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.

Code of Crim. Proc. 45.0541

Attendance Officer

A board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. *Education Code 25.088*

In districts where no attendance officer has been selected, the superintendent and the peace officers in a district shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090* [See Peace Officers, below]

Powers and Duties

An attendance officer employed by a district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

   a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and

   b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;

3. To monitor school attendance compliance by each student investigated by the officer;

4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record;

5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and

6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

Education Code 25.091(b)

Peace Officers

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

   a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); or

   b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;

3. To serve court-ordered legal process;

4. To review school attendance records for compliance by each student investigated by the officer;

5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record; and

6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent.

A peace officer who has probable cause to believe that a child is in violation of the compulsory attendance law may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory attendance requirements.

Education Code 25.091(a), (b-1)

Truancy Prevention Measures

A district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting before the student engages in conduct described by Family Code 65.003 and minimize the need for referrals to truancy court for conduct described by Family Code 65.003(a). *Education Code 25.0915(a)*

A district shall take one or more of the following actions as a truancy prevention measure:

1. Impose:

   a. A behavior improvement plan on the student that must be signed by an employee of the school, that the district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

      (1) A specific description of the behavior that is required or prohibited for the student;

      (2) The period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

(3) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

b. School-based community service; or

2. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy. A referral may include participation by the child's parent or guardian if necessary.

A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;

2. Being in the state foster program;

3. Homelessness;

4. Severe or life-threatening illness or related treatment; or

5. Being the principal income earner for the student's family.

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Education Code 25.0951(a), the district shall initiate truancy prevention measures on the student.

Education Code 25.0915

Minimum Standards

The minimum standards for the truancy prevention measures implemented by a district under Education Code 25.0915 include:

1. Identifying the root cause of the student's unexcused absences and actions to address each cause;

2. Maintaining ongoing communication with students and parents on the actions to be taken to improve attendance;

3. Establishing reasonable timelines for completion of the truancy prevention measure; and

4. Establishing procedures to notify the admission, review, and dismissal committee or the Section 504 committee of attendance issues relating to a student with a disability and ensure that the committee considers whether the student's attendance issues warrant an evaluation, a reevaluation, and/or

modifications to the student's individualized education program or Section 504 plan, as appropriate.

19 TAC 129.1043

Best Practices

A district shall consider the following best practices for truancy prevention measures:

1. Develop an attendance policy that clearly outlines requirements related to truancy in accordance with Education Code, Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the year.
2. Create a culture of attendance that includes training staff to talk with students and parents about the attendance policy and the root causes of unexcused absences.
3. Create incentives for perfect attendance and improved attendance.
4. Educate students and their families on the positive impact of school attendance on performance.
5. Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.
6. Develop collaborative partnerships, including planning, referral and cross-training opportunities, between appropriate school staff, attendance officers, program-related liaisons, and external partners, such as court representatives, community and faith-based organizations, state or locally funded community programs for truancy intervention or prevention, and law enforcement to assist students.
7. Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.
8. Use existing school programs such as Communities in Schools, 21st Century Community Learning Centers, restorative discipline, and positive behavior interventions and supports (PBIS) to provide students and their parents with services.
9. At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the district and the community that a school, a student, or a student's parent or guardian may access to ad-

dress the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:

a. Services for pregnant and parenting students;

b. Services for students experiencing homelessness;

c. Services for students in foster care;

d. Federal programs including, but not limited to, Title 1, Part A, of the Elementary and Secondary Education Act;

e. State programs including, but not limited to, state compensatory education programs;

f. Dropout prevention programs and programs for “at risk” youth;

g. Programs that occur outside of school time;

h. Counseling services;

i. Tutoring programs and services available at no or low cost;

j. Mental health services;

k. Alcohol and substance abuse prevention and treatment programs;

l. Mentoring programs and services;

m. Juvenile justice services and programs;

n. Child welfare services and programs;

o. Other state or locally funded programs for truancy prevention and intervention; and

p. Other supportive services that are locally available for students and families through faith-based organizations, local governments, and community-based organizations.

10. After identifying and listing, or mapping, services available in the district and community, school districts should target any new resources, programs, or services to gaps in services identified during the needs assessment.

11. School districts should ensure that personnel, including truancy prevention facilitators or juvenile case managers, attendance officers, McKinney-Vento (homeless) liaisons, foster care liaisons, Title IX coordinators, 504 coordinators, preg-

nancy and parenting coordinators, dropout prevention coordinators, special education staff, and other appropriate student services personnel, meet to contribute to the needs assessment, discuss opportunities to work together, and identify strategies to coordinate both internally and externally to address students' attendance barriers.

In determining services offered to students identified in Education Code 25.091(a-3), a district shall consider:

1. Offering an optional flexible school day program and evening and online alternatives;
2. Working with businesses that employ students to help students coordinate job and school responsibilities; and
3. Offering before school, after school, and/or Saturday prevention or intervention programs or services that implement best and promising practices.

19 TAC 129.1045

Sanctions

An aggrieved party may file a written complaint with the Texas Education Agency (TEA) regarding an allegation that a district has failed to comply with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB related to truancy prevention measures. TEA may request that a district provide documentation regarding its compliance in response to a complaint. If, after a review of this documentation or a district's failure to provide this documentation, TEA determines that the district is not in compliance with required truancy prevention measure provisions, TEA may issue a preliminary report of its findings to the district in accordance with 19 Administrative Code 157.1122 (Notice). A district may request in writing an informal review of TEA's preliminary report in accordance with 19 Administrative Code 157.1123 (Informal Review). Following the informal review, or if no informal review is requested by the deadline, a final report will be issued. The commissioner of education may implement any sanction listed in Education Code 39.102(a) against a district found to be out of compliance with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB. *19 TAC 129.1047*

Truancy Prevention Facilitator or Juvenile Case Manager

A district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by Education Code 25.0915 and any other effective truancy prevention measures as determined by the district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager

or other individual designated by a truancy court to provide services to students of the district in truancy cases.

Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures and any other effective truancy prevention measures as determined by the district or campus.

Education Code 25.0915(d), (e)

On approval of the board, a district may employ or agree in accordance with Government Code Chapter 791, with any appropriate governmental entity to jointly employ or to jointly contribute to the costs of another entity employing:

1. A case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or
2. One or more juvenile case managers who shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases, and may provide prevention services to a child considered at risk of entering the juvenile justice system, and intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses.

A district that jointly employs a case manager in accordance with Government Code Chapter 791 employs a juvenile case manager for purposes of Code of Criminal Procedure Chapter 102 and Government Code Chapter 102.

Code of Criminal Procedure 45.056(a), (c)

Funding

A district may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. The district may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the local truancy prevention and diversion fund established under Local Government Code 134.156. *Code of Criminal Procedure 45.056(b)*

Priority

A juvenile case manager employed jointly under Government Code Chapter 791 shall give priority to cases brought under Education

Codes 25.093 (parent contributing to nonattendance). *Code of Criminal Procedure 45.056(e)*

Rules

The board of a district that employs a juvenile case manager shall adopt and implement reasonable rules for juvenile case managers that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and training in:

1. The role of the juvenile case manager;
2. Case planning and management;
3. Applicable procedural and substantive law;
4. Courtroom proceedings and presentation;
5. Services to at-risk youth under Family Code Chapter 264, Subchapter D;
6. Local programs and services for juveniles and methods by which juveniles may access those programs and services; and
7. Detecting and preventing abuse, exploitation, and neglect of juveniles.
8. The juvenile case manager shall timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

Code of Criminal Procedure 45.056(f)–(i)

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;

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)

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]

Opioid Antagonist Medication

A person or organization acting under a standing order issued by a prescriber may store an opioid antagonist and may distribute an opioid antagonist, provided the person or organization does not request or receive compensation for storage or distribution. *Health and Safety Code 483.104*

A prescriber may, directly or by standing order, prescribe an opioid antagonist to a person in a position to assist a person experiencing an opioid-related drug overdose. *Health and Safety Code 483.102; 22 TAC 170.6*

Immunity

A person who, acting in good faith and with reasonable care, administers or does not administer an opioid antagonist to another person whom the person believes is suffering an opioid-related

drug overdose is not subject to criminal prosecution, sanction under any professional licensing statute, or civil liability, for an act or omission resulting from the administration of or failure to administer the opioid antagonist. *Health and Safety Code 483.106*

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*

Note: The following provisions apply only to a district that will adopt an unassigned epinephrine auto-injector policy or an unassigned asthma medication policy.

Maintenance and Administration of Epinephrine Auto-Injectors

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 experiencing 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

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 37.603

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 individual 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 37.605(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. *25 TAC 37.605(f)*

Reports

Not later than the tenth 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 37.608*

Personnel or Volunteers

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 37.606(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 37.606(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 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(a)–(b)

Training must include information on properly inspecting unassigned epinephrine auto-injectors for usage and expiration. *25 TAC 37.607(1)–(2)*

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. The training must also include information about promptly notifying local emergency medical services.

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 37.607(3)–(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 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 37.605(a)

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 personnel shall coordinate with each campus to ensure that the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented. *19 TAC 37.605(b)*
Notice to Parents	If a district implements a policy for the maintenance, administration, and disposal of epinephrine auto-injectors, the district shall provide written notice to a parent or guardian of each student enrolled in the district or school. Notice must be provided before the policy is implemented by the district or school and before the start of each school year. *Education Code 38.212* A district shall provide electronic or written notice to the parent or guardian of each student. 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. *25 TAC 37.609*
Storage	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). *25 TAC 37.605(h)*
Replacement	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. *25 TAC 37.605(i)*
Disposal	Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy. Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy. *25 TAC 37.605(j)–(k)* [See DBB]
Gifts, Grants, and Donations	A district may accept gifts, grants, donations, and federal and local funds to implement its policy. *Education Code 38.213*

Maintenance and Administration of Asthma Medicine

A district may voluntarily adopt and implement a written policy regarding the maintenance, administration, and disposal of asthma medication at each campus. If a written policy is adopted, the unassigned asthma medication policy must comply with Education Code 38.208. *25 TAC 40.44(a)*

The policy must provide that the school nurse may administer prescription asthma medicine to a student only if the school nurse has written notification from a parent or guardian of the student stating that the student has been diagnosed as having asthma and stating that the school nurse may administer prescription asthma medicine to the student. A school nurse may administer the prescription asthma medicine only at a school campus. *Education Code 38.208(b-1)*

Definitions

Authorized Health-care Provider

"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

"Campus" means a geographic unit of a school 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.

School Nurse

"School nurse" means a registered nurse, as defined in 19 Administrative Code 153.1022, authorized to administer asthma medication, or licensed vocational nurse working under supervision as described in Occupations Code 301.353. [See DP]

Unassigned Asthma Medication

"Unassigned asthma medication" means a fast acting bronchodilator delivered by metered dose inhaler with single use spacer or by nebulizer as a rescue medication, prescribed by an authorized health-care provider in the name of the district with a non-patient-specific standing delegation order for the administration of an asthma medication, and issued by an authorized health-care provider.

25 TAC 40.42

Minimum Dosage Requirement

Subject to the availability of funding, a district that adopts such a policy must secure or obtain the suggested minimum dosage of unassigned asthma medication. *25 TAC 40.44 (a)(2)*

Once a district voluntarily adopts an unassigned asthma medication policy, a campus that implements an unassigned asthma medication policy must stock unassigned asthma medication, subject to available funding, as defined by 25 Administrative Code 40.44. *25 TAC 40.45(a)*

Optional Review

In development of an unassigned asthma medication policy, a district may consider performing a review to include consultation with school nurses, the local school health advisory committee, local health-care providers, or any department or organization involved with student well-being; campus geography; and student population size.

Policy Requirements

If a district voluntarily adopts an unassigned asthma medication policy, the policy must include:

1. A process to obtain written authorization from a parent or guardian of the student that the student has been diagnosed as having asthma and stating that the school nurse may administer unassigned asthma medication to the student;
2. A designated campus administrator to coordinate and manage policy implementation that includes:
    a. Whether to conduct a review at the campus to determine the need for additional doses;
    b. Training of school nurses;
    c. Acquiring or purchasing, maintaining, storing, and using unassigned asthma medication, subject to available campus funding; and
    d. Disposing of expired unassigned asthma medication;
3. A list of school nurses who will be assigned to administer unassigned asthma medication;
4. Locations of unassigned asthma medication;
5. Procedures for notifying a parent, prescribing authorized health-care provider, and the student's primary health-care provider when unassigned asthma medication is administered; and
6. A plan to replace, as soon as reasonably possible, any unassigned asthma medication that is used or close to expiration.

An adopted unassigned asthma medication policy must be publicly available.

25 TAC 40.44(b)–(d)

No Negative Fiscal Impact

The policy may not require a district to purchase prescription asthma medicine or require any other expenditure related to the maintenance or administration of asthma medicine that would result in a negative fiscal impact on the district or school. *Education Code 38.208(f)*

Asthma Medicine Standing Order

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157, may prescribe asthma medicine in the name of a school district. *Education Code 38.211(a)*

An authorized health-care provider who prescribes unassigned asthma medication under 25 Administrative Code 40.45(b), below, must provide the campus with a standing order for the administration of unassigned asthma medication to a person who:

1. Is reasonably believed to be experiencing a symptom of asthma; and
2. Has provided written notification and permission as required by the unassigned asthma medication policy.

25 TAC 40.45(c)

Prescription of Unassigned Asthma Medicine

A campus must obtain a prescription from an authorized health-care provider each year to stock, possess, and maintain at least two doses of unassigned asthma medication on each campus as described in Education Code 38.208 and any equipment necessary to administer the medication.

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 an authorized health-care provider.

25 TAC 40.45(b)

School Nurse Training

A district that chooses to adopt a written unassigned asthma medication policy is responsible for training school nurses about:

1. The adopted unassigned asthma medication policy;
2. The authorized health-care provider's standing order;
3. Follow-up with the prescribing authorized health-care provider and the student's primary health-care provider; and

4. The report required after administering an unassigned asthma medication under 25 Administrative Code 40.47 (see Reports and Records, below).

Each campus must maintain training records and must make available upon request a list of school nurses trained and authorized to administer the unassigned asthma medication on the campus.

25 TAC 40.46

Notice to Parents

If a district implements an unassigned asthma medication policy, the campus shall provide written or electronic notice to a parent or guardian of each student in accordance with Education Code 38.212.

If a district changes or discontinues the unassigned asthma medication policy, written or electronic notice detailing the change or discontinuation must be provided to a parent or guardian of each student within 15 calendar days after the change or discontinuation.

25 TAC 40.48

The district shall provide written notice to a parent or guardian of each student enrolled in the district or school. Notice required under Education Code 38.212 must be provided before a policy is implemented by the district and before the start of each school year. *Education Code 38.212*

Records and Reporting

Records relating to implementing and administering the school district unassigned asthma medication policy must be retained per the campus record retention schedule.

The campus must submit a report no later than the tenth business day after the date a school nurse administers asthma medication in accordance with the unassigned asthma medication policy. The report must be included in the student's permanent record and submitted to the school administrator, prescribing authorized health-care provider, the student's primary health-care provider, and to the Department of State Health Services (DSHS) commissioner.

Notifications to the DSHS commissioner must be submitted on the designated electronic form[1] available on DSHS's School Health Program website found at dshs.texas.gov.

25 TAC 40.47

Asthma Medicine Storage and Disposal

The supply of asthma medicine at each campus must be stored in a secure location and be easily accessible to the school nurse. *Education Code 38.208(e)*

The unassigned asthma medication must be stored in accordance with the manufacturer's guidelines and local policy of the school district.

Expired unassigned asthma medication and other used or expired supplies must be disposed of in accordance with the manufacturer's guidelines and local policy of the district.

25 TAC 40.45(d)–(e)

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 asthma medicine, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

1. Issuing an order for epinephrine auto-injectors or asthma medicine;
2. Supervising or delegating the administration of an epinephrine auto-injector or asthma medicine;
3. Possessing, maintaining, storing, or disposing of an epinephrine auto-injector or asthma medicine;
4. Prescribing an epinephrine auto-injector or asthma medicine;
5. Dispensing an epinephrine auto-injector or asthma medicine, provided that permission has been granted as provided by Education Code 38.208(b-1) [see Maintenance and Administration of Asthma Medicine, above];
6. Administering, or assisting in administering, an epinephrine auto-injector, provided that permission has been granted as provided by Education Code 38.208(b-1) [see Maintenance and Administration of Epinephrine Auto-Injectors, above];
7. Providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
8. Undertaking any other act permitted or required under Education Code Chapter 38, Subchapter E.

A district and school personnel and school volunteers are immune from suit resulting from an act, or failure to act, under Education Code Chapter 38, Subchapter E, including an act or failure to act under related policies and procedures.

An act or failure to act by school personnel or a school volunteer, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the

school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district.

Education Code 38.215; 25 TAC 40.49

Immunity during a Pandemic

A physician, health-care provider, or first responder is not liable for an injury or death arising from care, treatment, or failure to provide care or treatment relating to or impacted by a pandemic disease except as provided by Civil Practice and Remedies Code 74.155. *Civ. Prac. & Rem. Code 74.155(c),(f)*

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[1] Required Reporting of Administered Unassigned Asthma Medication to DSHS: https://www.dshs.texas.gov/schoolhealth/forms/ReportingForm-Asthma.aspx

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 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; and
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].

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].

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)

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)

Trauma-Informed Care Policy

A district shall adopt and implement a policy requiring the integration of trauma-informed practices in each school environment. A district must include the policy in the district improvement plan required under Education Code 11.252 [see BQ].

The policy must address:

1. Using resources developed by the Texas Education Agency (TEA), methods for:
    a. Increasing staff and parent awareness of trauma-informed care; and
    b. Implementation of trauma-informed practices and care by district and campus staff; and
2. Available counseling options for students affected by trauma or grief.

Education Code 38.036(a)–(b)

Training

The methods for increasing awareness and implementation of trauma-informed care must include training as provided below. The training must be provided:

1. Through a program selected from the list of recommended best practice-based programs and research-based practices established under Education Code 38.351;
2. In accordance with the district professional development policy [see DMA]; and
3. As part of any new employee orientation for all new district educators.

The training must address how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. The training may include two or more listed topics together.

For any training under this provision, a district shall maintain records that include district staff members who participated in the training.

If a district determines that the district does not have sufficient resources to provide the training required under this provision, the district may partner with a community mental health organization to provide training that meets the requirements at no cost to the district.

Education Code 38.036(c)–(d), (f)

Note: For information about mental health curriculum and SHAC responsibilities, see EHAA. For information about threat assessments, see FFB. For personnel information about mental health professionals, see DP.

Mental Health Condition

"Mental health condition" means a persistent or recurrent pattern of thoughts, feelings, or behaviors that:

1. Constitutes a mental illness, disease, or disorder, other than or in addition to epilepsy, substance abuse, or an intellectual disability; or
2. Impairs a person's social, emotional, or educational functioning and increases the risk of developing such a condition.

Education Code 5.001(5-a)

Student Programs

The Texas Education Agency (TEA), in coordination with the Health and Human Services Commission and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each district may select from the list a program or programs appropriate for implementation in the district.

Subject Areas

The list must include programs and practices in the following areas:

1. Early mental health prevention and intervention;
2. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
3. Substance abuse prevention and intervention;
4. Suicide prevention, intervention, and postvention;
5. Grief-informed and trauma-informed practices;
6. Positive school climates;
7. Positive behavior interventions and supports;
8. Positive youth development; and
9. Safe, supportive, and positive school climate.

"School climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the district, parents of those students, and personnel employed by the district.

[For information on employee training, see DMA.]

Practices and Procedures

A district shall develop practices and procedures concerning each area listed above, including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

1. Include a procedure for providing educational material to all parents and families in the district that contains information on identifying risk factors, accessing resources for treatment or support provided on and off campus, and accessing available student accommodations provided on campus;

2. Include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;

3. Include a procedure for providing notice of a student identified as at risk of attempting suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;

4. Establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention;

5. Set out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention; and

6. Include procedures:

    a. To support the return of a student to school following hospitalization or residential treatment for a mental health condition or substance abuse; and

b. For suicide prevention, intervention, and postvention.

The practices and procedures may address multiple subject areas [see Subject Areas, above]. The practices and procedures must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures developed must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

Nothing in these provisions is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with these provisions are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. These provisions do not give districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

"Postvention" includes activities that promote healing necessary to reduce the risk of suicide by a person affected by the suicide of another.

Education Code 38.351(a)–(f), (i)–(o)

Immunity

The above requirements do not waive any immunity from liability of a district or of district officers or employees, create any liability for a cause of action against a district or against district officers or employees, or waive any immunity from liability under Civil Practice and Remedies Code 74.151. *Education Code 38.352*

Student Identification Cards

Each student identification card issued by a public school to a student in grade six or higher must have printed on the card the contact information for the National Suicide Prevention Lifeline and the Crisis Text Line. The student identification card may have printed on the card the contact information for a local suicide prevention hotline, if available. *Education Code 38.353*

Consent to Examinations, Tests, or Treatment

A district employee must obtain the written consent of a child's parent before the employee may conduct a psychological examination, test, or treatment, unless the examination, test, or treatment is required by:

1. TEA's policy concerning child abuse investigations and reports under Education Code 38.004; or

2. State or federal law regarding requirements for special education.

Education Code 26.009(a)(1) [See FNG]

[For more information about consent to medical treatment, including psychological treatment, see FFAC. For information about consent to counseling, see FFEA.]

Professional's Authority

A licensed or certified physician, psychologist, counselor, or social worker having reasonable grounds to believe that a child has been sexually, physically, or emotionally abused; is contemplating suicide; or is involved in chemical or drug addiction or dependency may:

1. Counsel the child without the consent of the child's parents, managing conservator, or guardian;
2. With or without the consent of a child who is a client, advise the parents, managing conservator, or guardian of the treatment given to or needed by the child;
3. Rely on the written statement of the child containing the grounds on which the child has capacity to consent to his or her own treatment as provided above.

Exception: Court Order

The physician, psychologist, counselor, or social worker may not counsel a child if consent is prohibited by a court order, unless consent is obtained as otherwise allowed by law.

Family Code 32.004(b), (c)

[See DP for more information about LSSP and school counselor responsibilities.]

Consent to LSSP

Informed consent for a licensed specialist in school psychology (LSSP) must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under the Texas State Board of Examiners of Psychologists (TSBEP) rules. No additional informed consent, specific to any Texas Behavioral Health Executive Council (TBHEC) rules, is necessary in this context. Licensees providing psychological services under 22 Administrative Code 465.38(e)(2), however, must obtain informed consent as otherwise required by the TBHEC rules. *22 TAC 465.38(g)*

Professional Immunity

A psychologist, counselor, or social worker licensed or certified by the state is not liable for damages except those damages that may result from his or her negligence or willful misconduct. *Family Code 32.004(d)*

Outside Counselors

Neither a district nor an employee of a district may refer a student to an outside counselor for care or treatment of a chemical dependency or an emotional or psychological condition unless the district does all of the following:

1. Obtains prior written consent for the referral from the student's parent, managing conservator, or guardian.
2. Discloses to the student's parent, managing conservator, or guardian any relationship between the district and the outside counselor.
3. Informs the student and the student's parent, managing conservator, or guardian of any alternative public or private source of care or treatment reasonably available in the area.
4. Requires the approval of appropriate district personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted.
5. Specifically prohibits any disclosure of a student record that violates state or federal law.

Education Code 38.010

[See FFEA for information on the comprehensive guidance program. See FFB for mental health-care services provided by the threat assessment and safe and supportive school team.]

Psychotropics and Psychiatric Evaluations

A district employee may not:

1. Recommend that a student use a psychotropic drug; or
2. Suggest any particular diagnosis; or
3. Use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

Psychotropic drug means a substance that is used in the diagnosis, treatment, or prevention of a disease or as a component of a medication and intended to have an altering effect on perception, emotion, or behavior.

Education Code 38.016(b) does not:

1. Prevent an appropriate referral under the Child Find system required under 20 U.S.C. Section 1412, as amended; or

2. Prohibit a school district employee, or an employee of an entity with which the district contracts, who is a registered nurse, advanced nurse practitioner, physician, or nonphysician mental health professional licensed or certified to practice in this state from recommending that a child be evaluated by a physician or nonphysician mental health professional; or

3. Prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.

A board shall adopt a policy to ensure implementation and enforcement of Education Code 38.016. [See FFAC]

A violation of Education Code 38.016(b) does not override the immunity from personal liability granted in Education Code 22.0511 or other law or a district's sovereign or governmental immunity.

Nonphysician mental health professional has the meaning assigned by Education Code 38.0101 [see DP].

Education Code 38.016

[For information regarding administration of medication, see FFAC.]

Child Abuse Reporting

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or

2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFG]

Policy and Program to Address Sexual Abuse, Trafficking, and Maltreatment

A district shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

A district shall adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children, to be included in the district improvement plan [see BQ] and any information handbook provided to students and parents. *Education Code 38.0041(a)*

The policy included in any informational handbook provided to students and parents must address the following:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.

19 TAC 61.1051(b)(3)

Definitions

Child Abuse or Neglect — The definition of child abuse or neglect includes the trafficking of a child in accordance with Education Code 38.004.

Other Maltreatment — This term has the meaning assigned by Human Resources Code 42.002.

Trafficking of a Child — This term has the meaning assigned by Penal Code 20A.02(a)(5), (6), (7), or (8).

19 TAC 61.1051(a)

Duty to Report

Report by Any Person — Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

Report by Any Professional — Any professional who has reasonable cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first has reasonable cause to believe that the child has been or may be abused or neglected.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

Family Code 261.101(b)

Abuse of Persons with Disabilities

A person having cause to believe that a person with a disability is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS).

A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, .052, .054

Adult Victims of Abuse

A person or professional shall make a report in the manner required above if the person or professional has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*

Restrictions on Reporting

Psychotropic Drugs and Psychological Testing

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFEB]

Contents of Report

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104

Abuse and Neglect Involving School Personnel and Those Responsible for Care

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made to a state agency under item 4, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. DFPS, Child Protective Services (CPS) Division;
3. A local office of CPS, where available; or
4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

Family Code 261.103(a); 19 TAC 61.1051(b)(1)–(2)

"Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

1. A parent, guardian, managing or possessory conservator, or foster parent of the child;
2. A member of the child's family or household as defined by Family Code Chapter 71;
3. A person with whom the child's parent cohabits;
4. School personnel or a volunteer at the child's school;
5. Personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; or

6. An employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Chapter 42, Human Resources Code.

Family Code 261.101(5)

Reporting Abuse, Neglect, or Exploitation in a JJAEP

Any report of alleged abuse, neglect, or exploitation, as those terms are defined in Family Code 261.405, in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(4)(A), (b)*

Confidentiality of Report

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act) and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)(1)*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

Immunity from Liability

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

A district may not suspend or terminate the employment of, or otherwise discriminate against, or take any other adverse employment action against a professional who makes a good faith report of abuse or neglect. *Family Code 261.110(b)* [See DG]

Criminal Offenses

Failure to Report

A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.

A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code

261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.

Family Code 261.109

False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*

Coercion

A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*

SBEC Disciplinary Action

The State Board for Educator Certification (SBEC) may take any of the actions listed in 19 Administrative Code 249.15(a) (impositions, including revocation of a certificate and administrative penalties) based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse pursuant to Family Code 261.001, or has failed to notify the SBEC, the commissioner of education, or the school superintendent or director under the circumstances and in the manner required by Education Code 21.006, 21.0062, 22.093, and 19 Administrative Code 249.14(d)–(f). *19 TAC 249.15(b)(4)*

Note: The following legal provisions address child abuse and neglect investigations generally. See GRA for additional legal provisions addressing notification requirements and right of access to students when DFPS investigates reports of abuse and neglect at school.

Investigations

Reports to District

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

Interview of Student	The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]
Interference with Investigation	A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*
Confidentiality	A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

Reporting Policy

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261. *19 TAC 61.1051(b)*

The policies must require every school employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To Whom Reported, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion. *19 TAC 61.1051(b)(1)*

The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (CPS) regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]

The policies must require a report to DFPS if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Applicable prohibitions against interference with an investigation of a report of child abuse or neglect, including:
    a. Family Code 261.302 and 261.303, prohibiting school officials from denying an investigator's request to interview a student at school; and

b. Family Code 261.302, prohibiting school officials from requiring the presence of a parent or school administrator during an interview by an investigator.

3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;

4. Confidentiality provisions relating to a report of suspected child abuse or neglect;

5. Any disciplinary action that may result from noncompliance with a district's reporting policy; and

6. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above].

19 TAC 61.1051(b)(2)

The policies may not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

The policies must:

1. Include the current toll-free number for DFPS;

2. Provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by DFPS; and

3. Include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.

19 TAC 61.1051(b)(5)–(b)(8)

Annual Distribution and Staff Development

The policies required by these provisions and adopted by the board shall be distributed to all personnel at the beginning of each school year. The policies shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(c)* [See also DH and GRA]

[For training requirements under these provisions, see DMA.]

Required Poster

Using a format and language that is clear, simple, and understandable to students, each public school shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;

2. Instructions to call 911 for emergencies; and

3. Directions for accessing the DFPS Texas Abuse Hotline website[1] for more information on reporting abuse, neglect, and exploitation.

A district shall post the information specified above at each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number should be in bold print.

Education Code 38.0042; 19 TAC 61.1051(e)–(f)

[1] Texas Abuse Hotline website: https://www.txabusehotline.org/

Program to Address Child Sexual Abuse, Trafficking, and Maltreatment

The District's program to address child sexual abuse, trafficking, and other maltreatment of children, as included in the District improvement plan and the student handbook, shall include:

1. Methods for increasing staff, student, and parent awareness regarding these issues, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Age-appropriate, research-based antivictimization programs for students;
3. Actions that a child who is a victim should take to obtain assistance and intervention; and
4. Available counseling options for affected students.

Training

The District shall provide training to employees as required by law and District policy. Training shall address techniques to prevent and recognize sexual abuse, trafficking, and all other maltreatment of children, including children with significant cognitive disabilities. [See DMA]

[See BBD for Board member training requirements and BJCB for Superintendent continuing education requirements.]

Reporting Child Abuse and Neglect

Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a legal responsibility, under state law, to immediately report the suspected abuse or neglect to an appropriate authority.

As defined in state law, child abuse and neglect include both sex and labor trafficking of a child.

The following individuals have an additional legal obligation to submit a written or oral report within 48 hours of learning of the facts giving rise to the suspicion of abuse or neglect:

1. Any District employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect.
2. A professional who has reasonable cause to believe that a child has been or may be abused or neglected or may have been a victim of indecency with a child. A professional is anyone licensed or certified by the state who has direct contact with children in the normal course of duties for which the individual is licensed or certified.

A person is required to make a report if the person has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]

Restrictions on Reporting

In accordance with law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Making a Report

Reports may be made to any of the following:

1. A state or local law enforcement agency;
2. The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (DFPS) at (800) 252-5400 or the Texas Abuse Hotline Website[1];
3. A local CPS office; or
4. If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility. As defined by law, a person responsible for the care, custody, or welfare of a child includes school personnel and volunteers and day-care workers. [See FFG(LEGAL)]

An individual does not fulfill his or her responsibilities under the law by only reporting suspicion of abuse or neglect to a campus princi-

pal, school counselor, or another District staff member. Furthermore, the District is prohibited from requiring an employee to first report his or her suspicion to a District or campus administrator.

Confidentiality

In accordance with state law, the identity of a person making a report of suspected child abuse or neglect shall be kept confidential and disclosed only in accordance with the rules of the investigating agency.

Immunity

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

Failing to Report Suspected Child Abuse or Neglect

By failing to report suspicion of child abuse or neglect, an employee:

1. May be placing a child at risk of continued abuse or neglect;
2. Violates the law and may be subject to legal penalties, including criminal sanctions for knowingly failing to make a required report;
3. Violates Board policy and may be subject to disciplinary action, including possible termination of employment; and
4. May have his or her certification from the State Board for Educator Certification suspended, revoked, or canceled in accordance with 19 Administrative Code Chapter 249.

It is a criminal offense to coerce someone into suppressing or failing to report child abuse or neglect.

Responsibilities Regarding Investigations

In accordance with law, District officials shall be prohibited from:

1. Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect;
2. Requiring that a parent or school employee be present during the interview; or
3. Coercing someone into suppressing or failing to report child abuse or neglect.

District personnel shall cooperate fully and without parental consent, if necessary, with an investigation of reported child abuse or neglect. [See GKA]

[1] Texas Abuse Hotline Website: http://www.txabusehotline.org

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Note: The following legal provisions address dating violence and sexual harassment. For legal provisions addressing discrimination on the basis of disability, sex, and other protected characteristics, see FB.

Dating Violence

A district shall adopt and implement a dating violence policy to be included in the district improvement plan.

A dating violence policy must:

1. Include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Family Code 71.0021; and

2. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators at each district campus that instructs students in grade 6 or higher, counseling for affected students, and awareness education for students and parents.

Education Code 37.083, .0831 [See BQ]

Note: References to Title IX, part, or subpart in the following legal provisions refer to Title IX and its corresponding regulations.

The U.S. Department of Education's Office for Civil Rights has issued a formal interpretation that discrimination on the basis of sex under Title IX includes discrimination on the basis of sexual orientation and gender identity.

Sexual Harassment

A district may develop and implement a sexual harassment policy to be included in the district improvement plan. *Education Code 37.083* [See BQ]

Sexual abuse of a student by an employee, when there is a connection between the physical sexual activity and the employee's duties and obligations as a district employee, violates a student's constitutional right to bodily integrity. Sexual abuse may include fondling, sexual assault, or sexual intercourse. *U.S. Const. Amend. 14; Doe v. Taylor Indep. Sch. Dist., 15 F.3d 443 (5th Cir. 1994)*

	A district's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX. *34 C.F.R. 106.45; 20 U.S.C. 1681* [See also FB regarding Title IX]
Designation of Title IX Coordinator	A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator."
Parties Entitled to Notice	The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district ("Parties Entitled to Notice") of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator. *34 C.F.R. 106.8(a)*
Reporting	Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.
Notification of Policy	A district must notify the Parties Entitled to Notice, above, that the district does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner. The notification must state that the requirement not to discriminate in the education program or activity extends to employment, and that inquiries about the application of Title IX to such district may be referred to the district's Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both. *34 C.F.R. 106.2(d), .8(b)(1)*
Publication Requirements	A district must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described at Notification of Policy, above, on its website, if any, and in each handbook that it makes available to the Parties Entitled to Notice, above.

A district must not use or distribute a publication stating that the district treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2)

Note: To distinguish the process described below from the District's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for responding to formal complaints of sexual harassment as the District's "Title IX formal complaint process."

Complaint Procedures

A district must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and a Title IX formal complaint process that complies with 34 C.F.R. 106.45 for formal complaints as defined below.

A district must provide notice to the Parties Entitled to Notice, above, of the district's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the district will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)–(d)

Response to Sexual Harassment

Definitions

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to a district's Title IX Coordinator or any official of the district who has authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the district with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the district. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

"Consent" is not defined by the Title IX regulations, nor do the regulations require districts to adopt a particular definition of consent with respect to sexual assault.

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the district investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the district with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the district. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the district) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to a Title IX formal complaint, and must comply with the requirements of the Title IX formal complaint process, including the informal resolution process.

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or

3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

"Supportive measures" means nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal

complaint has been filed. Such measures are designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or district-provided housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.2, .30(a)

Deliberate Indifference

A district with actual knowledge of sexual harassment in an education program or activity of the district against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Education Program or Activity

For the purposes of 34 C.F.R. 106.30 [see Definitions, above] and 106.45 [see Process for Title IX Formal Complaint, below], "education program or activity" includes locations, events, or circumstances over which the district exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

34 C.F.R. 106.44(a)

Title IX Coordinator Response

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Title IX Coordinator must respond in this manner with or without a formal complaint. *34 C.F.R. 106.44(b)(1)*

Supportive Measures Required

A district's response must treat complainants and respondents equitably by offering supportive measures and by following a process that complies with 34 C.F.R. 106.45 [see Process for Title IX Formal Complaint, below] before the imposition of any disciplinary

sanctions or other actions that are not supportive measures against a respondent. [For Emergency Removal procedures, see below.]

Constitutional Restrictions

The Department of Education may not deem a district to have satisfied the district's duty to not be deliberately indifferent under Title IX based on the district's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

34 C.F.R. 106.44(a)

Response to a Formal Complaint

In response to a formal complaint, a district must follow a process that complies with 34 C.F.R. 106.45 [see Process for Title IX Formal Complaint, below]. *34 C.F.R. 106.44(b)(1)*

Emergency Removal

The Title IX regulations do not preclude a district from removing a respondent from the district's education program or activity on an emergency basis, provided that the district:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c)

Administrative Leave

The Title IX regulations do not preclude a district from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d)*

Process for Title IX Formal Complaint

For the purpose of addressing formal complaints of sexual harassment, a district's process must comply with the following requirements. Any provisions, rules, or practices other than those required by this provision that a district adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b)*

A district's Title IX formal complaint process must:

1. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent;

2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;

3. Require that any individual designated by a district as a Title IX Coordinator, investigator, decision-maker, or any person designated by a district to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A district must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the district's education program or activity, how to conduct an investigation and Title IX formal complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A district must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. [See Hearings, below] A district also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. [See Investigation of a Formal Complaint, below] Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment;

4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process;

5. Include reasonably prompt time frames for conclusion of the Title IX formal complaint process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the district offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;

6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the district may implement following any determination of responsibility;

7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;

8. Include the procedures and permissible bases for the complainant and respondent to appeal;

9. Describe the range of supportive measures available to complainants and respondents; and

10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1)

Notice of Allegations

Upon receipt of a formal complaint, a district must provide the following written notice to the parties who are known:

1. Notice of the district's Title IX formal complaint process, including any informal resolution process.

2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:

   a. The identities of the parties involved in the incident, if known;

   b. The conduct allegedly constituting sexual harassment; and

   c. The date and location of the alleged incident, if known.

   The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence [see Investigation of a Formal Complaint, below]. The written notice must inform the parties of any provision in the district's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, the district decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations, above, the district must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Dismissal of a Formal Complaint

The district must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the district's education program or activity, or did not occur against a person in the United States, then the district must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of the district's code of conduct.

The district may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by

the district; or specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to 34 C.F.R. 106.45(b)(3), the district must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

A district may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this provision to the singular "party," "complainant," or "respondent" include the plural, as applicable.

34 C.F.R. 106.45(b)(3)–(4)

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the Title IX formal complaint process, a district must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the district and not on the parties provided that the district cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the district obtains that party's voluntary, written consent to do so for a Title IX formal complaint (if a party is not an "eligible student," as defined in 34 C.F.R. 99.3 then the district must obtain the voluntary, written consent of a "parent," as defined in 34 C.F.R. 99.3) [see FL(LEGAL) at Education Records];
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related

meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;

5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;

6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the district does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the district must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The district must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and

7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

Hearings

The district's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after the district has sent the investigative report to the parties pursuant to 34 C.F.R. 106.45(b)(5)(vii) [see Investigation of a Formal Complaint, above] and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any

party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii)*

Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the district must apply the standard of evidence described at Process for Title IX Formal Complaint, above.

The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the district's code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's education program or activity will be provided by the district to the complainant; and
6. The district's procedures and permissible bases for the complainant and respondent to appeal.

The district must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the district provides the parties

with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)–(ii)

Implementation of Remedies

The Title IX Coordinator is responsible for effective implementation of any remedies. *34 C.F.R. 106.45(b)(7)(iv)*

Appeals

A district must offer both parties an appeal from a determination regarding responsibility, and from a district's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A district may offer an appeal equally to both parties on additional bases.

As to all appeals, the district must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards in the Title IX regulations regarding conflict of interest and bias [see Process for Formal Title IX Complaint, item 3, above];
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Informal Resolution

A district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, a district may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the district:

1. Provides to the parties a written notice disclosing:
    a. The allegations;
    b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX formal complaint process with respect to the formal complaint; and
    c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9)

Recordkeeping

A district must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and

4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A district must make these training materials publicly available on its website or if the district does not maintain a website the district must make these materials available upon request for inspection by members of the public.

For each response required under Title IX Coordinator Response, above, a district must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the district must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity.

If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Retaliation Prohibited

No district or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the Process for Title IX Formal Complaint above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX

formal complaint proceeding does not constitute retaliation prohibited by Title IX, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)–(b)

Confidentiality

The district must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

Definitions

"Bullying":

Bullying

1. Means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements below and that:

    a. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;

    b. Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;

    c. Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or

    d. Infringes on the rights of the victim at school; and

2. Includes cyberbullying.

Cyberbullying

"Cyberbullying" means bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an internet website, or any other internet-based communication tool.

Applicability

These provisions apply to:

1. Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;

2. Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and

3. Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:

    a. Interferes with a student's educational opportunities; or

b. Substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

Policy

The board shall adopt a policy, including any necessary procedures, concerning bullying that:

1. Prohibits the bullying of a student;
2. Prevents and mediates bullying incidents between students that:
   a. Interfere with a student's educational opportunities; or
   b. Substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity;
3. Prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
4. Establishes a procedure for providing notice of an incident of bullying to:
   a. A parent or guardian of the alleged victim on or before the third business day after the date the incident is reported; and
   b. A parent or guardian of the alleged bully within a reasonable amount of time after the incident;
5. Establishes the actions a student should take to obtain assistance and intervention in response to bullying;
6. Sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
7. Establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
8. Prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying;
9. Requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law,

including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

10. Complies with the minimum standards adopted by the Texas Education Agency (TEA) for a district's policy.

The policy and any necessary procedures must be included annually in the student and employee handbooks and in the district improvement plan under Education Code 11.252. [See BQ]

Internet Posting

The procedure for reporting bullying must be posted on a district's internet website to the extent practicable.

Education Code 37.0832

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Education Records

"Education Records" Defined

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term "education records" does not include:

1. Records that are created or received by a district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
2. Records made by district personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of a district that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
    a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
    b. Made, maintained, or used only in connection with treatment of the student; and
    c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 C.F.R. 99.3

Screening Records

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school.

Records shall be open for inspection by the state or local health department. *20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b)* [See FFAA]

Immunization Records

A district shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. A district shall cooperate with other districts in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

Medical Records

The parent or guardian of a student is entitled to access to the student's medical records maintained by a district. On request of a student's parent or guardian, a district shall provide a copy of the student's medical records to the parent or guardian. A district may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBAA]. *Education Code 38.0095*

Privacy Rule for Non-"Education Records"

To the extent a district is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the district must comply with the Privacy Rule, 45 C.F.R. Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501* [See CRD]

Food Allergy Information

Information regarding a child's food allergy, regardless of how it is received by the school or school district, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the district.

Exceptions

If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the district.

A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the district, including a notation that the child's student records indicate that a parent has notified the district of the child's possible food allergy. [See FD]

Education Code 25.0022(d)–(f)

Assessment Instruments

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by a district are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program.

However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district, and made available to the public, with appropriate interpretations, at regularly scheduled board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

Academic Achievement Record (Grades 9–12)

Following guidelines developed by the commissioner of education, a district must use an academic achievement record (transcript) form that includes student demographics, school data, student data, and the record of courses and credits earned. The academic achievement record shall serve as the academic record for each student and must be maintained permanently by the district. A district must ensure that copies of the record are made available for a student transferring from one district to another. To ensure appropriate placement of a transfer student, a district must respond promptly to each request for student records from a receiving district. *19 TAC 74.5(b)–(c)* [See EI]

Enrollment Records

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Education Code 25.002(a)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1) [See FD]

Access, Disclosure, and Amendment

Access to Education Records

Definitions

Attendance

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

Authorized Representative

"Authorized representative" means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

Biometric Record

"Biometric record" means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting).

Disclosure

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Education Program

"Education program" means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

Parent

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

Personally Identifiable Information

"Personally identifiable information" includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's social security number, student number, or biometric record;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

Record

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

34 C.F.R. 99.3

Signed and Dated Written Consent

"Signed and dated written consent" may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and

2. Indicates such person's approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d)

Access by Parents

A district shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. *34 C.F.R. 99.4*

A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator. *Family Code 153.012*

A parent is entitled to access to all written records of a district concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral patterns, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

"Intervention strategy" means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies.

Education Code 26.004

When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student. A district may disclose to a parent without the prior written consent of an eligible student if the disclosure is to the parent of the student who is a minor or who is a dependent for tax purposes or the disclosure is in connection with a health or safety emergency. *34 C.F.R. 99.5, .10, .31(a)(8), (a)(10), .36*

Access by Student

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents a district from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

34 C.F.R. 99.5

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student. *34 C.F.R. 99.12(a)*

Access by Others

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following.

1. School Officials

School officials, including teachers, who have legitimate educational interests.

A contractor, consultant, volunteer, or other party to whom a district has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

1. Performs an institutional service or function for which the district would otherwise use employees;
2. Is under the direct control of the district with respect to the use and maintenance of education records; and
3. Is subject to the requirements of 34 C.F.R. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

A district must use reasonable methods to ensure that school officials obtain access to only those education records in which they

have legitimate educational interests. A district that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 C.F.R. 99.31, .36

An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by a district for reasons determined by district policy. *Education Code 38.009*

2. Officials of Other Schools

Officials of educational agencies or institutions, including officials of another school or institution of postsecondary education in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that a district shall:

1. Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
    a. The disclosure is initiated by the parent or eligible student; or
    b. The annual notification under 34 C.F.R. 99.7 includes a notice that the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for the purposes related to the student's enrollment or transfer;
2. Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
3. Give the parent or eligible student, upon request, an opportunity for a hearing under 34 C.F.R. Part 99, Subpart C.

34 C.F.R. 99.31(a)(2), .34

3. Authorized Government Representatives

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 C.F.R. 99.35*

A district may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. A district is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 C.F.R. 214.3(g), or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)*

4. Financial Aid Personnel

Personnel involved with a student's application for, or receipt of, financial aid. *34 C.F.R. 99.31(a)(4)(i)*

5. Juvenile Justice Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
2. The officials and authorities to whom such information is disclosed certify in writing to the district that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

34 C.F.R. 99.31(a)(5)(i), .38

A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051 [see GRAC]. *Education Code 37.084(a)*

6. Organizations Conducting Studies

Organizations conducting studies for, or on behalf of, districts for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The district must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and

4. Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

A district that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the district in accordance with the requirements of 34 C.F.R. 99.33(b).

A district is not required to initiate a study or agree with or endorse the conclusions or results of the study.

34 C.F.R. 99.31(a)(6)

7. Accrediting Organizations

Accrediting organizations to carry out their accrediting functions. *34 C.F.R. 99.31(a)(7)*

8. Health or Safety Emergency

Appropriate parties, including the student's parents, in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of the student or other individuals.

In making a determination, a district may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the district determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the U.S. Department of Education (ED) will not substitute its judgment for that of the district in evaluating the circumstances and making its determination.

34 C.F.R. 99.31(a)(10), .36

9. Agriculture Secretary

The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of districts receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act. *20 U.S.C. 1232g(b)(1)(K)*

10. Child Welfare Agency	An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. Records of the student shall not be disclosed by the agency, except to an individual or entity engaged in addressing the student's education needs and authorized by the agency to receive the disclosure. Any subsequent disclosure must be consistent with state laws applicable to protecting the confidentiality of a student's education records. *20 U.S.C. 1232g(b)(1)(L)*
11. Directory Information	Any person requesting directory information after a district has given public notice of that definition. [See Directory Information, below] *34 C.F.R. 99.37*
Written Consent	The parent or eligible student shall provide a signed and dated written consent before a district discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. When a disclosure is made under written consent, if a parent or eligible student requests, the district shall provide a copy of the records disclosed and if the parent of a student who is not an eligible student requests, the district shall provide the student with a copy of the records disclosed. *34 C.F.R. 99.30(c)*
Information Collection *U.S. ED–Funded Surveys (PPRA)*	Under the Protection of Pupil Rights Amendment (PPRA), no student shall be required, as part of any program funded in whole or in part by the U.S. ED, to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent: 1. Political affiliations or beliefs of the student or the student's parents. 2. Mental and psychological problems of the student or the student's family. 3. Sex behavior and attitudes. 4. Illegal, anti-social, self-incriminating, and demeaning behavior. 5. Critical appraisals of other individuals with whom students have close family relationships.

6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

7. Religious practices, affiliations, or beliefs of the student or student's parent.

8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

20 U.S.C. 1232h(b)

Funded by Other Sources

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. ED, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232h(c)(2). *20 U.S.C. 1232h(c)(1)–(4)* [See EF]

Subpoenaed Records

A district shall release student records in compliance with a judicial order, or pursuant to any lawfully issued subpoena, except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act [42 U.S.C. 5101 note]) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B)*

The educational agency or institution may disclose information under this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

1. A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

2. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

3. An ex parte court order obtained by the United States attorney general (or designee not lower than an assistant attorney general) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

If the district initiates legal action against a parent or student, the district may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the district to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against a district, the district may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the district to defend itself.

34 C.F.R. 99.31(a)(9)

Sex Offenders

A district may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the district under 42 U.S.C. 14071 and applicable federal guidelines. *34 C.F.R. 99.31(a)(16)*

Request Procedure

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, but not more than 45 days after it has received the request. A district shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10*

Records Destruction

A district shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e)*

De-Identified Records

A district, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the district or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. *34 C.F.R. 99.31(b)(1)*

Education Research

A district, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. A district or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and

3. The record code is not based on a student's social security number or other personal information.

34 C.F.R. 99.31(b)(2)

Authenticating Requestors' Identities

A district must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the district discloses personally identifiable information from education records. *34 C.F.R. 99.31(c)*

Transfer Not Permitted

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy or fails to destroy the information as required by 20 U.S.C. 1232g(b)(1)(F), a district shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 C.F.R. 99.33(a)(1)*

A district shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R. 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)–(d)*

A district may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the district if:

1. The disclosures meet the requirements of 34 C.F.R. 99.31; and

2. The district has complied with the requirements of 34 C.F.R. 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 C.F.R. 99.32(b)(2).

34 C.F.R. 99.33(b)

Record of Access to Student Records

Each school shall maintain a record, kept with the education record of each student that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 C.F.R. 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. A district must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 C.F.R. 99.32(b)(2) and make it available in response to a parent's request to review the record.

A district must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see Health or Safety Emergency, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and

2. The parties to whom the district disclosed the information.

34 C.F.R. 99.32

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the district maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system. *20 U.S.C. 1232g(b)(4)(A); 34 C.F.R. 99.33(a)(2)*

The record shall not include requests for access by, or access granted to, parents of the student or officials of a district, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order. *34 C.F.R. 99.32(d)*

Right to Amend

The parent of a student whose records are covered by this policy may ask a district to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If a district decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records. *34 C.F.R. 99.20*

If a district decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the district decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the district. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed. *34 C.F.R. 99.21*

Fees for Copies

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for a copy of education records which is made for the parent or an eligible student, unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review those records. *20 U.S.C. 1232g; 34 C.F.R. 99.11; Education Code 26.012*

Records of Students with Disabilities

A district shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 C.F.R. 300.613(a)*

Access Rights

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect district records relating to the education of their child:

1. Parents may request that a representative inspect and review the records. *34 C.F.R. 300.613(b)(3)*
2. A district shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 C.F.R. 300.613(a)*
3. A district shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 C.F.R. 300.614*

Record Types and Locations

A district shall provide parents on request a list of types and locations of education records. *34 C.F.R. 300.616*

Parental Consent

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. A district may not release information from these

records without parental consent except as provided in FERPA. *34 C.F.R. 300.622*

Confidentiality

A district shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in a district shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. A district shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 C.F.R. 300.623*

Information Destruction

A district shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

34 C.F.R. 300.624

Annual Notification of Rights

A district shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and
4. File with the U.S. ED a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the district to comply with the requirements of the Act and 34 C.F.R. Part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 C.F.R. 99.20.
3. If the district has a policy of disclosing education records under 34 C.F.R. 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

A district may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

A district shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7

Directory Information

"Directory Information" Defined

"Directory information" means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended. "Directory information" does not include a student's:

1. Social security number; or
2. Student identification (ID) number, unless:
    a. The student ID number, user ID number, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user; or
    b. The student ID number or other unique personal identifier that is displayed on a student ID badge cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or

other factor known or possessed only by the authorized user.

34 C.F.R. 99.3

Disclosure of Directory Information

A district may release directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the district of:

1. The types of personally identifiable information that it has designated as directory information.
2. A parent's or eligible student's right to refuse to let the district designate any or all of those types of information about the student as directory information.
3. The period of time within which the parent has to notify the district in writing that he or she does not want any or all of those types of information about the student designated as directory information.

Restrictions on the Right of Refusal

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent a district from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class in which the student is enrolled or to prevent a district from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information and that has been properly designated by the district as directory information in the public notice provided under this section.

Former Students

A district may disclose directory information about former students without satisfying the public notice conditions above. However, the district must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

Confirmation of Identity or Records

A district may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 C.F.R. 99.3, .37

Homeless Students

Information about a homeless child's living situation shall be treated as a student education record, and shall not be deemed to be directory information. *42 U.S.C. 11432(g)(3)(G)*

Directory Information Designation

A district may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by a district as directory information for that district is excepted from disclosure by the district under Government Code Chapter 552. [See GBA]

Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or district publication, if any such purpose has been designated by a district, remains otherwise confidential and may not be released under Government Code Chapter 552.

Annual Notice

A district shall provide the following to the parent of each district student, at the beginning of each school year or on enrollment of the student after the beginning of the school year:

1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and
2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

Contents

The notice must contain:

1. The following statement in boldface type that is 14-point or larger: “Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want [insert name of district] to disclose directory information from your child’s education records without your prior written consent, you must notify the district in writing by [insert date]. [Insert name of district] has designated the following information as directory information: [Here the district must include any directory information it chooses to designate as directory information for the district, such as a student’s name, address, telephone listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]”;
2. A form, such as a check-off list or similar mechanism, that:
    a. Immediately follows, on the same page or the next page, the required statement; and
    b. Allows a parent to record:

(1) The parent's objection to the release of all directory information or one or more specific categories of directory information if district policy permits the parent to object to one or more specific categories of directory information;

(2) The parent's objection to the release of a secondary student's name, address, and telephone number to a military recruiter or institution of higher education; and

(3) The parent's consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the district and is specifically identified, such as for a student directory, student yearbook, or district publication; and

3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the district that the parent does not want the student's information disclosed without the parent's prior written consent.

Education Code 26.013

Student Recruiting Information

Notwithstanding the Directory Information provisions above, each district receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by a military recruiter or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a student's parent has submitted the prior consent request below.

Consent to Release

A student who has attained 18 years of age or a parent of a secondary school student may submit a written request to a district that the student's name, address, and telephone listing not be released for purposes described above without prior written consent. Upon receiving such request, a district may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent or student. A district shall notify parents of the option to make a request.

No Opt-In Process

Nothing in this provision shall be construed to allow a district to withhold access to a student's name, address, and telephone list-

ing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process above.

20 U.S.C. 7908

A district shall:

1. Provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students; and

2. Upon a request made by military recruiters for military recruiting purposes, provide access to secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone listings, notwithstanding directory information requirements in FERPA [see above].

A district shall notify parents of their right to submit a request to the district that the student's name, address, electronic mail address, and telephone listing not be released.

10 U.S.C. 503(c)(1)(A)–(B) [See also GKC]

Videotapes and Recordings

A district employee must obtain the written consent of a child's parent before the employee may make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

Exceptions

A district employee 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 only for:

1. The purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;

2. A purpose related to a cocurricular or extracurricular activity;

3. A purpose related to regular classroom instruction;

4. Media coverage of the school; or

5. A purpose related to the promotion of student safety under Education Code 29.022.

Education Code 26.009 [See EHA, EHBAF, FM, and FO]

Comprehensive System

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school officials.

Cumulative Record

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See CPC]

Custodian of Records

The principal is custodian of all records for currently enrolled students. The principal is the custodian of records for students who have withdrawn or graduated. The student handbook made available to all students and parents shall contain a listing of the addresses of District schools, as well as the Superintendent's business address.

Types of Education Records

The record custodian shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any documentation of discussion or action by an accelerated learning committee convened for the student.
5. Health services record, including:
    a. The results of any tuberculin tests required by the District.
    b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]

c. Immunization records. [See FFAB]

6. Attendance records.
7. Student questionnaires.
8. Records of teacher, school counselor, or administrative conferences with the student or pertaining to the student.
9. Verified reports of serious or recurrent behavior patterns.
10. Copies of correspondence with parents and others concerned with the student.
11. Records transferred from other districts in which the student was enrolled.
12. Records pertaining to participation in extracurricular activities.
13. Information relating to student participation in special programs.
14. Records of fees assessed and paid.
15. Records pertaining to student and parent complaints.
16. Other records that may contribute to an understanding of the student.

Access by Parents

The District shall make a student's records available to the student's parents, as permitted by law. The records custodian or designee shall use reasonable procedures to verify the requester's identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular school hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and records to be viewed shall be restricted to use only in the Superintendent's, principal's, or school counselor's office, or other restricted area designated by the records custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

Copies of records are available at a per copy cost, payable in advance. Copies of records must be requested in writing. Parents may be denied copies of records if they fail to follow proper procedures or pay the copying charge. If the student qualifies for free or

reduced-price lunches and the parents are unable to view the records during regular school hours, upon written request of a parent, one copy of the record shall be provided at no charge.

A parent may continue to have access to his or her child's records under specific circumstances after the student has attained 18 years of age or is attending an institution of postsecondary education. [See FL(LEGAL)]

Access by School Officials

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, "school officials" shall include:

1. An employee, Board member, or agent of the District, including an attorney, a consultant, a contractor, a volunteer, a school resource officer, and any outside service provider used by the District to perform institutional services.
2. An employee of a cooperative of which the District is a member or of a facility with which the District contracts for placement of students with disabilities.
3. A contractor retained by a cooperative of which the District is a member or by a facility with which the District contracts for placement of students with disabilities.
4. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
5. A person appointed to serve on a team to support the District's safe and supportive school program.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a "legitimate educational interest" in a student's records when he or she is:

1. Working with the student;
2. Considering disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities;
3. Compiling statistical data;
4. Reviewing an education record to fulfill the official's professional responsibility; or

5. Investigating or evaluating programs.

Transcripts and Transfers of Records

The District may request transcripts from previously attended schools for students transferring into District schools; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the parent or student, if 18 or older.

For purposes of a student's enrollment or transfer, the District shall promptly forward in accordance with the timeline provided in law education records upon request to officials of other schools or school systems in which the student intends to enroll or enrolls. [See FD(LEGAL), Required Documentation] The District may return an education record to the school identified as the source of the record.

Records Responsibility for Students in Special Education

The director of special services shall be responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education.

A current listing of names and positions of persons who have access to records of students in special education is maintained at the department of special services.

Procedure to Amend Records

Within 15 District business days of the record custodian's receipt of a request to amend records, the District shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing. If a hearing is requested, it shall be held within ten District business days after the request is received.

Parents shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence and, at their own expense, may be assisted or represented at the hearing.

The parents shall be notified of the decision in writing within ten District business days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the parents shall be informed that they have 30 District business days within which to exercise their right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

Directory Information

The District has designated the following categories of information as directory information: student name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; degrees, honors, and awards received; dates of

attendance; grade level; most recent educational institution attended; participation in officially recognized activities and sports; and weight and height of members of athletic teams.

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UIL Rules and District Policies

A student enrolled in a district or who participates in an extracurricular activity or a University Interscholastic League (UIL) competition is subject to district policy and UIL rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of a board. *Education Code 33.081(b)* [See FO regarding additional standards of conduct for extracurricular activities]

Athletic Activities

UIL Forms

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled "Preparticipation Physical Evaluation—Medical History" and "Acknowledgement of Rules." Each form must be signed by both the student and the student's parent or guardian. *Education Code 33.203(a)*

Notices

Each school that offers an extracurricular athletic activity shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the commissioner of education maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student's parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL's parent information manual. The document may be provided in an electronic format unless otherwise requested.

Education Code 33.207(b), .208

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 enrolled in the district who is required to receive safety training.

A campus that is determined by the superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206

Unsafe Practices

A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204*

Safety Precautions

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in a practice or competition becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205

Concussions

"Interscholastic athletic activity" includes practice and competition, sponsored or sanctioned by a district, including a home-rule district, or a public school, including any school for which a charter has been granted under Education Code Chapter 12, or the UIL. *Education Code 38.152*

"Concussion" means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns, and involve loss of consciousness. *Education Code 38.151(4)*

Concussion Oversight Team

The board of a district with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team. *Education Code 38.153(a)*

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the district is located, district enrollment, and the availability of and access to licensed health-care professionals in the district or charter school area, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If a district employs an athletic trainer, the athletic trainer must be a member of the concussion oversight

team. If a district employs a school nurse, the school nurse may be a member of the district concussion oversight team if requested by the school nurse.

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. The members also must take a training course at least once every two years and submit proof of timely completion to the superintendent or designee in accordance with Education Code 38.158.

Education Code 38.154, .158

Return-to-Play Protocol

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b)*

Required Annual Form

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155*

Removal from Play

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed healthcare professional, as defined by Education Code 38.151(5); a licensed chiropractor; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156*

Return to Play

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;

2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;

3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and

4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:

    a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;

    b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

    c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and

    d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student's return to play.

The superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157

Immunity

These provisions do not:

1. Waive any immunity from liability of a district or of district officers or employees;

2. Create any liability for a cause of action against a district or against district officers or employees;

3. Waive any immunity from liability under Civil Practice and Remedies Code 74.151; or

4. Create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Education Code 38.159

Football Helmet Safety Requirements

A district may not use a football helmet that is 16 years old or older in the district's football program. A district shall ensure that each football helmet used in the district's football program that is 10 years old or older is reconditioned at least once every two years.

A district shall maintain and make available to parents of students enrolled in the district documentation indicating the age of each football helmet used in the district's football program and the dates on which each helmet is reconditioned.

Education Code 33.094(a)–(c)

Steroid Testing

The UIL shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids [see FNF].

Results of such steroid tests are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

Education Code 33.091(d)–(e)

Cardiac Assessment

A district must provide a district student who is required under UIL rule or policy to receive a physical examination before being allowed to participate in an athletic activity sponsored or sanctioned by the UIL, information about sudden cardiac arrest and electrocardiogram testing and notification of the option of the student to request the administration of an electrocardiogram, in addition to the physical examination.

A student may request an electrocardiogram from any health-care professional, including a health-care professional provided through a district program, provided that the health-care professional is ap-

propriately licensed in Texas and authorized to administer and interpret electrocardiograms under the health-care professional's scope of practice, as establish by the health-care professional's Texas licensing act.

Immunity

These provisions do not create a cause of action or liability or a standard of care, obligation, or duty that provides a basis for a cause of action or liability against a health-care professional described in the provision, the UIL, a district, or a district officer or employee for:

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration or interpretation of or reliance on an electrocardiogram; or
2. The content or distribution of the information required under these provisions or the failure to distribute the required information.

Education Code 33.096

Rodeos

This section applies only to a primary or secondary school that sponsors, promotes, or otherwise is associated with a rodeo in which children who attend the school are likely to participate.

"Rodeo" means an exhibition or competition, without regard to whether the participants are compensated, involving activities related to cowboy skills, including:

1. Riding a horse, with or without a saddle, with the goal of remaining on the horse while it attempts to throw off the rider;
2. Riding a bull;
3. Roping an animal, including roping as part of a team;
4. Wrestling a steer; and
5. Riding a horse in a pattern around preset barrels or other obstacles.

Educational Program

A primary or secondary school to which this section applies shall, before the first rodeo associated with the school in each school year, conduct a mandatory educational program on safety, including the proper use of protective gear, for children planning to participate in the rodeo, in accordance with 25 Administrative Code 104.4. The educational program may consist of an instructional video, subject to the Department of State Health Services approval.

Restriction on Participation

A child may not participate in a rodeo associated with the child's school during a school year unless the child has completed the educational program not more than one year before the first day of the rodeo.

Protective Gear for Bull Riding

A child may not engage in bull riding, including engaging in bull riding outside a rodeo for the purpose of practicing bull riding, unless the child is wearing a protective vest and bull riding helmet in accordance with 25 Administrative Code 104.3.

Health and Safety Code 768.001(6), .003; 25 TAC 104.2–.4

Eligibility

A student otherwise eligible to participate in an extracurricular activity or a UIL competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided. *Education Code 33.087*

Military Dependents

The district shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B* [See FDD]

Attendance and Participation

The State Board of Education (SBOE) by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The board of a district may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the district, UIL, or an organization sanctioned by board resolution. The policy must permit a student to be absent from class at least ten times during the school year, and the policy prevails over any conflicting policy adopted by the SBOE.

Education Code 33.081(a), .0811

SBOE Rules

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from a board. If sanctioned by resolution of the board, student participation in the organization's activities shall be subject to all provisions of statute and to 19 Administration Code 76.1001. If a board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)* [See FEB]

Extracurricular Activities

An extracurricular activity is an activity sponsored by the UIL, a board, or an organization sanctioned by board resolution. The activity is not necessarily directly related to instruction of the essential knowledge and skills but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include, but are not limited to, public performances, contests, demonstrations, displays, and club activities. In addition, an activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

Exceptions

Public Performances

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. The general public is invited; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

State-Approved Music Courses

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL evaluation performance.

19 TAC 76.1001(a)

Limits on Participation and Practice

During the School Week

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

1. For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.

3. For each extracurricular activity, a district must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.

4. The commissioner recommends that districts avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

19 TAC 76.1001(d); Education Code 33.081(a)

During the School Day

Limitations on practice and rehearsal during the school day shall be as follows:

1. A district must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.

2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.

3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.

4. A district must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.

5. Regardless of the schedule type in place (traditional or nontraditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(e); Education Code 33.081(a)

Record of Absences

A district shall maintain an accurate record of extracurricular absences for each student in the district each school year. *19 TAC 76.1001(c)*

Students Receiving Outpatient Mental Health Services

A district may not adopt or enforce policies that restrict participation in UIL activities by a student who receives outpatient mental health services from a mental health facility and is enrolled in the district or otherwise receives public education services from a district based solely on the student's receipt of outpatient mental health

services from a mental health facility or the student's absence during instructional time while receiving outpatient mental health services from a mental health facility.

This provision does not exempt a student to whom this section applies from any eligibility requirement for participation in UIL activities other than an eligibility requirement based solely on the criteria of receipt of outpatient mental health services from a mental health facility.

Education Code 33.0832(c)–(d)

Participation by Homeschooled Students

A public school that participates in an activity sponsored by UIL may provide a non-enrolled student, who otherwise meets UIL eligibility standards to represent that school in a UIL activity, with the opportunity to participate in the activity on behalf of the school in the same manner that the school provides the opportunity to participate to students enrolled in the school.

"Non-enrolled student" means a student who receives instruction as a homeschooled student as described by Education Code 29.916(a)(1) from a nonpublic school [see EK].

Relevant Policies

A non-enrolled student who seeks to participate or participates in a UIL activity on behalf of a school is subject to the following relevant policies that apply to students enrolled in the school:

1. Registration for UIL activities;
2. Age eligibility;
3. Fees;
4. Insurance;
5. Transportation;
6. Physical condition;
7. Qualifications;
8. Responsibilities;
9. Event schedules;
10. Standards of behavior; and
11. Performance.

Residency Requirements

A non-enrolled student may only participate in a UIL activity for the school in the district that the student would be eligible to attend based on the student's residential address. A non-enrolled student who seeks to participate in a UIL activity on behalf of a school shall

be required to establish minimum proof of residency acceptable to the district in the same manner as an applicant to attend a school in the district under Education Code 25.001 [see FD].

Academic Requirements

The parent or person standing in parental relation to a non-enrolled student is responsible for oversight of academic standards relating to the student's participation in a UIL activity. As a condition of eligibility to participate in a UIL activity during the first six weeks of a school year, a non-enrolled student must demonstrate grade-level academic proficiency on any nationally recognized, norm-referenced assessment instrument, such as the Iowa Test of Basic Skills, Stanford Achievement Test, California Achievement Test, or Comprehensive Test of Basic Skills. A non-enrolled student demonstrates the required academic proficiency by achieving a composite, core, or survey score that is within the average or higher than average range of scores, as established by the applicable testing service. A district shall accept assessment results administered or reported by a third party.

A non-enrolled student's demonstration of academic proficiency is sufficient for the school year in which the student achieves the required score and the subsequent school year.

After the first six weeks of a school year, the parent or person standing in parental relation to a non-enrolled student participating in a UIL activity on behalf of a public school must periodically, in accordance with the school's grading calendar, provide written verification to the school indicating that the student is receiving a passing grade in each course or subject being taught.

Previous Enrollment in Public School

A non-enrolled student is not authorized by this section to participate in a UIL activity during the remainder of any school year during which the student was previously enrolled in a public school.

Prohibitions

With respect to a non-enrolled student's education program, nothing in these provisions shall be construed to permit an agency of this state, a public school district, or any other governmental body to exercise control, regulatory authority, or supervision over a non-enrolled student or a parent or person standing in parental relation to a non-enrolled student beyond the control, regulatory authority, or supervision required to participate in a UIL activity.

Subject only to eligibility requirements, the curriculum or assessment requirements, performance standards, practices, or creed of the education program provided to a non-enrolled student may not be required to be changed in order for the non-enrolled student to participate in a UIL activity. Subject only to eligibility requirements, for a non-enrolled student participating in an education program on January 1, 2021, the education program provided to that student

may not be required to comply with any state law or agency rule relating to that education program unless the law or rule was in effect on January 1, 2021.

Education Code 33.0832

Suspension from Extracurricular Activities

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by a district or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at Exempt Courses.

Length of Suspension

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Reinstatement, described below, are met. A suspension shall not last beyond the end of a school year.

Grade Evaluation Period

"Grade evaluation period" means:

1. The six-week grade reporting period; or
2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

Education Code 33.081(c)

School Week

The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b)*

Exempt Courses

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. *Education Code 33.081(d-1)*

Honors classes for purposes of eligibility to participate in extracurricular activities are listed at 19 Administrative Code 74.30(a).

Districts may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, or a language other than English for the purposes of extracurricular eligibility but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Districts are neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

19 TAC 74.30

Students with Disabilities

In the case of a student with a disability that significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program (IEP). The determination of whether the disability substantially interferes with the student's ability to meet the requirements of the student's IEP must be made by the admission, review, and dismissal (ARD) committee.

For the purposes of this provision, "student with a disability" means a student who is eligible for a district's special education program under Education Code 29.003(b).

Education Code 33.081(e)

Practice or Rehearsal

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance. This provision does not apply to a student prohibited from participation for certain conduct involving extracurricular officials [see below]. *Education Code 33.081(f)*

Reinstatement

Until the suspension is removed or the school year ends, a district shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at Exempt Courses, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d)*

Suspension for Certain Conduct Involving Extracurricular Officials

A student who is enrolled in a district in Texas or who participates in a UIL competition shall be prohibited from participation in any future extracurricular activity sponsored or sanctioned by the district or the UIL if the state executive committee of the league determines that the student intentionally, knowingly, or recklessly causes bodily injury to a person serving as referee, judge, or other official of an extracurricular activity in retaliation for or as a result of the person's actions taken in performing the duties of a referee, judge, or other official of the extracurricular activity.

Reinstatement After Conduct

A student prohibited from participation may submit to the UIL a request that the student be permitted to participate in future extracurricular activities sponsored or sanctioned by the UIL. The request must be submitted at least one year after the date the student engaged in the conduct that resulted in the prohibition if the student was enrolled in eighth grade or below at the time of the conduct or two years after the date the student engaged in the conduct that resulted in the prohibition if the student was enrolled in ninth grade or above at the time of the conduct.

Education Code 33.081(e-1)–(e-2)

Parental Notice and Consent

A parent is entitled to full information regarding the school activities of a parent's child except as provided by Education Code 38.004 (child abuse investigations). *Education Code 26.008(a)*

Anonymous Evaluations

Anonymous evaluations of a student that determine whether the student may participate in a school-related program do not provide full information about the student's school activities. A district may by policy establish the parameters for parental contact with evaluating teachers, taking into account the type of evaluation, the information elicited in the evaluation, and scheduling and workload requirements of the teachers. *Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)*

Videotaping and Recording

A district employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to a cocurricular or extracurricular activity. *Education Code 26.009(b)(2)*

Discriminatory Club

An extracurricular activity sponsored or sanctioned by a district, including an athletic event or an athletic team practice, may not take place at an athletic club located in the United States that denies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the person's race, color, religion, creed, national origin, or sex.

"Athletic club" means an entity that provides sports or exercise equipment or facilities to its customers or members or to the guests of its customers or members.

Education Code 33.082

Special Olympics Recognition

If a district allows high school students to earn a letter for academic, athletic, or extracurricular achievements, the district must allow high school students to earn a letter on the basis of a student's participation in a Special Olympics event. *Education Code 33.093*

Student Election Clerks

Unless applied toward instructional requirements [see EIA], a student who is appointed as a student election clerk under Election Code 32.0511 or as a student early voting clerk under Election Code 83.012, may apply the time served toward a service requirement for participation in a school-sponsored extracurricular activity at the discretion of the school sponsor. *Education Code 33.092*

Before-School and After-School Programs

The board may establish before-school or after-school programs for students enrolled in elementary or middle school grades. A program established under this section may operate before, after, or before and after school hours.

A student is eligible to participate in the district's before-school or after-school program if the student is enrolled in a public or private school or resides within the boundaries of the district.

A district shall conduct a request for proposals procurement process to enable the district to determine if contracting with a child-care facility that provides a before-school or after-school program, as defined by Human Resources Code 42.002, to provide the district's before-school or after-school program would serve the district's best interests. Following the request for proposals procurement process, the district may enter into a contract with a child-care facility or implement a before-school or after-school program operated by the district. If the district enters into a contract with a child-care facility, the contract must comply with the requirements of Education Code 44.031 and may not exceed a term of three years.

The board may adopt rules in accordance with Education Code 11.165 [see BAA] to provide access to school campuses before or after school hours for the purpose of providing a before-school or after-school program.

Education Code 33.9031

Use or Possession by Students

A board shall prohibit students from smoking, using, or possessing e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

"E-cigarette" means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device. The term does not include a prescription medical device unrelated to the cessation of smoking. The term “e-cigarette” includes:

1. A device regardless of whether it is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
2. A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Health and Safety Code 161.081(1-a)

Enforcement

The board shall ensure that district personnel enforce the policies on school property. *Education Code 38.006* [See DH and GKA]

Possession of Weapons

Expulsion Offense

A student shall be expelled from school if the student engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02, or elements of an offense relating to prohibited weapons under Penal Code 46.05, on school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(a)(1)* [See also FOD]

Exception

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

Federal Firearms Provision

Expulsion Offense

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

"School" Defined

For expulsion under this provision, "school" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district.

20 U.S.C. 7961; Education Code 37.007(e) [See FOD]

Exception

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. *20 U.S.C. 7961(g)* [See also DH and GKA]

Unlawful Carrying of Weapons

A person commits an offense if the person:

Handgun

1. Intentionally, knowingly, or recklessly carries on or about his or her person a handgun;

2. At the time of the offense is younger than 21 years of age or has been convicted of certain offenses described in Penal Code 46.02(a); and

3. Is not on the person's own premises or premises under the person's control; or inside of or directly en route to a motor vehicle that is owned by the person or under the person's control.

Penal Code 46.02(a)

Location-Restricted Knife

A person commits an offense if the person:

1. Intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;

2. Is younger than 18 years of age at the time; and

3. Is not:

   a. On the person's own premises or premises under the person's control;

   b. Inside of or directly en route to a motor vehicle that is owned by the person or under the person's control; or

   c. Under the direct supervision of a parent or legal guardian of the person.

Penal Code 46.02(a-4)

Additional Handgun Offenses

A person commits an offense if the person carries a handgun in violation of Penal Code 46.02(a-5)–(a-7). *Penal Code 46.02*

Definitions

Firearm

For purposes of state law, “handgun” means any firearm that is designed, made, or adapted to be fired with one hand. A “firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3),(5)*

Location-Restricted Knife

“Location-restricted knife” means a knife with a blade over 5-1/2 inches. *Penal Code 46.01(6)*

Prohibited Weapons

Under Penal Code 46.05, a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or sub-

stantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*

3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*

4. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*

5. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*

6. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*

7. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

8. An improvised explosive device (a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. It does not include unassembled components that can be legally purchased and possessed without a license, permit, or other governmental

approval; or an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive. *Penal Code 46.01(19)*

A person does not commit an offense if an item is listed at items 1–3, above, and is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice.

Penal Code 46.05(a)

United States Constitution

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when a board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that a board negotiate or even respond to complaints. However, a board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

Federal Laws

Section 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b)*

Americans with Disabilities Act

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107*

Title IX

A district that receives federal financial assistance, directly or indirectly, must adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(b)* [See FB and FFH]

Education Code Chapter 26

Parents are partners with educators, administrators, and the board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

Unless otherwise provided by law, a board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

"Parent" Defined

For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.001(a)(10) shall be exercised by a student 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. *Education Code 26.002*

Complaint Procedures

A board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

A board shall adopt a grievance procedure under which the board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights).

The board is not required by the provision above or Education Code 11.1511(b)(13) (requiring adoption of a process to hear complaints) to address a complaint concerning a student's participation in an extracurricular activity that does not involve a violation of a right guaranteed by Education Code Chapter 26. This provision does not affect a claim brought by a parent under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) or a successor federal statute addressing special education services for a child with a disability.

Education Code 26.011

Parental Rights

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials and test results, and observation of virtual instruction. *Education Code 26.006* [See EF and EKB]

5. Access to board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]
6. Right to full information concerning a student. *Education Code 26.008* [See DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]
8. Requests for public information. *Education Code 26.0085* [See GBA]
9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]
11. Exemption from instruction. *Education Code 26.010* [See EMB]

Right to Attend School Activities

Unless limited by court order, a parent appointed as a conservator of a child has at all times the right to attend school activities, including school lunches, performances, and field trips. *Family Code 153.073(a)(6)*

Objection to School Assignment

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, a board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), .034* [See FDB]

Challenge to Education Records

A district shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 C.F.R. 99.21* [See FL]

Denial of Class Credit or Final Grade

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board. *Education Code 25.092(d)* [See FEC]

Complaints Against Professional Employees

A person may not file suit against a professional employee of a district unless the person has exhausted the district's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of a district" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a district;
2. A teacher employed by a company that contracts with a district to provide the teacher's services to the district;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the board; and
6. Any other person whose employment by a district requires certification and the exercise of discretion.

Education Code 22.051(a)

Finality of Grades

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with a district's grading policy applicable to the grade, as determined by the board.

A board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]

Education Code 28.0214

Public Information Requests

A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). A district shall also comply with the deadlines and provisions set forth at Education Code 26.0085. *Gov't Code Ch. 552; Education Code 26.0085*

Closed Meeting

A board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. *Gov't Code Ch. 551, Subch. D* [See BEC]

Record of Proceedings

An appeal of a board's decision to the commissioner of education shall be decided based on a review of the record developed at the district level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is a district's responsibility to make and preserve the records of the proceedings before the board. If a district fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the district. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
   a. The tape recording must be complete, audible, and clear; and
   b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the board; and
8. The decision of the board.

19 TAC 157.1073(d)

Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Crim. App. 1991)*

Note: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline; see FL for provisions concerning student records.

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. *Education Code 37.006*

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. Marijuana or 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.;
    b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. 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.
5. 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.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

8. 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. *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 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 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 district shall revoke the student's admission. *Education Code 25.001(b-1)*

Placement of Younger Students

A student who is younger than ten 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 re-

moval, 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 to a DAEP, 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]

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 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)

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 student 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. [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 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 superintendent 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 principal 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 Younger Than Ten

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

Overage 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 juvenile justice alternative education program (JJAEP) 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, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

Mandatory Expulsion

School Related

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02 or elements of an offense relating to prohibited weapons under Penal Code 46.05 [see FNCG];

2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or disabled individual, as those offenses are defined in the Penal Code; or

3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

Education Code 37.007(a)

Exception

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and

2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored

shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k), (l)

Retaliation

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person's employment or association with a district, 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 of school property. *Education Code 37.007(d)*

Federal Firearms Offense

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

Exception

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. [See also GKA].

Provision of Educational Services

A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age on the date of expulsion. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP.

20 U.S.C. 7961; Education Code 37.007(e)

Definitions

For purposes of this provision:

School

"School" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district. *20 U.S.C. 7961(f)*

Firearm

"Firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket hav-

ing a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921, 20 U.S.C. 7961(b)(3)

Discretionary Expulsion

Threats

A student may be expelled 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.

School-Related Conduct

A student may be expelled if the student, while 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 of school property:

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
    a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
    b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
    c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.
2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.
3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053.
4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)

Conduct Within 300 Feet of School

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see Mandatory Expulsion—School Related, above]; or
2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see Federal Firearm Provision, above].

Education Code 37.007(b)(3)

Retaliation Against School Employee or Volunteer

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, 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. *Education Code 37.007(d)*

Conduct Against Another Student

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)(4)*

Bullying

A student may be removed from class and expelled 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

Criminal Mischief

A district may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, a district shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

Breach of Computer Security

A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:

1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and
2. The student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

Education Code 37.007(b)(5)

Serious Misbehavior in DAEP

A student placed in a DAEP who engages in documented serious misbehavior while on the DAEP campus despite documented behavioral interventions may be removed from class and expelled.

“Serious misbehavior” means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or
4. Conduct that constitutes the offense of:
    a. Public lewdness under Penal Code 21.07;
    b. Indecent exposure under Penal Code 21.08;
    c. Criminal mischief under Penal Code 28.03;
    d. Personal hazing under Education Code 37.152; or
    e. Harassment, under Penal Code 42.07(a)(1), of a student or district employee.

If the student is expelled, a board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).

Education Code 37.007(c), .010(b)

Property or Activities of Another District

A district may expel a student who attends school in the district if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and

2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

Education Code 37.007(i)

Expulsion Proceedings

Due Process

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

Notice

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

Hearing

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate County Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette County Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]

Representative

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance

to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

Mitigating Factors

Before ordering the expulsion of a student, the board or the board's designee 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 board concerns a mandatory or discretionary action. [See Student Code of Conduct, item 4, at FO(LEGAL) for mitigating factors.]

Appeal

If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the district's central administrative office is located.

Education Code 37.009(f)

Term of Expulsion

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

Beyond One Year

The period of expulsion may not exceed one year unless a 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 37.009(h)

Notice of Expulsion Order

A board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion. *Education Code 37.009(g)–(h)*

To Parent or Guardian

To Court

Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in a district's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and addresses of any witnesses; and the child's present whereabouts; and

2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

Education Code 37.010(a); Family Code 52.04(a), .041(a)–(b)

To Juvenile Board

In a county that operates a JJAEP [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following a board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending a district's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. *Family Code 52.041*

To Staff

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district 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 expellable conduct.

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 37.007(g)

Completion of Proceeding Upon Withdrawal

If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion 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 student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

Additional Proceedings

If, during the term of expulsion, 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 principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

Appeals

A decision by a board's designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*

Restrictions on Court Orders

A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

Exception

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

Education Code 37.010(c)

District Responsibility for Expelled Student

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

Students Not Eligible for Existing JJAEP

Contracting for Services

A district may provide the program, or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

Education Code 37.011(l)

Certain Districts

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily

attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

1. The district's DAEP.
2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education, an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

An educational placement other than a district's DAEP is subject to the educational and certification requirements applicable to an open-enrollment charter school under Education Code Chapter 12, Subchapter D.

Education Code 37.011(a-3)–(a-5)

Return to Class

Early / Permissive

On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

Required

After an expelled student has successfully completed any court disposition requirements, including conditions of a 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. [See FD] A district may place the student in a DAEP.

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)

Expelled from Another District

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

Out-of-State Expulsion

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and

2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

Education Code 37.010(g)

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the 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 37.010(g-1)

Note: See FOF for provisions concerning expulsion of 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

All disciplinary actions regarding students with disabilities must be determined in accordance with 34 C.F.R. 300.101(a) and 300.530–300.536; Education Code Chapter 37, Subchapter A; and 19 Administrative Code 89.1053 (Procedures for Use of Restraint and Time-Out). *19 TAC 89.1050(k)*

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)*

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 Ten 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 ten 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)*

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. *34 C.F.R. 300.530(d)*

Subsequent Removals of Ten Days or Less

School personnel may remove the student for additional removals of not more than ten 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). *34 C.F.R. 300.530(b)(1)*

Services During Removal

After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten 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). *20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4)*

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]. *20 U.S.C. 1415(k)(1)(H)*

Removals That Are a Change in Placement

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.

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].

Education Code 37.004(b)

Behavior Assessment and Intervention

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:

1. Not later than the tenth school day after the change in placement:

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 ten consecutive school days; or

2. Subjected to a series of removals that constitute a pattern because:

a. The series of removals total more than ten 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 ten 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*

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 occurs 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.]

School Peace Officers

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or
2. Provides, as a school resource officer, a regular police presence on a school 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(l)

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(l), (m)

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)

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

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)

"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.

Emergency

"Emergency" means a situation in which a student's behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or

2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1)–(2)

Training

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).

Documentation

In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 Administrative Code 89.1053(e).

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.

Education Code 37.0021(i)

Time-Out

A school employee, volunteer, or independent contractor may use time-out with the following limitations:

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 BIP 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)

"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:

1. That is not locked; and

2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

19 TAC 89.1053(b)(3)

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 or BIP. 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)

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Right of Access to Public Information

Availability

Public information is available, at a minimum, to the public during a district's normal business hours. *Gov't Code 552.021*

Information That Must Be Disclosed

The following categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 552 or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by a board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a district.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of a board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a board, on completion of the estimate.
6. A description of a district's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which a district's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by a board and a statement of general policy or interpretation of general applicability formulated and adopted by the board.
10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by a board.

13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under a district's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
16. Information that is also contained in a public court record.
17. A settlement agreement to which a board is a party.

Gov't Code 552.022

Contracting Information

Certain "contracting information," as that term is defined in Government Code 552.003(1-a), is public and must be released unless excepted from disclosure under the Public Information Act (PIA). The exceptions to disclosure provided by Government Codes 552.110 (trade secrets) and 552.1101 (proprietary information) do not apply to certain types of contracting information. *Gov't Code 552.0222(a), (b)*

Investment Information

Certain district investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

Security System Information

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 PIA. *Gov't Code 418.182(b)*

Body-Worn Camera

Except as set forth at Occupations Code Chapter 1701, Subchapter N, a recording from a body-worn camera that is or could be used as evidence in a criminal prosecution is subject to the requirements of the PIA.

However, a law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

Occupations Code 1701.661

Personal Information

Employees and Officials

Each employee or official of a district and each former employee or official of a district shall choose whether to allow public access to information in the custody of the district that relates to the person's

home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members. A district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

Each employee and official and each former employee and official of the district shall state that person's choice to the main personnel officer of the district in a signed writing not later than the 14th day after the date on which the employee begins employment with the district, the official is elected or appointed, or the former employee or official ends service with the district. If an employee or official or a former employee or official fails to state the person's choice within 14 days, the information is subject to public access. An employee or official or former employee or official of a district who wishes to close or open public access to the information may request in writing that the main personnel officer of the district close or open access. Exercising the option to close public access to protect personal information does not apply to an open records request made before the option was exercised.

These requirements do not apply to a person to whom Government Code 551.1175 applies, including a peace officer, commissioned security officer, or elected public officer.

Gov't Code 552.024; Tex. Atty. Gen. ORD 530 (1989)

Notice to Requestor

If an employee or board member has opted to restrict public access to his or her personal information, the district may redact the personal information from any information the district discloses without the necessity of requesting a decision from the attorney general. *Gov't Code 552.024(c)*

If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.024(c-2)*

Special Rights of Access

Employees

An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests. [See DBA] *Gov't Code 552.023*

Board Members

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records

maintained by the district. "Official capacity" means all duties of office and includes administrative decisions or actions. [See BBE] *Education Code 11.1512; Atty. Gen. Op. JM-119 (1983)*

Information District Is Not Required to Release

Commercial Information

A district is not required to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the district for research purposes, if the book or publication is commercially available to the public. Although information in a book or publication may be made available to the public as resource material, such as a library book, a district is not required to make a copy of the information in response to a request for public information. The district shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the district. *Gov't Code 552.027*

Request for Information from Incarcerated Individual

A district is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility or an agent of that individual, other than the individual's attorney when the attorney is requesting information that is subject to disclosure under the PIA. This section does not prohibit a district from disclosing to an incarcerated individual or the individual's agent information that pertains to the individual. *Gov't Code 552.028*

Voluntary Disclosure

A board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Confidential Information Under the Public Information Act or Other Law

A person commits a misdemeanor offense if the person distributes information considered confidential under the terms of the PIA. A violation of this section also constitutes official misconduct. *Gov't Code 552.352*

Information That May Not Be Disclosed

Student Records

Information is confidential and excepted from required disclosure if it is information in a student record at a district.

"Student record" means information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)) [see FL] and information in a record of an applicant for admission to an educational institution, including a transfer applicant.

A district may disclose or provide information included in an education record as authorized by 20 U.S.C. Section 1232g or other federal law. [See FL] In addition, a student record shall be made available upon request to district personnel, the student, the student's parents, guardian, or spouse, or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

Except as set forth in federal law (the Family Educational Rights and Privacy Act), a district shall not release personally identifiable information in education records without the written consent of the student's parents.

A district may redact information that constitutes a student record from information disclosed under the PIA without requesting a decision from the attorney general.

If an applicant for admission to an educational institution funded wholly or partly by state revenue, or a parent or legal guardian of a minor applicant to such an educational institution, requests information in the record of the applicant, the district shall disclose any information that is related to the application for admission and was provided to the district by the applicant.

Gov't Code 552.026, .114 [See FL]

Employee Social Security Numbers

The social security number of an employee of a district in the custody of the district is confidential. *Gov't Code 552.147(a-1)*

Evaluations

A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under the PIA.

At the request of a school district, open-enrollment charter school, or private school at which a teacher or administrator has applied for employment, a district shall give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

A district shall give the Texas Education Agency (TEA) a document evaluating the performance of a teacher or administrator employed by the district for purposes of an investigation conducted by TEA.

Education Code 21.355(a), (c), (d)

Educator Certification Exam

The results of an educator certification examination are confidential and are not subject to disclosure, unless the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057. *Education Code 21.048(c-1)*

Credit Card, Debit Card, Charge Card, and Access Device Numbers

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a district is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

A district may redact credit card, debit card, charge card, or access device numbers from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.136

Email Addresses

Confidential

An email address of a member of the public that is provided for the purpose of communicating electronically with a district is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

Exceptions

This confidentiality does not apply to an email address:

1. Provided to a district by a person who has a contractual relationship with the district or by the contractor's agent;
2. Provided to a district by a vendor who seeks to contract with the district or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a district in the course of negotiating the terms of a contract or potential contract;
4. Provided to a district on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a district for the purpose of receiving orders or decisions from the district, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state

agency permit, certificate, approval, registration, or similar form of permission required by law.

A district may also disclose an email address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137, 2001.003(2)

Victim of Abuse or Improper Relationship

The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Penal Code 21.12(a) may not be released to the public and is not public information subject to disclosure. *Penal Code 21.12(d)*

The name of a student or minor who is the victim of abuse or unlawful conduct by an educator is not public information subject to disclosure. *Education Code 21.006(h)*

Employee Accused of Improper Relationship Between Educator and Student

A primary or secondary school may not release externally to the general public the name of an employee who is accused of committing an offense under Penal Code 21.12 (improper relationship between educator and student) until the employee is indicted for the offense. The school may release the name of the accused employee regardless of whether the employee has been indicted for the offense as necessary for the school to:

1. Report the accusation:
    a. To TEA, another state agency, or local law enforcement or as otherwise required by law; or
    b. To the school's community in accordance with the school's policies or procedures; or
2. Conduct an investigation of the accusation.

Penal Code 21.12(d-1)

Crime Victims

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault or Abuse, Stalking, or Trafficking of Persons under Code of Criminal Procedure Chapter 58, Subchapter B is confidential, except as provided by Code of Criminal Procedure 58.061, and may not be disclosed under the PIA. *Code of Criminal Procedure 58.060*

A district employee who is a victim under the Crime Victim Compensation Act may elect whether to allow public access to information held by the district that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The election must be made in writing on a form developed by the district, signed by the employee, and filed with the district

before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132

Location or Layout of Shelter Centers

Information that relates to the location or physical layout of a family violence shelter center or victims of trafficking shelter center is confidential. *Gov't Code 552.138(b-1)*

Criminal History Records

Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, is confidential and may not be released except to comply with Subchapter C, by court order, or with the consent of the person who is the subject of the information. *Education Code 22.08391*

Criminal history record information obtained by the district from the Texas Department of Public Safety may not be disclosed to any person except:

1. The person who is the subject of the information;
2. The Texas Education Agency;
3. The State Board for Educator Certification;
4. The chief personnel officer of the transportation company if the information was obtained under Government Code 411.097(a)(2) with respect to a transportation company that contracts with the district to provide student transportation; or
5. By court order.

Gov't Code 411.097(d)(1) [See CJA, DBAA, and DHB]

Sensitive Crime Scene Image

A sensitive crime scene image in the custody of a district is confidential and excepted from the requirements of the PIA, regardless of the date that the image was taken or recorded.

"Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia. A district may not permit a person to view or copy the image except as provided by Government Code 552.1085.

Gov't Code 552.1085(a)(6), (c)

School Marshal Identity

The identity of a school marshal appointed under Education Code 37.0811 is confidential except as provided by Occupations Code 1701.260(j).

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose the identity of the school marshal.

Education Code 37.0811(g), (h)

Closed Meeting Recording / Certified Agenda

The certified agenda or tape recording of a closed meeting is available for public inspection only under a court order issued in litigation in a district court involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(c); Atty. Gen. ORD 684 (2009)*

Security Information

Except as provided by the Texas Homeland Security Act, Government Code 418.182, 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(a)*

The following information is confidential under Subchapter C of the PIA:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a district or of a contractor of a district is vulnerable to unauthorized access or harm, including an assessment of the extent to which a district's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use;
3. A photocopy or other copy of an identification badge issued to an official or employee of a district; and

4. Information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log. This does not affect the notification requirements related to a breach of system security as defined by Business and Commerce Code 521.053. [See CQB]

   A district may disclose the information to a bidder if the district determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007.

Gov't Code 552.139(b), (c)

Military Discharge Records

A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of a district on or after September 1, 2003, is confidential for the 75 years following the date it comes into the possession of a district. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140; Atty. Gen. ORD 684 (2009)*

Retirement Eligibility Records

Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system, are confidential and not subject to public disclosure. This provision applies to records in the custody of the district acting in cooperation with or on behalf of the retirement system. A district acting in cooperation with or on behalf of the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general.

For purposes of Government Code 825.507, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

Gov't Code 552.0038, 825.507(g)

Peace Officer and Elected Officer Information

District information related to the home address, home telephone number, emergency contact information, date of birth, or social security number of a current or honorably retired peace officer, commissioned security officer, and elected public officer, or information that reveals whether the officer has family members, is confidential and may not be released if the officer chooses to restrict public access to the information by notifying the district on a form provided by the district with evidence of the individual's status.

In accordance with Government Code 552.1175(h), a district may redact information that must be withheld under this section from any information the district discloses under the PIA without the necessity of requesting a decision from the attorney general. If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.1175

Election Judges and Clerks

An email address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of Government Code Chapter 552.

Exception

An email address or phone number of an election judge or clerk shall be made available on request to:

1. Any entity eligible to submit lists of election judges or clerks for that election; or
2. The state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

Election Code 32.076

Cybersecurity Information

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and

2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.

6 U.S.C. 1504(d)(3) [See CQB]

Protected Health Information

An individual's protected health information as defined by Health and Safety Code 181.006 is not public information and is not subject to disclosure under the PIA. *Gov't Code 552.002(d)*

Out-of-State Health-Care Provider Information

Information obtained by a district that was provided by an out-of-state health-care provider in connection with a quality management, peer review, or best practices program that the out-of-state health-care provider pays for is confidential and excepted from the requirements of the PIA. *Gov't Code 552.162*

Applicant for Disaster Recovery Funds

The following information maintained by a district is confidential:

1. The name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;

2. The name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; and

3. Any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

Gov't Code 552.160

Information Excepted from Disclosure

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by a district. This paragraph does not limit the authority of a district to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Confidential by Law	Information is excepted from public disclosure if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
Certain Personnel File Information	Information is excepted from public disclosure if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
	Disclosure of employee birth dates would constitute a clearly unwarranted invasion of personal privacy, and such dates are excepted from disclosure under Government Code 552.102(a), if the employees' privacy interests substantially outweigh the public interest in the information. *Texas Comptroller of Public Accts. v. Atty. Gen'l of Texas, 354 S.W.3d 336 (Tex. 2010) (holding that a newspaper's stated reason for requesting state employees' dates of birth did not outweigh employees' privacy rights)*
	Information is excepted from public disclosure if it is information in the custody of the district that relates to an employee or officer of the district if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.152*
Information Relating to Litigation	Information is excepted from public disclosure if it is information relating to litigation of a civil or criminal nature to which a district is, or may be, a party or to which an officer or employee of the district, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the district's public information officer receives the request. *Gov't Code 552.103*
Information Related to Competition or Bidding	Information is excepted from public disclosure if the district demonstrates that the release of the information would harm its interests by providing an advantage to competitors or bidders in a particular ongoing competitive situation or in a particular competitive situation where the district establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.
Parades, Concerts, and Entertainment Events	Information relating to the receipt or expenditure of public or other funds by a district for a parade, concert, or other entertainment event paid for in whole or part with public funds is not excepted from public disclosure. A person, including a district, may not include a provision in a contract related to an event that prohibits or

would otherwise prevent the disclosure of this information. A contract provision that violates Government Code 552.104(c) is void.

Gov't Code 552.104(a), (c)

Certain Information on Real or Personal Property	Information is excepted from public disclosure if it is information relating to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
Drafts Involving Legislation	A draft or working paper involved in the preparation of proposed legislation is excepted from public disclosure. *Gov't Code 552.106*
Attorney–Client Information	Information is excepted from public disclosure if it is information a district's attorney is prohibited from disclosing because of a duty to the district under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*
Certain Information from Law Enforcement	Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor is excepted from public disclosure if it is: 1. Information that deals with detection, investigation, or prosecution of crime; and 2. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution. *Gov't Code 552.108*
Private Correspondence of Elected Official	Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from public disclosure. *Gov't Code 552.109*
Trade Secrets	Except as provided by Government Code 552.0222 (disclosure of contracting information), information is excepted from public disclosure if it is demonstrated based on specific factual evidence that the information is a "trade secret," as that term is defined by Government Code 552.110(a). *Gov't Code 552.110(b)*
Certain Commercial and Financial Information	Except as provided by Government Code 552.0222 (disclosure of contracting information), commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from public disclosure. *Gov't Code 552.110(c)*

Proprietary Information	Except as provided by Government Code 552.0222 (disclosure of contracting information), information submitted to a district by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from public disclosure if the vendor, contractor, potential vendor, or potential contractor demonstrates the information is proprietary information under Government Code 552.1101. *Gov't Code 552.1101(a)*
Certain Memoranda	An interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with a district is excepted from public disclosure. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)*
Audit Working Paper	An audit working paper of an audit performed by the district auditor, including any audit relating to the criminal history background check of a public school employee, is excepted from public disclosure. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*
Board Member and Employee Personal Information	Information is excepted from public disclosure if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the person has family members: 1. A current or former district employee or former board member, except as provided by Government Code 552.024 [see Personal Information, above]; 2. A current or honorably retired peace officer or a current or honorably retired commissioned security officer; and 3. An elected public officer. See Government Code 552.117(a) for the complete list of persons whose personal information is excepted from public disclosure. *Gov't Code 552.117*
Photograph of Peace Officer	A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, is excepted from public disclosure unless: 1. The officer is under indictment or charged with an offense by information;

2. The officer is a party in a fire or police civil service hearing or a case in arbitration; or

3. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

Gov't Code 552.119

Testing Items

A test item developed by a state-funded educational institution is excepted from public disclosure. *Gov't Code 552.122*

Certain Library Records

A record of a library or library system that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from public disclosure, unless the record is disclosed:

1. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;

2. To a person with a special right of access under Government Code 552.023; or

3. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov't Code 552.124

Superintendent Applicants

The name of an applicant for superintendent is excepted from public disclosure, except a board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126*

Certain Motor Vehicle and Personal Identification Information

Information is excepted from public disclosure if the information relates to:

1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

2. A motor vehicle title or registration issued by an agency of this state or another state or country; or

3. A personal identification document issued by an agency of this state, another state or country, or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), a district may redact motor vehicle or driver license information under this provision from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.130; Atty. Gen. ORD 684 (2009)

Individuals Who Inform of Violations of Law

An informer's name or information that would substantially reveal the identity of an informer is excepted from public disclosure, unless:

1. The informer consents. If the informer is a student or former student, consent may also be given by the informer's legal guardian or spouse; or
2. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of a district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the district or the proper regulatory enforcement authority.

The informer's name may be made available to a law enforcement agency or prosecutor for official purposes upon proper request, made in compliance with applicable law and procedure. However, this exception does not impair the confidentiality of information considered to be confidential by law, including information excepted from disclosure under the PIA.

Gov't Code 552.135

Economic Development Negotiations

Information is excepted from public disclosure if it is information that relates to economic development negotiations involving a board and a business prospect that the board seeks to have locate, stay, or expand in or near a district and the information relates to:

1. A trade secret of the business prospect; or
2. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Gov't Code 552.131(a)

Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by a board or by another person is excepted from public disclosure.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

1. By a board; or
2. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a district or a reduction in revenue received by the district from any source.

Gov't Code 552.131(b), (c)

Computer Network Security

Information is excepted from public disclosure if it is information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. [See Security Information, above] *Gov't Code 552.139(a)*

Social Security Numbers

The social security number of a living person is excepted from public disclosure. The social security number of a living person other than a district employee is not confidential, however. A district may redact the social security number of a living person from any information the district discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

Crime Victim Information

Information that would identify or tend to identify a district employee who is also a crime victim under Code of Criminal Procedure, Chapter 56, Subchapter B, regardless of whether the employee chooses to restrict public access to the information, is excepted from public disclosure until the third anniversary of the date the crime was committed. *Gov't Code 552.132*

Information is confidential and excepted from public disclosure if the information identifies an individual as a victim of any criminal offense if the victim was younger than 18 years of age when any element of the offense was committed. Information may be disclosed to any victim identified by the information, or to the parent or guardian of a victim who is identified by the information; to a law enforcement agency for investigative purposes; or in accordance with a court order requiring the disclosure. *Gov't Code 552.1315*

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Officer for Public Information and Required Notices

Officer for Public Information

A superintendent shall be a district's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

Duties

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying;
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal;
3. Repair, renovate, or rebind public information when necessary to maintain it properly; and
4. Make reasonable efforts to obtain public information from a temporary custodian if:
    a. The information has been requested from the district;
    b. The officer is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;
    c. The officer is unable to comply with the duties imposed by the PIA without obtaining the information from the temporary custodian; and
    d. The temporary custodian has not provided the information to the officer or the officer's agent.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)–.204

Training

For a board that has designated a public information coordinator to satisfy its required PIA training, the designated public information coordinator shall complete the training course regarding the responsibilities of a district and district officers and employees under the PIA not later than the 90th day after the date the coordinator assumes the person's duties as coordinator. [See CPC(LOCAL)]

The training shall be not less than one nor more than two hours. The attorney general may provide the training and may also approve other acceptable sources of training.

A district shall maintain and make available for public inspection the record of a public information coordinator's completion of the training.

Gov't Code 552.012(b), (c), (e)

PIA Sign

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a district, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the district's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Employees of the district whose duties include receiving or responding to public information requests.

Gov't Code 552.205

Access to Public Information

It shall be the policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228(a)*

Method of Requesting Public Information

A person may make a written request for public information only by delivering the request by one of the following methods to the officer for public information or a person designated by that officer:

1. United States mail;
2. Electronic mail;
3. Hand delivery; or
4. Any other appropriate method approved by the district, including facsimile transmission and electronic submission through the district's website.

A district is considered to have approved another method only if the district includes a statement that a request for public information may be made by that method on the PIA sign [see PIA Sign, above] or the district's website.

Designated Address

A district may designate one mailing address and one electronic mail address for receiving written requests for public information and shall provide the designated mailing address and electronic mailing address to any person on request.

A district that posts a designated mailing address or electronic mail address on the district's website or that prints those addresses on

the PIA sign is not required to respond to a written request for public information unless the request is received:

1. At one of those addresses;
2. By hand delivery; or
3. By a method described above that has been approved by the district.

Gov't Code 552.234

Public Information Request Form

The attorney general shall create a public information request form that provides a requestor the option of excluding from a request information that the district determines is:

1. Confidential; or
2. Subject to an exception to disclosure that the district would assert if the information were subject to the request.

A district that allows requestors to use the form and maintains a website shall post the form on its website.

Gov't Code 552.235

Procedural Rules

A district may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

Treatment of Requests

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. *Gov't Code 552.222(a)–(b), .223–.224*

Location of Access

An officer for public information complies with a request for public information by:

1. Providing the information for inspection or duplication in a district's offices [see Time for Examination, below]. The PIA does not authorize a requestor to remove an original copy of a public record from the office of a district;

2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA [see Costs and Charges, below];

3. By referring a requestor to an exact internet location or uniform resource locator (URL) address on a website maintained by the district and accessible to the public if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the district must supply the information by sending copies to the requestor, as described above.

   If the officer for public information provides by email an internet location or URL address, the email must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States Mail, as described above.

Gov't Code 552.221(b)–(b-2), .226

Time for Response

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A district may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221; Tex. Atty. Gen. ORD 664 (2000)

When Administrative Offices Closed

Unless the district has initiated a temporary suspension of the PIA during a catastrophe [see below], if a district closes its physical offices, but requires staff to work, including remotely, then the district

shall make a good faith effort to continue responding to applications for public information, to the extent staff have access to public information responsive to an application while its administrative offices are closed.

Failure to respond to requests may constitute a refusal to request an attorney general's decision or a refusal to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure.

Gov't Code 552.2211

Requests to Narrow or Clarify

If a large amount of information has been requested, the district may discuss with the requestor how the scope of the request might be narrowed, but the district may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the district, the district may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the district must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond.

If the requestor's request for public information was sent by electronic mail, the district may send the request for clarification or discussion or the written request for additional information by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor.

If the district does not receive a written response or a response by electronic mail, as applicable, by the 61st day after the district sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov't Code 552.222(b), (d)–(g)

Time for Examination

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer

shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Government Code, Chapter 552, Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

Gov't Code 552.221(e), .225

Electronic Data

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A district shall provide a copy in the requested medium:

1. If the district has the technological ability to produce the information in the requested medium;
2. If the district is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between the district and a third party.

If a district is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the district shall provide a copy in another medium that is acceptable to the requestor. A district is not required to copy information onto a diskette or other material provided by the requestor but may use district supplies.

Gov't Code 552.228

Requests Requiring Programming or Manipulation

A district shall provide the requestor a written statement, described below, if the district determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
    a. Compliance with the request is not feasible or will result in substantial interference with operations; or

b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general; and
5. A statement of the anticipated time required to provide the information in the requested form.

Response Time When Programming or Manipulation Is Required

A district shall provide the written statement to the requestor within 20 days after the date the district receives the request. The district has an additional ten days to provide the statement if the district gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

Further Action

After providing the written statement described above, the district has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and the district agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

Processing of Requests

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A district shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code 552.231

Repetitious or Redundant Requests

If a district determines that a requestor has made a request for information for which the district has previously furnished or made copies available to the requestor, the district may:

1. Respond to the request for information as set forth below, at Procedures; or
2. Furnish the information or make the information available to the requestor again in accordance with the request. If the district selects this option, the district is not required to comply with the procedures described below.

Gov't Code 552.232(a)

These provisions do not apply to information not previously furnished to a requestor. A district shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

Procedures

A district shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the district received the requestor's original request for that information;
3. The date the district previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code 552.232(b), (c)

Requests for Contracting Information Not Maintained by the District

"Contracting information" means the following information maintained by a district or sent between a district and a vendor, contractor, potential vendor, or potential contractor:

1. Information in a voucher or contract relating to the receipt or expenditure of public funds by a district;

2. Solicitation or bid documents relating to a contract with a district;

3. Communications sent between a district and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;

4. Documents, including bid tabulations, showing the criteria by which a district evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and

5. Communications and other information sent between a district and a vendor or contractor related to the performance of a final contract with the district or work performed on behalf of the district.

Gov't Code 552.003(1-a)

Government Code 552.371 applies to an entity that is not a governmental body that executes a contract with a district that:

1. Has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the district; or

2. Results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the district in a fiscal year of the district.

Government Code 552.371 applies to a written request for public information received by a district that is party to a contract described above for contracting information related to the contract that is in the custody or possession of the entity and not maintained by the district.

Gov't Code 552.371(a), (b)

Request to Contracting Entity

A district that receives a written request for contracting information shall request that the entity provide the information to the district. The district must send the request in writing to the party not later than the third business day after the date the district receives the written request. *Gov't Code 552.371(c)*

Request for Attorney General Opinion

A district's request for an attorney general's decision to determine whether contracting information not maintained by the district falls within an exception to disclosure under the PIA is considered timely if made not later than the 13th business day after the date the district receives the written request described above. *Gov't Code 552.371(d)(1)*

The statement and copy described below [see Statement to Requestor] is considered timely if provided to the requestor not later than the 13th business day after the date the district receives the written request. *Gov't Code 552.371(d)(2)*

A submission and copy described below [see Submission to Attorney General] is considered timely if sent not later than the 18th business day after the date the district receives the written request. *Gov't Code 552.371(d)(3), (4)*

The presumption that information is subject to disclosure [see Time for Request, below] does not apply if a district:

1. Complies with the requirements of Government Code 552.371(c) in a good faith effort to obtain contracting information not maintained by the district;
2. Is unable to meet a deadline because the contracting entity failed to provide the information to the district not later than the 13th business day after the date the district received the written request for the information; and
3. Complies with all notice requirements not later than the eighth business day after the date the district receives the information from the contracting entity.

Gov't Code 552.371(e)

Nothing in Government Code 552.371 affects the deadlines or duties of a district related to requesting an attorney general opinion regarding contracting information the district maintains. *Gov't Code 552.371(f)*

Withholding Excepted Information

If a district receives a written request for information that the district considers to be within one of the exceptions to required disclosure and that the district wishes to withhold from public disclosure, the district shall request a decision from the attorney general about whether the information is within the exception [see Submission to Attorney General, below]. *Gov't Code 552.301(a)*

Request for Attorney General Decision

A district may only request an attorney general decision if the district reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD 665 (2000)*

Time for Request

A district must submit the request to the attorney general not later than the tenth business day after receiving the written request. If a district does not timely request a decision from the attorney general and comply with the requirements at Statement to Requestor, below, the information is presumed to be subject to public disclosure

and must be released unless there is a compelling reason to withhold it.

Gov't Code 552.301(b), .302

Calculating Timelines

For the purposes of Government Code sections 552.301–.308, if a district receives a written request by United States mail and cannot adequately establish the actual date of receipt, the request is considered to have been received by the district on the third business day after the date of the postmark on a properly addressed request. *Gov't Code 552.301(a-1)*

When Government Code sections 552.301–.308 require a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the district submits the document through the attorney general's designated electronic filing system within that period. This provision does not affect the right of a district to submit information to the attorney general by mail under Government Code 552.308.

When the attorney general is required to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the attorney general electronically transmits the document within that period.

For information surrendered or returned to a district by a temporary custodian, the district is considered to receive the request for that information on the date the information is surrendered or returned to the district. [See GB]

Gov't Code 552.233(d), .309

Previous Determinations

Same Information

Except as set forth at Government Code section 552.301(g), a district may not request an attorney general decision if the district has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from a district after the attorney general has previously issued a decision regarding the precise information or records at issue. *Gov't Code 552.301(f); Tex. Atty. Gen. ORD 673 (2001)*

Categories of Information

A district may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district;

2. The previous decision concludes that the category of information is or is not excepted from public disclosure;

3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and

4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Atty. Gen. ORD 673 (2001)

A district that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A district may withhold from public disclosure the categories of records listed at Texas Attorney General Open Records Decision 684 (2009).

Tex. Atty. Gen. ORD 684 (2009)

A district may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g [see FL]. *Tex. Atty. Gen. ORD 634 (1995)*

Statement to Requestor

If a district requests an attorney general decision, it shall provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the district wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and

2. A copy of the district's written communication to the attorney general asking for the decision. If a district's written communication to the attorney general discloses the requested information, the district shall provide a redacted copy of that written communication.

Gov't Code 552.301(d)

Submission to Attorney General

When a district requests an attorney general decision, it shall, within a reasonable time but not later than the15th business day after receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;
3. A signed statement as to the date on which the written request for information was received by the district or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The district shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The district shall send a copy of the comments to the requestor not later than the 15th business day after the district receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e), (e-1)

Unless the information is confidential by law, the district may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction. *Gov't Code 552.303(a)*

Additional Information

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the district and the requestor written notice of that fact. The district shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the district does not comply with the attorney general's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.303(c)–(e)*

Privacy or Property Interests

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (proprietary information), 552.114 (student records),

552.131 (economic development information), or 552.143 (investment information) a district may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. A district may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)–(c)*

Notice to Owner of Proprietary Information

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (proprietary information), 552.113 (geological or geophysical information), 552.131 (economic development information), or 552.143 (investment information), a district that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the district receives the request for information; and

2. Include:

   a. A copy of any written request a district received for the information; and

   b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code 552.305(d)

Charges Regarding Public Information Requests

Costs and Charges

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

Charges for providing a copy of public information are considered to accrue at the time the district advises the requestor that the copy is available on payment of the applicable charges.

50 Pages or Less

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the

charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

Statement of Labor Costs

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

All requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs. A district may not combine multiple requests from separate individuals who submit requests on behalf of an organization.

Gov't Code 552.261, .262(a)

Attorney General's Rules

A district shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information.

A district may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, a district may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the district requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b), .3, .10.*

Exemptions

A district may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a district receives notice from the attorney general that an exemption has been granted, the district may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

Copies for Parents

A district may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

Statement of Estimated Charges

If a request for a copy of public information will result in the imposition of a charge that exceeds $40, a district shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the district regarding the alternative method. A district must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a district provides the requestor the itemized statement but before it makes the copy or the paper record available, the district determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the district shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

Requestor's Response

A request for which a district is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the district within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

Actual Charges

If the actual charges exceed $40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

Timing of Deadlines

An original or updated itemized statement is considered to have been sent by a district, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;

2. Deposited, properly addressed, in the U.S. Mail; or

3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a district for requesting a decision by the attorney general under Government Code 552, Subchapter G.

Gov't Code 552.2615

Deposit or Bond

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 [see Statement of Estimated Charges, above]; and

2. The charge for providing the copy is estimated by the district to exceed $100, if the district has more than 15 full-time employees, or $50, if the district has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request for a copy of public information is considered to have been received by the district on the date the district receives the deposit or bond. *Gov't Code 552.263(e)*

A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(f)*

Modified Request

If a requestor modifies a request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date the district receives the written modified request. *Gov't Code 552.263(e-1)*

Unpaid Amounts

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a district in relation to previous public information requests before preparing a copy of public information in response to a new request, if those

unpaid amounts exceed $100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

A district that receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Government Code 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code 552.2661*

Documentation of Unpaid Amounts

A district must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

Waivers

A district shall provide a copy of public information without charge or at a reduced charge if the district determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to a district of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the district may waive the charge.

Gov't Code 552.267

Government Publication

The cost provisions described above do not apply to a publication that is compiled and printed by or for a district for public dissemination. If the cost of the publication is not determined by state law, a district may determine the charge for providing the publication, or the district may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

Inspection of Public Information

If the requestor does not request a copy of public information, a district may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

Inspection of Public Information

Confidential Information

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, a district may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(b)*

Payment, Deposit, or Bond

The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and

2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code 552.271(c)

Certain Small Districts

If a district has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and

2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code 552.271(d)

Electronic Records

If a district receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the district may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, a district shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by a district, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the district's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, a district may impose charges.

If a district creates or keeps information in an electronic form, the district is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

Gov't Code 552.272

Temporary Suspension of Requirements for Districts Impacted by Catastrophe

The requirements of the PIA do not apply to a district that is currently significantly impacted by a catastrophe such that the catastrophe directly causes the inability of the district to comply with the requirements of the PIA and complies with requirements below to declare a suspension period.

"Catastrophe" means a condition or occurrence that directly interferes with the ability of a district to comply with the requirements of the PIA, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

"Catastrophe" does not mean a period when staff is required to work remotely and can access information responsive to an application for information electronically, but the physical office of the governmental body is closed.

"Suspension period" means the period of time during which a district may suspend the applicability of the requirements of the PIA.

Initial Suspension Period

A board may suspend the applicability of the PIA to the district for an initial suspension period only once for each catastrophe, which may not exceed seven consecutive days and must occur during the period that:

1. Begins not earlier than the second day before the date the district submits notice to the attorney general; and
2. Ends not later than the seventh day after the date the district submits that notice.

Extension of Initial Suspension Period

A board may extend an initial suspension period if the board determines that the district is still impacted by the catastrophe on which the initial suspension period was based. The initial suspension period may be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends.

Maximum Suspension Period

A board that initiates an initial suspension period may not initiate another suspension period related to the same catastrophe, except for a single extension period as described above.

The combined suspension period for a district may not exceed a total of 14 consecutive calendar days with respect to any single catastrophe.

Upon conclusion of any suspension period the district shall immediately resume compliance with all requirements of the PIA.

Notice to the Attorney General

A district that elects to suspend the PIA must submit notice to the attorney general that the district is currently impacted by a catastrophe and has elected to suspend the applicability of the PIA during the initial suspension period.

The notice must be on the form prescribed by the attorney general and must require the district to:

1. Identify and describe the catastrophe that the district is currently impacted by;
2. State the date the initial suspension period determined by the board begins and the date that period ends;
3. If the board has determined to extend the initial suspension period:
    a. State that the district continues to be impacted by the catastrophe; and
    b. State the date the extension to the initial suspension period begins and the date the period ends; and
4. Provide any other information the office of the attorney general determines necessary.

Notice to the Public

A district that elects to suspend the PIA must provide notice to the public of the suspension in a place readily accessible to the public and in each other location the district is required to post a notice under the Open Meetings Act. The district must maintain the notice of the suspension during the suspension period.

Requests During Suspension Period

Notwithstanding another provision of the PIA, a request for public information received by a district during a suspension period is considered to have been received by the district on the first business day after the date the suspension period ends.

Pending Requests Tolled

A request for public information received by a district before the date an initial suspension period begins are tolled until the first business day after the date the suspension period ends.

Gov't Code 552.2325

Miscellaneous Provisions

Large or Frequent Requests

Personnel Time

A district may establish reasonable monthly and yearly limits on the amount of time that district employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. A yearly time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to a district's fiscal year. A monthly time limit may not be less than 15 hours for a requestor for a one-month period.

Request by Minor

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

Exception

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. Dissemination by a news medium or communication service provider, including:
    a. An individual who supervises or assists in gathering, preparing, and disseminating the news or information; or
    b. An individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or
2. Creation or maintenance of an abstract plant as described by Insurance Code 2501.004.

"Communication service provider" has the meaning assigned by Civil Practice and Remedies Code 22.021.

"News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or internet company or provider, or the parent, subsidiary, division, or affiliate

of that entity, that disseminates news or information to the public by any means, including:

1. Print;
2. Television;
3. Radio;
4. Photographic;
5. Mechanical;
6. Electronic; and
7. Other means, known or unknown, that are accessible to the public.

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or a representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

Written Statement of Personnel Time

If a district establishes a time limit, each time the district complies with a request for public information, the district shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement.

Written Estimate of Charges

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, a district shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The district shall provide the written estimate on or before the tenth day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

When a request is made by a requestor who has made a previous request to the district that has not been withdrawn, for which the district has located and compiled documents in response, and for which the district has issued a written estimate of charges that remains unpaid on the date the requestor submits the new request, the district is not required to locate, compile, produce, or provide

copies of documents or prepare an estimate of charges in response to a new request until the date the requestor pays each unpaid statement issued in connection with a previous request or withdraws the previous request to which the statement applies.

Additional Time

If a district provides the requestor with written notice that additional time is required to prepare the written estimate, the district must provide the written estimate as soon as practicable, but on or before the tenth day after the date the district provided the notice that additional time was required.

Acceptance of Charges

If a district provides a requestor with the estimate of charges and the time limits regarding the requestor have been exceeded, a district is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the district provided the written estimate, the requestor submits payment of the amount stated in the written estimate.

If the requestor fails or refuses to submit payment, the requestor is considered to have withdrawn the request.

Waived or Reduced Charges

This section does not prohibit a district from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267 [see Waivers, above].

Gov't Code 552.275

Filing Suit to Withhold Information

A district may file suit seeking to withhold information if the district receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The district must bring the suit not later than the 30th calendar day after the district receives the attorney general's decision. If the district wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), the district must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, .353(b)(3)

Parent's Request for Information

A district that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the

PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, a district may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a district does not bring suit within the period established, the district shall comply with the decision of the attorney general.

Education Code 26.0085

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Applicability of Criminal Laws

The criminal laws of the state apply to the areas under the control and jurisdiction of the board. *Education Code 37.101*

Trespass

An unauthorized person who trespasses on the grounds of a school district commits a Class C misdemeanor. *Education Code 37.107*

Refusal of Entry or Ejection of Unauthorized Persons

A school administrator, school resource officer, or school district peace officer may refuse to allow persons to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:

1. The person poses a substantial risk of harm to any person; or
2. The person behaves in a manner that is inappropriate for a school setting and:
    a. The administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and
    b. The person persists in that behavior.

Identification may be required of any person on property under the district’s control.

A district shall maintain a record of each verbal warning issued, including the name of the person to whom the warning was issued and the date of issuance.

At the time a person is refused entry to or ejected from a school district's property, the district shall provide to the person written information explaining the appeal process.

If a parent or guardian of a child enrolled in a school district is refused entry to the district’s property, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child’s admission, review, and dismissal committee or in the child’s team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

The term of a person’s refusal of entry to or ejection from a school district's property under this section may not exceed two years.

A district shall post on the district's website and each district campus shall post on any campus website a notice regarding these provisions, including the appeal process.

The board shall adopt a policy that uses the district’s existing grievance process [see FNG, GF] to permit a person refused entry to or

ejected from property controlled by the district to appeal such refusal of entry or ejection. The policy must permit a person appealing under this section to address the board in person within 90 days of the commencement of the appeal, unless the appeal is granted before the board considers the appeal.

The board's decision to grant or deny an appeal under this section is final and may only be further appealed under the applicable provisions of Texas Education Code 7.057.

Education Code 37.105; 19 TAC 103.1207

Vehicles on School Property

A board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule or regulation promulgated by the board or set forth in Education Code Chapter 37, Subchapter D. [See CLC] *Education Code 37.106*

Disruption of Lawful Assembly

A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of a public school.

Disruptive activity means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity;
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

Free Speech

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

Disruption of Classes

A person, other than a primary or secondary grade student enrolled in the school, commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. 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.

Disrupting the conduct of classes or other school activities includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.
2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or use of loud or profane language, disrupting class activities.

“School property” includes a public school campus or school grounds on which a public school is located, and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

“Public property” includes a street, highway, alley, public park, or sidewalk.

Education Code 37.124

Disruption of Transportation

A person, other than a primary or secondary grade student, commits a Class C misdemeanor if the person intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school, or to or from activities sponsored by a school, on a vehicle owned and/or operated by a district. 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*

Tobacco and E-Cigarettes

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property. School personnel shall enforce these policies on school property. *Education Code 38.006* [See FNCD for the definition of e-cigarette.]

Smoking in Buildings

A district shall not permit smoking within any indoor facility used for provision of routine or regular kindergarten, elementary, or secondary education or library services to children; or regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of employees who provide such services. *20 U.S.C. 6083; 20 U.S.C. 7183*

Criminal Penalty

A person commits an offense if the person is in possession of a burning tobacco product, smokes tobacco, or operates an e-cigarette in a facility of a public school.

Defense

It is a defense to prosecution that a district does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such place and that an offense is punishable by a fine not to exceed $500.

Facilities for Extinguishment

A district shall be equipped with facilities for extinguishment of smoking materials.

Penal Code 48.01(a)–(c)

Alcohol

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)* [See FNCF regarding alcohol-free zones.]

Intoxicants

A person commits a Class C misdemeanor if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. On the grounds or in a building of a public school; or
2. Entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a public school is being held.

Education Code 37.122 [See also FNCF]

Fireworks

A person may not explode or ignite fireworks within 600 feet of any school unless the person receives authorization in writing from the school. *Occupations Code 2154.251(a)(1)*

Federal Gun-Free School Zones Act

It is unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"School zone" means in, or on the grounds of, a school; or within a distance of 1,000 feet from the grounds of a school.

This prohibition does not apply to the possession of a firearm:

1. On private property not part of school grounds;
2. If the individual possessing the firearm is licensed to do so by the state, and the law of the state requires that, before an individual obtains such a license, the law enforcement authorities of the state verify that the individual is qualified under law to receive the license;
3. That is not loaded and in a locked container, or a locked firearms rack that is on a motor vehicle;
4. By an individual for use in a program approved by a school in the school zone;
5. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
6. By a law enforcement officer acting in his or her official capacity; or
7. That is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

It is unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

This prohibition does not apply to the discharge of a firearm:

1. On private property not part of school grounds;
2. As part of a program approved by a school in the school zone, by an individual who is participating in the program;
3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
4. By a law enforcement officer acting in his or her official capacity.

18 U.S.C. 921(a)(25), .922(q)

Possession of Weapons

Unless entitled to a defense or otherwise excepted by Penal Code 46.15, a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon [see FNCG]:

1. On the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution;
2. On the premises of a polling place on the day of an election or while early voting is in progress;
3. On the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a firearm, location-restricted knife, club, or prohibited weapon is used in the event;
4. In the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to the OMA, and the entity provided required notice of the meeting.

It is not a defense to prosecution that the person possessed a handgun and was licensed to carry a handgun.

Penal Code 46.03(a)(1), (2), (8), (14), (f)

"Premises" Defined

"Premises," for purposes of this policy, means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.03(c)(4)*

Notice to Public

A district may provide notice that firearms and other weapons are prohibited under Penal Code 46.03 on the premises or other property, as applicable, by posting a sign at each entrance to the premises or other property that:

1. Includes language that is identical to or substantially similar to the following: "Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property";
2. Includes the language described above in both English and Spanish;
3. Appears in contrasting colors with block letters at least one inch in height; and

4. Is displayed in a conspicuous manner clearly visible to the public.

Penal Code 46.15(m)–(o)

Transportation or Storage of Firearm in School Parking Area

A district may not prohibit a person who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district, and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125, Penal Code 46.03, or other law.

Education Code 37.0815

Volunteer Emergency Services Personnel

A district is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Government Code, Chapter 411, Subchapter H.

The discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

The district does not waive immunity from suit or liability under the Texas Tort Claims Act or any other law.

“Volunteer emergency services personnel” includes a volunteer firefighter, an emergency medical services volunteer as defined by Health and Safety Code 773.003, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined by Occupations Code 1701.001, who is performing law enforcement duties.

Civil Practice & Remedies Code 112.001; Penal Code 46.01(18)

Exhibition of Firearm

A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

1. Exhibits or uses a firearm:

a. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or

b. On a school bus being used to transport children to and from school-sponsored activities;

2. Threatens to exhibit or use a firearm in or on property described above or on a bus and was in possession of or had immediate access to the firearm.

A person commits a Class A misdemeanor if the person threatens to exhibit or use a firearm, but was not in possession of or did not have immediate access to the firearm.

Education Code 37.125

Trespass—Concealed Carry of Handgun

A license holder commits an offense if the license holder:

1. Carries a concealed handgun on the property of another without effective consent; and

2. Received notice that entry on the property by a license holder with a concealed handgun was forbidden.

An offense under Penal Code 30.06 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice that entry or remaining on the property with a concealed handgun was forbidden and subsequently failed to depart.

Notice / Sign—Concealed Carry of Handgun

For purposes of Penal Code 30.06, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun”; or

2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.

Exception

It is an exception to Penal Code 30.06 that the property on which the license holder carries a concealed handgun is owned or leased by a district and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03.

Penal Code 30.06 [See also FNCG]

Unauthorized Notice

A district may not take any action, including an action consisting of the provision of notice, by a communication described by Penal Code 30.06 or 30.07 that states or implies that a license holder who is carrying a handgun under the authority of Government Code Chapter 411 is prohibited from entering or remaining on a premises or other place owned or leased by the district unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or other law. *Gov't Code 411.209*

Trespass—Open Carry of Handgun

A holder of a license to openly carry a handgun commits an offense if the license holder:

1. Openly carries a handgun on property of another without effective consent; and
2. Received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

Notice / Sign—Open Carry of Handgun

For purposes of Penal Code 30.07, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication means":

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under Penal Code 30.07 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice by oral

communication that entry or remaining on the property with an openly carried handgun was forbidden and subsequently failed to depart.

Exception

It is an exception to Penal Code 30.07 that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03.

Penal Code 30.07

Unmanned Aircraft Systems

Note: For provisions applicable to the use of drones for law enforcement purposes, see CKEA

Federal Law

The U.S. Government has exclusive sovereignty of airspace of the United States. *49 U.S.C. 40103*

Small Unmanned Aircraft

"Small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

Small Unmanned Aircraft System

"Small unmanned aircraft system" (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

14 C.F.R. 1.1, 107.3

Operation of Small UAS

The registration, airman certification, and operation of civil small UAS within the United States is subject to 14 C.F.R. Part 107. Part 107 does not apply to the following:

1. Air carrier operations;
2. Any aircraft subject to the provisions of 14 C.F.R. Part 101;
3. Any operation that a remote pilot in command elects to conduct pursuant to an exemption issued under 49 U.S.C. 44807, unless otherwise specified in the exemption; or
4. Any operation that a person elects to conduct under 14 C.F.R. Part 91 with a small UAS that has been issued an airworthiness certificate.

14 C.F.R. 107.1

Exception for Limited Recreational Operation

A person may operate a small unmanned aircraft without specific certification or operating authority from the Federal Aviation Administration (FAA) if the operation adheres to all of the following limitations:

1. The aircraft is flown strictly for recreational purposes.
2. The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the FAA.
3. The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.
4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.
5. In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the administrator of the FAA or designee before operating and complies with all airspace restrictions and prohibitions.
6. In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.
7. The operator has passed an aeronautical knowledge and safety test and maintains proof of test passage to be made available to the FAA or law enforcement upon request.
8. The aircraft is registered and marked in accordance with 49 U.S.C. Chapter 441 and proof of registration is made available to the FAA or law enforcement upon request.

49 U.S.C. 44809(a)

State Law

Regulation Limited

A political subdivision, including a school district, may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft. An ordinance, order, or other similar measure that violates this provision is void and unenforceable. *Gov't Code 423.009(b), (d)*

Exception

A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

1. The use of an unmanned aircraft during a special event;
2. The political subdivision's use of an unmanned aircraft; or

3. The use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:

    a. Applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and

    b. After providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

"Special event" means a festival, celebration, or other gathering that involves the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and requires a significant use or coordination of a political subdivision's services.

Gov't Code 423.009(a)(2), (c)

Privacy Law

It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:

1. With the consent of the individual who owns or lawfully occupies the real property captured in the image; or

2. From a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception.

Gov't Code 423.002(a)

Prohibited Acts

An officer or employee of a district who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the district;
2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the district;
3. Refuse to grant a benefit to the person; or
4. Impose an unreasonable burden on the person.

Civil Practices and Remedies Code 106.001(a)

Right to Preserve Use

A district, like a private property owner, may legally preserve the property under its control for the use to which it is dedicated. *Lamb's Chapel v. Center Moriches Union Free Sch. Dist., 508 U.S. 384 (1993)*

Forum for Communication

A district may create a public forum of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983); Chiu v. Plano Indep. Sch. Dist., 260 F.3d 330 (5th Cir. 2001)*

A district is not required to allow persons to engage in every type of speech when the district establishes a limited public forum; the district may be justified in reserving its forum for certain groups or for the discussion of certain topics. A district shall not discriminate against speech on the basis of viewpoint, and any restriction must be reasonable in light of the purpose served by the forum. *Good News Club v. Milford Cent. Sch., 533 U.S. 98 (2001); Lamb's Chapel v. Center Moriches Union Free Sch. Dist., 508 U.S. 384 (1993)*

Fees for Use

The board may set and collect rentals, rates, and charges from students and others for the occupancy or use of any of a district's facilities, in the amounts and manner determined by the board. *Education Code 45.033*

Charter Schools

A district may not require a campus or campus program charter that is the result of the conversion of the status of an existing district campus to pay rent for or to purchase a facility in order to use the facility.

A district may not require a campus or campus program charter, or an open-enrollment charter school, to pay for any service provided

by the district under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the amount of the actual costs to the district of providing the service.

Education Code 11.1543

Patriotic Societies

If a district has a designated open forum or a limited public forum and receives funds made available through the United States Department of Education, the district shall not deny equal access or a fair opportunity to meet, or to discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed as a patriotic society.

The United States secretary of education may issue and secure compliance with rules or orders with respect to a district that receives federal funds and that denies equal access, or a fair opportunity to meet, or discriminates, as described above. If a district does not comply with the rules or orders, no funds made available through the Department of Education shall be provided to that district.

[For provisions related to a patriotic society's access to students, see GKE.]

'Youth Group'

"Youth group" means any group or organization intended to serve young people under the age of 21.

Limited Public Forum

For purposes of this policy regarding Patriotic Societies, an elementary school or secondary school has a limited public forum whenever the school grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

Sponsorship

Nothing in this policy shall be construed to require a district to sponsor any group officially affiliated with the Boy Scouts of America, or any youth group listed as a patriotic society.

Boy Scouts of America Equal Access Act, 20 U.S.C. 7905

Facilities as Polling Places

A district shall make its buildings available for use as polling places in any election that covers territory in which the buildings are located. If more than one authority requests the use of the buildings

for the same day and simultaneous use is impractical, a district shall determine which authority may use the building. *Election Code 43.031(c)*

No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, shall be made for the use of a district building for a polling place if the day of the election is a day on which the building is normally open. If the day of an election is a day on which the building is not normally open, a charge may be made only for the reimbursement of actual expenses resulting from use of the building in the election. *Election Code 43.033(a)*

[For provisions related to polling place security, see CKC.]

Political Party Conventions

A district shall not assess a charge for the use of a school building for a precinct, county, or senatorial district convention, except for reimbursement for the actual charges resulting from use of the building for the convention. The district shall provide an itemized statement of expenses to the reimbursing authority. *Election Code 174.0631*

Facilities as Places of Worship

“Disaster” has the meaning assigned by Government Code 418.004.

Definitions

“Governmental entity” includes a political subdivision of this state, including a county, municipality, or special district or authority or an officer, employee, or agent of the entity.

“Person” has the meaning assigned by Government Code 311.005, except the term does not include an employee of a governmental entity acting within the employee's scope of employment or a contractor of a governmental entity acting within the scope of the contract.

“Place of worship” means a building or grounds where religious activities are conducted.

“Public official” means any elected or appointed officer, employee, or agent of this state or any political subdivision, board, commission, bureau, or other public body established by law.

“Religious organization” means an organization open to the public that is a religious organization under Civil Practice and Remedies Code 110.011(b).

Prohibition on Orders Closing Places of Worship

A government agency or public official may not issue an order that closes or has the effect of closing places of worship in this state or in a geographic area of this state.

Essential Activities

Notwithstanding any other law, a religious organization is an essential business at all times in this state, including during a declared state of disaster, and the organization's religious and other related activities are essential activities even if the activities are not listed as essential in an order issued during the disaster.

A governmental entity may not at any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose or during a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

Relief Available

A person may assert a violation of this prohibition as a claim or defense in a judicial or administrative proceeding and obtain injunctive relief; declaratory relief; and court costs and reasonable attorney's fees.

A person may commence an action and relief may be granted regardless of whether the person has sought or exhausted available administrative remedies.

The attorney general may bring an action for injunctive or declaratory relief against a governmental entity or an officer or employee of a governmental entity to enforce compliance with this provision.

Civ. Prac. & Rem. Code 110.001(a), .0031; Gov't Code 2401.001–.005

Patriotic Society Access to Students

"Patriotic society" means a youth membership organization listed in Title 36 of the United States Code with an educational purpose that promotes patriotism and civic involvement.

At the beginning of each school year, the board shall adopt a policy to allow the principal of a campus to provide representatives of a patriotic society with the opportunity to speak to students during regular school hours about membership in the society and the ways in which membership may promote a student's educational interest and level of civic involvement, leading to the student's increased potential for self-improvement and ability to contribute to improving the student's school and community.

The board policy shall give a principal complete discretion over the specific date and time of the opportunity required to be provided, except that the policy shall allow the principal to limit the opportunity provided to a patriotic society to a single school day and any presentation made to students as a result of the opportunity to ten minutes in length.

Education Code 25.0822

[For provisions related to a patriotic society's access to school facilities, see GKD.]

Learning Pods

Definitions

"Child-care facility" has the meaning assigned by Human Resources Code 42.002.

"Learning pod" means a group of children who, based on the voluntary association of the children's parents, meet together at various times and places to participate in or enhance the children's primary or secondary academic studies, including participation in an activity or service provided to the children in exchange for payment.

Exemption from Local Government Regulation

A learning pod is exempt from any ordinance, rule, regulation, policy, or guideline adopted by a local governmental entity that applies to a school district campus or child-care facility, including any requirements regarding staff-to-child ratios, staff certification, background checks, physical accommodations, or building or fire codes; and any group, building, or facility associated with or used by a learning pod is exempt from any ordinance, rule, regulation, policy, or guideline adopted by a local governmental entity that would not apply to the group, building, or facility if it was not associated with or used by a learning pod.

An employee, contractor, or agent of a school district or other local governmental entity may not initiate or conduct a site inspection of, investigation of, or visit to a location in which a learning pod meets

if the district or entity would not have initiated or conducted the inspection, investigation, or visit if the learning pod did not meet at that location.

A district may not take action against, deny any benefit to, discriminate in any manner against, or otherwise distinguish any child or child's parent on the basis of the child's participation in a learning pod.

A school district or other local governmental entity may not require:

1. A learning pod to be registered with the district or entity; or
2. A person participating in a learning pod to report to the district or entity information regarding the learning pod's existence or operation.

This statute may not be construed to alter or affect a parent's right to choose a homeschool setting for the parent's child or the regulation of a child-care facility.

Education Code 27.001, .002

Regional education service centers shall be located throughout the state so that each school district has the opportunity to be served by and to participate in an approved center on a voluntary basis. The centers shall provide services to assist school districts in improving student performance and increasing the efficiency and effectiveness of school operations. *Education Code 8.001(b), .002*

Core Services

Each service center shall develop and maintain core services for purchase by school districts and campuses. These services are:

1. Training and assistance in teaching each subject area assessed under Education Code 39.023 (state assessments) and providing instruction in personal financial literacy as required under Education Code 28.0021.
2. Training and assistance in providing each program that qualifies for a funding allotment under Education Codes 48.102 (special education), 48.104 (compensatory education), 48.105 (bilingual education), or 48.109 (gifted and talented).
3. Assistance specifically designed for a district or campus assigned an unacceptable performance rating under Education Code 39.054.
4. Training and assistance to teachers, administrators, school board members, and members of site-based decision-making committees.
5. Assistance specifically designed for a school district that is considered out of compliance with state or federal special education requirements.
6. Assistance in complying with state laws and rules.

Education Code 8.051(d)

Additional Services

In addition to the core services, a regional education service center may offer any service requested and purchased by any school district or campus in the state. *Education Code 8.053*

A regional education service center shall assist the board of a district in entering into an agreement with another district or political subdivision, a regional education service center, or an institution of higher education for a cooperative shared services arrangement regarding administrative services, including transportation, food service, purchasing, and payroll functions. *Education Code 11.003(c)*

Delegation of Functions

The board of a school district may delegate purchasing or other administrative functions to a service center to the extent necessary to achieve efficiencies in the use of available services. *Education Code 8.122(d)*

Facilities

Dual Usage Educational Complex

A district may enter into a cooperative agreement with a community college district regarding a dual usage educational complex, provided the district is located in whole or in part in the service area of the college district. The college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the parties under the terms of the cooperative agreement. *Education Code 130.0103*

Instructional or Athletic Facility

A district and an institution of higher education may contract for the design or construction of an instructional facility or athletic facility in accordance with Education Code 45.109. *Education Code 45.109* [See CX]

College Courses in District Facilities

If a district is located in a county contiguous to, but not part of, a community college district, a board may enter into a contract with the community college district for the community college to hold college courses in a district's facilities. The contract shall be approved by board resolution. Either party may terminate the contract by giving the other party at least one year's written notice. *Education Code 130.006*

District Courses on Higher Education Campus

A board may operate a school or program or hold a class on the campus of an institution of higher education in this state if the board obtains written consent from the president or other chief executive officer of the institution, regardless of whether the institution is located within the boundaries of the district. *Education Code 11.166*

Instructional Partnerships with Community College Districts

Types of instructional partnerships between a district and a community college district include:

1. Award of High School Credit (see High School Credit-Only Courses, below).
2. Award of Dual Course Credit (see Dual Credit Courses, below).
3. Tech-Prep Programs.
4. Remedial or Developmental Instruction (see Remedial Programs, below).
5. College Preparatory Programs for High School Students. College prep courses are locally developed through a memorandum of understanding created between school districts and public two-year colleges.

19 TAC 9.143, .146

Agreement

For any educational partnership between a district and a community college district, an agreement must be approved by the board or designee of both the district and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcripting of credit.
8. Funding provisions.

19 TAC 9.144

High School Credit-Only Courses

A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125*

Dual Credit Courses

A district may enter into an agreement with a public college to form a dual credit partnership. Dual credit means the process by which a high school student enrolls in a college course and receives simultaneous academic credit for the course from both the college and high school. *19 TAC Ch. 4, Subch. D* [See EHDD]

Remedial Programs

A board may contract with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college. *Education Code 130.090; 19 TAC 9.146*

Dropout Recovery Program

A school district may enter into an articulation agreement to partner with the public junior college district in which the school district is located to provide on the campus of the college a dropout recovery program for students to successfully complete and receive a diploma from a high school of the school district. *Education Code 29.402(a)*

A district located wholly or partly in a county with a population of more than three million may enter into an articulation agreement with any public junior college with a service area located wholly or partly in a county with a population of more than three million. *Education Code 29.402(a-1)*

The program must meet the requirements at Education Code 29.402(c) and 29.081(e), (f). *Education Code 29.402(c), (d)*

Student Eligibility

A person is eligible to enroll in the dropout recovery program if the person:

1. Is under 26 years of age;
2. Must complete not more than three course credits to complete the curriculum requirements for the foundation high school program, as appropriate, for high school graduation; or
3. Has failed to perform satisfactorily on an end-of-course assessment instrument under Education Code 39.023(c), or an assessment instrument under Education Code 39.023(c) as that section existed before 2007. [See EKB]

Education Code 29.402(b)

Funding

A school district shall pay the college district a negotiated amount for each student from the school district enrolled in the dropout recovery program. The negotiated amount shall not exceed the total average per student funding amount in that school district during the preceding school year for maintenance and operations, including state and local funding, but excluding money from the available school fund. *Education Code 29.403(a)*

A student who is enrolled in a dropout recovery program is included in determining the average daily attendance of the school district. *Education Code 29.403(b)*

General Authority

A district may contract with another local government or a federally recognized Indian tribe that is located in Texas. A party to an interlocal contract may contract with a state agency or similar agency of another state.

An interlocal contract may:

1. Study the feasibility of the performance of a governmental function or service by interlocal contract; or
2. Provide a governmental function or service that each party to the contract is authorized to perform individually.

An interlocal contract shall comply with the requirements at Government Code Chapter 791. [See CH for interlocal purchasing contracts]

Gov't Code 791.011

Health-Care and Hospital Services

A district may contract with another local government authorized to provide health-care and hospital services to provide those services for the district's officers and employees and their dependents. *Gov't Code 791.030*

A hospital district may contract with a school district included in the hospital district to provide nursing services and assistance to employees or students of the district. *Health and Safety Code 281.0465*

Transportation System

A board may establish and operate an economical public school transportation system outside the district if the district enters into an interlocal contract as provided by Government Code Chapter 791. *Education Code 34.007(a)*

School Crossing Guards

A municipality with a population greater than 850,000 may contract with one or more school districts to provide school crossing guards. Under such a contract, a district may provide school crossing guard services to areas of the municipality that are not part of the district. *Local Gov't Code 343.011, .012*

State Hospital for Accountability Purposes

A memorandum of understanding between a district and a state hospital under which the district provides educational services to a student who resides in the state hospital must provide that the district include the performance of the student on an assessment instrument or other achievement indicator adopted under Education Code 39.053 or a reporting indicator adopted under Education Code 39.301 in determining the performance of the district. *Education Code 39.0552*

Intergovernmental Support Agreements

A district may enter into an intergovernmental support agreement with a branch of the armed forces of the United States under the National Defense Authorization Act (10 U.S.C. Section 2679) to provide installation-support services to a military installation located in this state. *Gov't Code 793.002*

"Installation-support services" means those services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions. *10 U.S.C. 2679(e)(1)*

(LOCAL) Policy Comparison Packet

This packet is generated by an automated process that compares the updated policy to the district's 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; omitted in Word)

Annotations are shown as follows.

- *Deletions* are shown in a red strike-through font: ~~deleted text~~.
- *Additions* are shown in a blue, bold font: **new text**.
- Blocks of text that have been *moved* without alteration are shown in green, with double underline and double strike-through formatting to distinguish the text's destination from its origin: ~~moved text~~ becomes moved text.
- *Revision bars* appear in the right margin, as above.

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 makes 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:

School Districts and Education Service Centers	**Community Colleges**
policy.service@tasb.org	colleges@tasb.org
800.580.7529 512.467.0222	800.580.1488 512.467.3689

Fiduciary Responsibility

The Superintendent ~~or designee~~, principal, and sponsor~~, or other staff member, as applicable,~~ shall be responsible for the proper administration of District and campus activity funds and student activity funds in accordance with state law and local policy, District~~-approved~~ accounting practices and procedures, and the Texas Education Agency (TEA) *Financial Accountability System Resource Guide*.

Student Activity Funds

The Superintendent ~~or designee~~ shall ensure that student activity accounts are maintained to manage all class funds~~, organization funds,~~ and ~~any~~ other funds raised and collected by student clubs or organizations~~from students~~ for a school-related purpose. The principal or designee shall issue receipts for all ~~received~~ funds prior to their deposit into the appropriate District account at the District depository.

Student activity funds shall be included in the annual audit of the District's fiscal accounts. [See CFC]

Use and Expenditure

Funds collected by student groups shall be used only for purposes authorized by the student club or organization. ~~or upon approval of the sponsor.~~ The principal and sponsor~~or designee~~ shall manage and approve all disbursements. All funds raised by student organizations must be expended for the benefit of the students.

The principal's designee, who is authorized to approve disbursements, shall not be the sponsor, director, coach, or staff member who supervises or is affiliated with the group associated with the activity account.

District and Campus Activity Funds

The Superintendent shall ensure District accounting practices and procedures address~~establish regulations governing~~ the expenditure of District and campus activity funds generated from vending machines, rentals, gate receipts, concessions, and other local sources of revenue over which the District has direct control. Funds generated from such sources shall be expended for the benefit of the District or its students and shall be related to the District's educational purpose.

Approval

~~Prior~~Approval from the immediate supervisor or designee shall be obtained prior to a disbursement being made to any employee, including the principal~~, approval from the immediate supervisor or designee shall be obtained~~.

Carryover Funds

All funds ~~remaining~~ shall be left in the appropriate account ~~at the end of a fiscal year shall be retained in the account~~and each sponsoring group shall retain the carryover funds for ~~use in~~ the next fiscal year. If a ~~campus activity fund~~ club or organization ceases to function or exist, the unexpended funds ~~of the organization~~ shall be

credited to the appropriate administrative activity account~~, as determined by the principal or administrator with supervisory or administrative authority over the group activity or funds~~.

Plan

The District shall develop a cybersecurity plan to secure the District's cyberinfrastructure against a cyberattack or any other cybersecurity incidents, determine cybersecurity risk, and implement appropriate mitigation planning.

Coordinator

The Superintendent shall designate a cybersecurity coordinator. The cybersecurity coordinator shall serve as the liaison between the District and the Texas Education Agency ~~(TEA)~~ in cybersecurity matters ~~and as required by law report to TEA breaches of system security~~.

Training

The Board delegates to the Superintendent the authority to:

1. Determine the cybersecurity training program to be used in the District; ~~annually completed by each employee and Board member; and~~
2. Verify and report compliance with ~~staff~~ training requirements in accordance with guidance from the Department of Information Resources; and
3. ~~2.~~ Remove access to the District's computer systems and databases for noncompliance with training requirements as appropriate.

The District shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

Security Breach Notifications

Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law. The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Email, if the District has email addresses for the affected persons.
3. Conspicuous posting on the District's websites.
4. Publication through broadcast media.

The District~~District's cybersecurity coordinator~~ shall disclose a breach involving sensitive, protected, or confidential student information as required by~~to TEA and parents in accordance with~~ law.

General Requirements

All resignations shall be submitted in writing to the Superintendent or other person designated by Board action in accordance with this policy~~designee~~. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

At-Will Employees

The Superintendent ~~or designee~~ shall be authorized to accept the resignation of an at-will employee at any time. The Superintendent may delegate to other administrators the authority to accept a resignation of an at-will employee.

Contract Employees

The Superintendent or other person designated by Board action~~designee~~ shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action. The resignation requires no further action by the District and is accepted upon receipt by the Superintendent or other person designated by Board action.

The Superintendent~~, the deputy superintendent, assistant superintendent of human resources services,~~ or other person designated by Board action~~The Superintendent~~ shall be authorized to accept a contract employee's resignation submitted or effective at any other time.~~; however. In the event of the Superintendent's absence, the deputy superintendent or assistant superintendent of human resources services shall be authorized to accept the resignation of a contract employee only in the event of the Superintendent's absence.~~ If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action. The Superintendent or other person designated by Board action~~. The Superintendent, deputy superintendent, or assistant superintendent of human resources services~~ shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

Withdrawal of Resignation

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board~~Superintendent~~.

Principal Qualifications

In addition to the minimal certification requirement, a~~the~~ principal shall have at least:

1. Working knowledge of curriculum and instruction;
2. The ability to evaluate instructional program and teaching effectiveness;
3. The ability to manage budgets~~budget~~ and personnel and to coordinate campus functions;
4. The ability to explain policy, procedures, and data;
5. Strong communications, public relations, and interpersonal skills;
6. Prior experience in instructional leadership roles; and
1. Other qualifications deemed necessary by the Board and included in the job description.

School Counselors

In accordance with law, a school counselor shall spend 80 percent of the counselor's work time on duties that are components of a comprehensive school counseling program (CSCP). [See FFEA]

7. If the Board approves a determination by the administration that due to District or campus staffing needs or other reasons a school counselor is prevented from spending 80 percent of the counselor's work time on duties that are components of a CSCP, the Board shall direct the Superintendent to develop a revised job description for the school counselor that addresses the percentage of the school counselor's time that shall be spent on duties related to the components of a CSCP and the duties the school counselor is expected to perform in the remaining work time. The Superintendent shall report to the Board regarding adjustments to a school counselor's duties under this provision. ~~.~~

Previously Approved on December 15, 2021

Human Sexuality Instruction

The following process shall apply regarding the adoption of curriculum materials for the district's human sexuality instruction:

1. The Board shall adopt a resolution convening the District's school health advisory council (SHAC) to recommend curriculum materials for the instruction.
2. The SHAC shall hold at least two public meetings on the curriculum materials before adopting recommendations to present to the Board.
3. The SHAC recommendations must comply with the instructional content requirements in law, be suitable for the subject and grade level for which the materials are intended, and be reviewed by academic experts in the subject and grade level for which the materials are intended.
4. The SHAC shall present its recommendations to the Board at a public meeting.
5. After the Board ensures the recommendations from the SHAC meet the standards in law, the Board shall take action on the recommendations by a record vote at a public meeting.

Each student ~~Students at all grade levels~~ who has~~have~~ been identified as being at risk of dropping out of school, who is~~are~~ not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment~~,~~ shall be provided accelerated and/or compensatory educational services.

Accelerated Instruction

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily ~~based~~ on a state-mandated~~needs~~ assessment. ~~The principal shall ensure that each identified student is receiving services.~~

Accelerated Learning Committee

When a student fails to perform satisfactorily on a math or reading state-mandated assessment in grades 3, 5, or 8, an accelerated learning committee shall develop a written educational plan in accordance with law. If a parent requests that the student be assigned to a particular teacher the following school year, the request shall be addressed in accordance with the District's administrative procedures.

A parent complaint about the content or implementation of the educational plan shall be filed in accordance with FNG. ~~The services provided each student shall be consistent with the goals and strategies established in the District and campus improvement plans and shall be reviewed for effectiveness at the close of each grading period. Parents shall be encouraged to participate in the planning of educational services for their child and shall be kept informed regarding the child's progress toward educational goals.~~

~~Parents of students who are not successful in meeting requirements for promotion shall be informed of any available options, such as an extended year program or summer school.~~

~~[See EIE]~~

Curriculum Mastery

Grade-level promotion and earning of course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory, intensive, and/or accelerated services. [See EHBC]~~.~~ The District shall comply with applicable state and federal requirements when determining methods for students with disabilities [see FB] or students who are English language learners [see EHBE and EKBA] to demonstrate mastery of the curriculum.

Students Receiving Special Education Services

Any modified promotion standards for a student receiving special education services shall be determined by the student's admission, review, and dismissal (ARD) committee and documented in the student's individualized education program (IEP). [See EHBA series and EKB]

Standards for Mastery

In addition to the factors in law that must be considered for promotion, mastery shall be determined as follows:

1. Course assignments and unit evaluation shall be used to determine student grades in a subject. An average of 70 or higher shall be considered a passing grade.
2. Mastery of the skills necessary for success at the next level shall be validated by assessments that may either be incorporated into unit, nine weeks, or final exams or may be administered separately. Mastery of at least 70 percent of the objectives shall be required.

Kindergarten–Grade 2

In kindergarten–grade 2, promotion to the next grade level shall be based on an overall average of 3 on a scale of 1–4 based on course-level, grade-level standards (essential knowledge and skills) for language arts and mathematics.

Grades 3–8

In grades 3–8, a student shall be promoted to the next grade level if the student:

1. Has earned a final grade of 70 or above in both language arts and mathematics;
2. Has an overall average of 70 or above as determined by averaging final grades for language arts, mathematics, social studies, and science; and
3. Has not failed either social studies or science for two consecutive years.

Grades 9–12

Grade-level advancement for students in grades 9–12 shall be earned by course credits. Changes in grade-level classification shall be made at the beginning of the fall semester. [See EI]

Accelerated Instruction

If a student fails to demonstrate proficiency on a state-mandated assessment, the student shall be provided accelerated instruction in accordance with state law. Additionally, students in grades 5 and 8 shall be subject to all provisions of Grade Advancement Testing, below.

Grade Advancement Testing

Except when a student will be assessed in reading or mathematics above his or her enrolled grade level, students in grades 5 and 8 must meet the passing standard on the applicable state-mandated assessments in reading and mathematics to be promoted to the next grade level, in addition to the District's local standards for mastery and promotion.

Definition of "Parent"

For purposes of this policy and decisions related to grade advancement requirements, a student's "parent" shall be defined to include either of the student's parents or guardians; a person designated by the parent, by means of a power of attorney or an authorization agreement as provided in Chapter 34 of the Family Code, to have responsibility for the student in all school-related matters [see FD]; a surrogate parent acting on behalf of a student with a disability; a person designated by the parent or guardian to serve on the grade placement committee (GPC) for all purposes; or in the event that a parent, guardian, or designee cannot be located, a person designated by the Superintendent or designee to act on behalf of the student. [See EIE(LEGAL)]

No Alternate Assessment Instrument

The District shall use only the statewide assessment instrument for the third testing opportunity.

Standards for Promotion Upon Appeal

If a parent initiates an appeal of his or her child's retention following the student's failure to demonstrate proficiency after the third testing opportunity, the GPC shall review all facts and circumstances in accordance with law.

The student shall not be promoted unless:

1. All members of the GPC agree that the student is likely to perform on grade level if given additional accelerated instruction during the following school year in accordance with the educational plan developed by the GPC; and

2. The student has completed required accelerated instruction in the subject area for which the student failed to demonstrate proficiency before promotion to the next grade level.

Whether the GPC decides to promote or to retain a student in this manner, the committee shall determine an accelerated instruction plan for the student for the following school year, providing for interim reports to the student's parent and opportunities for the par-

ent to consult with the teacher or principal as needed. The principal or designee shall monitor the student's progress during the following school year to ensure that he or she is progressing in accordance with the plan.

Transfer Students

When a student transfers into the District having failed to demonstrate proficiency on applicable assessment instruments after two testing opportunities, a GPC shall convene for that student. The GPC shall review any available records of decisions regarding testing and accelerated instruction from the previous district and determine an accelerated instruction plan for the student.

If a parent initiates an appeal for promotion when a student transfers into the District having failed to demonstrate proficiency after three testing opportunities, the GPC shall review any available records of decisions regarding testing, accelerated instruction, retention, or promotion from the previous district and issue a decision in accordance with the District's standards for promotion.

Assignment of Retained Students

A student not promoted to the next grade level shall remain at the same campus setting unless the student's GPC determines that it would be in the student's best interest to be assigned to an age-appropriate learning environment.

Criteria to be considered for this decision may include:

1. Recommendations from the student's teachers.

2. Observed social and emotional development of the student.

Reducing Student Retention

The District shall establish procedures designed to reduce retaining students at a grade level, with the ultimate goal being elimination of the practice of retaining students. [See EHBC]

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~~children~~.

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.]

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

Excused Absences

In addition to excused absences required by law, the District shall excuse absences for the following purposes. A student shall be required to submit verification of these absences in accordance with administrative regulations.

Higher Education Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education. ~~A student shall be required to submit verification of such visits in accordance with administrative regulations.~~

Armed Services Enlistment

The District shall excuse a student 17 years of age or older for up to four days during his or her enrollment in high school for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard. ~~A student shall be required to submit verification of such activities in accordance with administrative regulations.~~

Early Voting or Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk. ~~A student shall be required to submit verification of service in accordance with administrative regulations.~~

Learner or Driver's License

The District shall excuse a student 15 years of age or older for one day during his or her enrollment in high school for each of the following:

- Visiting a driver's license office to obtain a learner license; or
- Visiting a driver's license office to obtain a driver's license.

[For extracurricular activity absences, see FM.]

Withdrawal for Nonattendance

The District may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

[For District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

Students Attending Homeschools

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing Compulsory Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

This policy shall apply to a student who has not been in attendance for 90 percent of the days the class is offered.

~~Consideration of All~~ Absences Considered

Except as otherwise provided by law, all absences incurred while enrolled in the District~~All absences~~ shall be considered in determining whether a student has attended the required percentage of days under this policy.

Attendance Committees

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent ~~or designee~~ shall make the specific appointments in accordance with legal requirements.

Parental Notice of ~~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 for credit or a final grade may be filed at any time the student receives notice but, in any event, no later than 30 days after the last day of classes.

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 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~~Students~~ who has~~have~~ lost credit or has~~have~~ 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 ~~When a student's absence for personal illness exceeds five consecutive days, the~~ principal or attendance committee may require verification~~that the student present a statement~~ from a ~~physician or~~ health-care provider in accordance with administrative regulations~~ clinic verifying the illness or condition that caused the student's extended absence from school~~ as a condition of classifying an~~the~~ absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding~~If~~ a student's ~~student has established a questionable pattern of~~ absences and how~~,~~ the student can be awarded credit~~principal~~ or a final grade, the attendance committee shall attempt to ensure~~may require~~ that its decision is in the best interest of the~~a~~ student. The Superintendent shall develop administrative regulations to document the attendance committee's decision~~ present a physician's or clinic's statement of illness after a single day's absence as a condition of classifying the absence as one for which there are extenuating circumstances~~.

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.~~adhere to the following guidelines to determine attendance for award of credit or a final grade:~~

When~~Days of Attendance~~

1. ~~If~~ makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences as~~that are allowed under compulsory attendance requirements shall be considered~~ days of attendance for award of credit or a final grade. [See FEA]~~(LEGAL) at EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS.]~~

~~Transfers / Migrant Students~~

~~2. A transfer or migrant student incurs absences only after his or her enrollment in the District.~~

~~Documentation~~

~~3.~~ The attendance~~committee shall consider the acceptability and authenticity of documented reasons for the student's absences.~~

~~Consideration of Control~~

~~4. The~~ committee shall consider whether the reasons for the absences were ~~for reasons~~ out of the ~~student's or~~ parent's or student's control and~~.~~

~~Student's Academic Record~~

~~5.~~2. ~~The committee shall consider~~ whether documentation for~~or not~~ the absence is acceptable~~student has completed assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject~~.

~~Information from Student or Parent~~

~~6.~~3. 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.

~~Best Interest Standard~~

~~In reaching consensus regarding a student's absences, the committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent or designee shall develop administrative regulations addressing the committee's documentation of the decision.~~

Imposing Conditions for Awarding Credit or a Final Grade

The attendance committee shall consider the student's unique circumstances and, if necessary, shall ~~may~~ impose ~~any of the following~~ conditions for awarding~~students with excessive absences to regain~~ credit or ~~be awarded~~ 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.

1. Completing additional assignments, as specified by the committee or teacher.

2. Attending tutorial sessions as scheduled~~, which may include Saturday classes or before- and after-school programs~~.

2. Completing other instructional programs, as specified by the committee.

~~3. Maintaining the attendance standards for the rest of the semester.~~

~~4.~~3. Taking an examination to earn credit. [See EHDB]

~~5. Attending a flexible school day program.~~

~~6. Attending summer school.~~

In all cases, the student must ~~also~~ 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).

Program to Address Child Sexual Abuse, Trafficking, and Maltreatment

The District's program to address child sexual abuse, trafficking, and other maltreatment of children, as included in the District improvement plan and the student handbook, shall include:

1. Methods for increasing staff, student, and parent awareness regarding these issues, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Age-appropriate, research-based antivictimization programs for students;
3. Actions that a child who is a victim should take to obtain assistance and intervention; and
4. Available counseling options for affected students.

Training

The District shall provide training to employees as required by law and District policy.~~.~~ Training shall address techniques to prevent and recognize sexual abuse, trafficking, and all other maltreatment of children, including children with significant cognitive disabilities. [See DMA]

[See BBD for Board member training requirements and BJCB for Superintendent continuing education requirements.]

Reporting Child Abuse and Neglect

Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a legal responsibility, under state law, to immediately report the suspected abuse or neglect to an appropriate authority.

As defined in state law, child abuse and neglect include both sex and labor trafficking of a child.

The following individuals have an additional legal obligation to submit a written or oral report within 48 hours of learning of the facts giving rise to the suspicion of abuse or neglect:

1. Any District employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect.
2. A professional who has reasonable cause to believe that a child has been or may be abused or neglected or may have been a victim of indecency with a child. A professional is anyone licensed or certified by the state who has direct contact with children in the normal course of duties for which the individual is licensed or certified.

A person is required to make a report if the person has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]

Restrictions on Reporting

In accordance with law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Making a Report

Reports may be made to any of the following:

1. A state or local law enforcement agency;
2. The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (DFPS) at (800) 252-5400 or the Texas Abuse Hotline Website[1];
3. A local CPS office; or
4. If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility. As defined by law, a person responsible for the care, custody, or welfare of a child includes school personnel and volunteers and day-care workers. [See FFG(LEGAL)]

An individual does not fulfill his or her responsibilities under the law by only reporting suspicion of abuse or neglect to a campus princi-

pal, school counselor, or another District staff member. Furthermore, the District is prohibited from requiring an employee to first report his or her suspicion to a District or campus administrator.

Confidentiality

In accordance with state law, the identity of a person making a report of suspected child abuse or neglect shall be kept confidential and disclosed only in accordance with the rules of the investigating agency.

Immunity

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

Failing to Report Suspected Child Abuse or Neglect

By failing to report suspicion of child abuse or neglect, an employee:

1. May be placing a child at risk of continued abuse or neglect;
2. Violates the law and may be subject to legal penalties, including criminal sanctions for knowingly failing to make a required report;
3. Violates Board policy and may be subject to disciplinary action, including possible termination of employment; and
4. May have his or her certification from the State Board for Educator Certification suspended, revoked, or canceled in accordance with 19 Administrative Code Chapter 249.

It is a criminal offense to coerce someone into suppressing or failing to report child abuse or neglect.

Responsibilities Regarding Investigations

In accordance with law, District officials shall be prohibited from:

1. Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect;
2. Requiring that a parent or school employee be present during the interview; or
3. Coercing someone into suppressing or failing to report child abuse or neglect.

District personnel shall cooperate fully and without parental consent, if necessary, with an investigation of reported child abuse or neglect. [See GKA]

[1] Texas Abuse Hotline Website: http://www.txabusehotline.org

Comprehensive System

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school officials.

Cumulative Record

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See CPC]

Custodian of Records

The principal~~principal~~ is custodian of all records for currently enrolled students. The principal~~The principal~~ is the custodian of records for students who have withdrawn or graduated. The student handbook made available to all students and parents shall contain a listing of the addresses of District schools, as well as the Superintendent's business address.

Types of Education Records

The record custodian shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any documentation of discussion or action by an accelerated learning~~a grade placement~~ committee convened for the student.
5. Health services record, including:
    a. The results of any tuberculin tests required by the District.
    b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]

c. Immunization records. [See FFAB]

6. Attendance records.
7. Student questionnaires.
8. Records of teacher, school counselor, or administrative conferences with the student or pertaining to the student.
9. Verified reports of serious or recurrent behavior patterns.
10. Copies of correspondence with parents and others concerned with the student.
11. Records transferred from other districts in which the student was enrolled.
12. Records pertaining to participation in extracurricular activities.
13. Information relating to student participation in special programs.
14. Records of fees assessed and paid.
15. Records pertaining to student and parent complaints.
16. Other records that may contribute to an understanding of the student.

Access by Parents

The District shall make a student's records available to the student's parents, as permitted by law. The records custodian or designee shall use reasonable procedures to verify the requester's identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular school hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and records to be viewed shall be restricted to use only in the Superintendent's, principal's, or school counselor's office, or other restricted area designated by the records custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

Copies of records are available at a per copy cost, payable in advance. Copies of records must be requested in writing. Parents may be denied copies of records if they fail to follow proper procedures or pay the copying charge. If the student qualifies for free or

reduced-price lunches and the parents are unable to view the records during regular school hours, upon written request of a parent, one copy of the record shall be provided at no charge.

A parent may continue to have access to his or her child's records under specific circumstances after the student has attained 18 years of age or is attending an institution of postsecondary education. [See FL(LEGAL)]

Access by School Officials

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, "school officials" shall include:

1. An employee, Board member, or agent of the District, including an attorney, a consultant, a contractor, a volunteer, a school resource officer, and any outside service provider used by the District to perform institutional services.
2. An employee of a cooperative of which the District is a member or of a facility with which the District contracts for placement of students with disabilities.
3. A contractor retained by a cooperative of which the District is a member or by a facility with which the District contracts for placement of students with disabilities.
4. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
5. A person appointed to serve on a team to support the District's safe and supportive school program.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a "legitimate educational interest" in a student's records when he or she is:

1. Working with the student;
2. Considering disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities;
3. Compiling statistical data;
4. Reviewing an education record to fulfill the official's professional responsibility; or

5. Investigating or evaluating programs.

Transcripts and Transfers of Records

The District may request transcripts from previously attended schools for students transferring into District schools; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the parent or student, if 18 or older.

For purposes of a student's enrollment or transfer, the District shall promptly forward in accordance with the timeline provided in law education records upon request to officials of other schools or school systems in which the student intends to enroll or enrolls. [See FD(LEGAL), Required Documentation] The District may return an education record to the school identified as the source of the record.

Records Responsibility for Students in Special Education

The director of special services~~director of special services~~ shall be responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education.

A current listing of names and positions of persons who have access to records of students in special education is maintained at the department of special services~~the department of special services~~.

Procedure to Amend Records

Within 15 District business days of the record custodian's receipt of a request to amend records, the District shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing. If a hearing is requested, it shall be held within ten District business days after the request is received.

Parents shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence and, at their own expense, may be assisted or represented at the hearing.

The parents shall be notified of the decision in writing within ten District business days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the parents shall be informed that they have 30 District business days within which to exercise their right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

Directory Information

The District has designated the following categories of information as directory information: student name; address; telephone listing; electronic mail address; photograph; date and place of birth; major

field of study; degrees, honors, and awards received; dates of attendance; grade level; most recent educational institution attended; participation in officially recognized activities and sports; and weight and height of members of athletic teams~~student name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; degrees, honors, and awards received; dates of attendance; grade level; most recent educational institution attended; participation in officially recognized activities and sports; and weight and height of members of athletic teams~~.

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Review 2021-2022 District and Campus Improvement Plan Goals and Performance Objectives

RECOMMENDED ACTION
For discussion only. Action will be requested at the March 23, 2022 board meeting.

RATIONALE
School Board Policies BQ (LEGAL) and BQ (LOCAL) establish that the district will create a District Improvement Plan with the district's vision, mission, and goals to improve student performance. The board shall approve the process under which the educational goals are developed and shall ensure that input is gathered from the district-level committee.

Using the new strategic plan as a guide, district and campus leadership created priorities in the form of performance objectives for each of the goals created in the strategic plan. These goals and performance objectives are consistent in the district improvement plan and every campus improvement plan.

According to School Board Policy BQA (LOCAL), the district shall establish an Advisory Committee for Education (ACE) to review the District Improvement Plan. The ACE met and added suggestions and edits to the District Improvement Plan. Campus Advisory Teams (CAT) review Campus Improvement Plan.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Stefani Allen - Assistant Superintendent, Curriculum & Instruction

ATTACHMENTS
2021-2022 District and Campus Improvement Plan

MEETING DATE
February 16, 2022

Lake Travis Independent School District

District & Campus Improvement Plans

2021-2022

Mission Statements

District:
The mission of the Lake Travis ISD is to educate all students by teaching a comprehensive curriculum which emphasizes scholastic excellence. The District will serve as a model of educational excellence by making use of the combined skills of students, teachers, support staff, involved parents and citizens through the efficient use of resources. Our graduates will have lifelong problem-solving skills. They will understand that responsibilities accompany the privileges of citizenship and will have the foundation to be successful in their chosen endeavors.

Lake Travis High School:
Under Revision

Lake Travis Middle School
Ensuring students thrive by challenging minds and connecting hearts!

Hudson Bend Middle School
Hudson Bend Middle School is a school community where all learners are known by name and need.

Bee Cave Middle School
The goal of Bee Cave Middle School (BCMS) is to develop a community of lifelong learners by providing a safe, educationally rich environment that promotes academic excellence, personal growth and service to our community.

Lake Travis Elementary
At Lake Travis Elementary we support and nurture the personal and academic success of each and every learner by valuing high standards, valuing diversity, and valuing community.

Lakeway Elementary
Mustang Pride is a byproduct of the Lakeway Way. At Lakeway, we assume that the best of us is all of us. We are dedicated to elite academic performance and the acceptance of all. Education transcends what we are now and is the foundation of our future.

Bee Cave Elementary
Bee Cave Elementary is a school where everyone is loved, honored, and challenged. All individuals are encouraged to be creative, productive, compassionate, and successful lifelong learners.

Lake Pointe Elementary
Lake Pointe Elementary is a learning community where everyone is nurtured, respected, and challenged. All individuals are encouraged to be compassionate towards each other, to be creative, to be productive, and to be successful, lifelong learners.

Serene Hills Elementary
The Serene Hills Elementary community commits to engaging every student in innovative, collaborative learning focused on growth and to igniting a passion for learning in which everyone is valued.

West Cypress Hills Elementary
We will cultivate a community which inspires and ignites a passion for life-long learning and positive world change.

Rough Hollow Elementary
At Rough Hollow Elementary we value respect, kindness and community. We honor equality and celebrate diversity. We are committed to growing compassionate, creative learners who embrace challenges with perseverance and grace in a safe environment.

Learner-Centric Model

Pillar 1: Learning is Social #LearningTogether

Learning engages community.

- Outcome: Learners intentionally develop meaningful, healthy relationships and partnerships with the larger learning community by connecting, collaborating, and communicating. Lake Travis learners sometimes adapt their learning based on participation in and contribution to different learning communities.

- Essential Conditions: LTISD creates and continuously improves structures supporting reciprocal partnerships among school, family, and community. Educators provide real-world opportunities through school experiences, community engagement, field investigation, and career exploration.

Pillar 2: Learning is Inspiring #DesignThinking

Learning sparks authentic solutions.

- Outcome: Learners embrace a positive outlook toward learning, view challenges and failures as opportunities to improve, and share their love of learning. Lake Travis learners engage in the continued exploration of relevant learning, critical thinking, and perseverance through challenges.

- Essential Conditions: LTISD provides personal connections and challenges for all learners to apply a deeper understanding of relevant and authentic problems. Learning is deepened and reinforced through collaborative work. Educators design authentic learning experiences that enable learners to apply knowledge and skills to demonstrate mastery to appropriate audiences.

Pillar 3: Learning is Dynamic #Twenty4Seven

Learning continues anytime and anywhere.

- Outcome: Learners strategically manipulate time, space, and resources to optimize learning.

- Essential Conditions: LTISD supports the design of flexible learning resources for personalized learning through leveraging time, space, and instructional strategies that are flexible and based on the needs of the learner. Educators utilize technology platforms to support blended, virtual, and face-to-face experiences personalized for the learner.

Pillar 4: Learning is Empowering #LifeReady

Learning fosters a growth mindset and socio-emotional independence.

- Outcome: Learners capitalize on multiple opportunities, choosing both how they learn and how they demonstrate mastery. Lake Travis learners are self-aware, self-directed, and respectful of themselves and others.

- Essential Conditions: LTISD equips all learners to view challenges as opportunities and mistakes as learning. Learners develop habits of persistence, resilience, and grit as they take risks to make connections in real life situations. Educators model a growth mindset by helping learners work through a self-directed learning cycle of establishing habits, planning the process, learning new information, demonstrating their learning, and reflecting on the process. Educators utilize resources and tools to promote social and emotional development.

Goals and Performance Objectives

Goal 1: Are One Community
We will bring our community together so that a welcoming neighborhood feel ensures all families feel connected, valued, and engaged.

Performance Objective 1: Regular opportunities will be offered for our students, staff, families, and community to offer input and contribute to the learning community.

Performance Objective 2: LTISD will use a variety of different mediums to communicate with all stakeholders.

Goal 2: Each Belong
We will include all community members and help students discover their interests so that we all feel a sense of connectedness.

Performance Objective 1: Professional learning opportunities will result in a learning community where all community members feel welcomed, respected, and understood.

Goal 3: Provide Best In Class Education
We will demonstrate a commitment to all students so that each child is prepared for life and successful in the path they choose.

Performance Objective 1: Regular assessments of students will indicate that all learning needs are properly identified, supported, and included to maximize graduation rates and minimize dropouts.

Performance Objective 2: Staff development activities will result in a learning community where high quality educators are recruited, cared for, and retained.

Performance Objective 3: Targeted instruction will be utilized to address student groups not reaching their full potential.

Goal 4: Grow & Innovate Together
We will support our instructional staff, use data-based decision-making, and partner with stakeholders to build off success and continuously improve.

Performance Objective 1: Data analysis will indicate that there is a constant drive to leverage success, innovate, and continuously improve for the benefit of all learners.

Performance Objective 2: Student participation and enrollment will indicate support of innovative programming and that finances and resources are managed in order to support both educational needs and innovations with the support of our community.

Goal 5: Prioritize Wellness
We will make school a great place to be so that the social, emotional, and physical well-being of our Lake Travis ISD community is supported

Performance Objective 1: Collaboration across district departments will result in staff members who are trained in trauma informed practices and social emotional tools to support the wellness and mental health needs of all students.

Performance Objective 2: Students, staff, and parents will have opportunities to engage in programs that recognize and prioritize social, emotional, and physical well-being of students and staff members.

Performance Objective 3: Evidence-based practices will be utilized to address the needs of students for special programs, including suicide prevention programs, conflict resolution programs, and violence prevention programs.

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Board Notification under Board Policy CH (Local)-Playground Equipment for Serene Hills Elementary School

RECOMMENDED ACTION
For discussion only.

RATIONALE
The Board delegates to the Superintendent or designee the authority to make budgeted purchases for goods or services. However, any single, budgeted purchase of goods or services that costs $100,000 or more, regardless of whether the goods or services are competitively purchased, shall require Board approval before a transaction may take place. The Superintendent shall not be required to obtain Board approval for the following types of budgeted purchases that cost $100,000 or more, but shall subsequently report them to the Board:

1. A purchase made pursuant to a Board-approved interlocal contract, in accordance with law.
2. A purchase made through a cooperative purchasing program, in accordance with law.
3. A purchase made through a state purchasing program that satisfies the District's obligation for competitive purchasing;
4. A purchase for produce or fuel.

Lake Travis ISD has the following budgeted purchase that requires Board notification:

- Replacement of Playground Equipment for Serene Hills Elementary School - $437,514

BUDGET PROVISIONS
2018 Bond Program

RESOURCE PERSONNEL
Pam Sanchez – Assistant Superintendent of Business Services
Robert Winovitch – Director of Facilities and Construction
Cristy Soares – Director of Purchasing

ATTACHMENTS
None

MEETING DATE
February 16, 2022

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Estimated Guaranteed Maximum Price (GMP) for CMR-12 for Serene Hills Elementary School Renovation Project for the Summer of 2022.

RECOMMENDED ACTION
For presentation/discussion only. Action will be requested at the March 23, 2022 board meeting.

RATIONALE
Present the estimated Guaranteed Maximum Price (GMP) for CMR-12 for the Serene Hills Elementary School Renovation Project for the Summer of 2022 for $1,335,419 and authorize the Superintendent or his designee to negotiate and execute the GMP amendment.

Flynn Construction Inc. estimated Guaranteed Maximum Price (GMP) for CMR-12 is $1,335,419. The GMP includes the following work items:

Serene Hills Elementary School

- Architectural Finishes (flooring, wall and ceiling finishes)
- Gym flooring LED lighting
- New ADA compliant Playground
- Erosion control at Playground

BUDGET PROVISIONS
2018 Bond Program - $1,335,419

RESOURCE PERSONNEL
Pam Sanchez – Assistant Superintendent of Business Services
Robert Winovitch – Director of Facilities and Construction
Cristy Soares – Director of Purchasing
Amber King – General Counsel

ATTACHMENTS
Flynn Construction Inc. Preliminary GMP Estimate Summary for CMR-12 Serene Hills Elementary School Renovation Project (Summer 2022).

MEETING DATE
February 16, 2022

FLYNN CONSTRUCTION INCORPORATED

1/28/2022

Estimate Summary

Serene Hills Elementary Renovations

Division	Description	$/SF	% of Project	Totals
01	GENERAL CONDITIONS	$ 0.95	6.8%	$ 90,548
02	DEMOLITION	$ 0.16	1.1%	$ 15,000
09	FINISHES	$ 4.08	29.0%	$ 387,814
12	FURNITURE MOVING ALLOWANCE	$ 0.21	1.5%	$ 20,000
13	SPECIAL CONSTRUCTION	$ 5.26	37.4%	$ 500,000
31	EARTHWORK	$ 0.04	0.3%	$ 4,000
32	EXTERIOR IMPROVEMENTS	$ 0.97	6.9%	$ 92,033
33	UTILITIES	$ 0.37	2.7%	$ 35,600
	INSURANCE & BONDS	$ 0.28	2.0%	$ 26,688
	CONTRACTOR OVERHEAD & PROFIT	$ 0.52	3.7%	$ 49,236
	CONTINGENCY (10%)	$ 1.21	8.6%	$ 114,499
	Sales Tax (Exempt)	$ -	-	$ -
	PROJECT TOTAL	**$ 14.06**	**100%**	**$ 1,335,419**

Add Alternate No. 1 - Kiln Relocation/Renovation	$	165,382
Add Alternate No. 2 - Terrace Option 1	$	60,804
Add Alternate No. 3 - Flashing Repairs at Gym		TBD

Item	Description	Takeoff Qty	Unit Cost	TOTAL Amount
01	***GENERAL CONDITIONS***			
01.000	**Personnel**			
				49,450
01.000	**Temp Support & Supplies**			
				41,098
	GENERAL CONDITIONS	***2.08 mo***	***43,593.72 /mo***	***90,548***
		1,120.00 Supervision Hours		
		40.00 Driver Hours		
		400.00 Labor Hours		
00	***ALTERNATES***			
00.000	**Alternates**			
	Alternate No. 1 - Kiln relocation	0.00 ls	142,593.50 /ls	0
	Alternate No. 2 - Terrace Option 1	0.00 ls	143,458.00 /ls	0
	Alternate No. 4 - Gym Flashing	0.00 ls	0.00 /ls	0
				0
	ALTERNATES	***1.00 ls***	***0.00 /ls***	***0***
02	***DEMOLITION***			
02.000	**Non-Flooring Demolition & Salvaging**			
	Remove, salvage, & reinstall Signage & other wall hung items	1.00 ls	10,000.00 /ls	10,000
	Remove, salvage, & reinstall outlet/switch cover plates	1.00 ls	5,000.00 /ls	5,000
				15,000
	DEMOLITION	***1.00 ls***	***15,000.00 /ls***	***15,000***
		0.00 Labor Hours		
09	***FINISHES***			
09.000	**Paint & Wall Coverings**			
	Tape, Float, & Painting	1.00 ls	178,200.00 /ls	178,200
				178,200
09.000	**Flooring**			
	New Flooring & Rubber Base	1.00 ls	116,297.00 /ls	116,297
	Floor Control Joints	1.00 ls	5,000.00 /ls	5,000
				121,297
09.000	**Gym Flooring**			
	Demo & replace Gym Floor	6,300.00 sf	10.00 /sf	63,000
				63,000
09.000	**Epoxy Flooring**			
	Replace epoxy flooring at (5) common restrooms	2,813.00 sf	9.00 /sf	25,317
				25,317
	FINISHES	***1.00 ls***	***387,814.00 /ls***	***387,814***

			0.00 Labor Hours		
12		***FURNISHINGS***			
	12.000	**Furnishings**			
		Furniture moving allowance	1.00 ls	20,000.00 /ls	20,000
					20,000
		FURNISHINGS	***1.00 ls***	***20,000.00 /ls***	***20,000***
			0.00 Labor Hours		
13		***SPECIALTY CONSTRUCTION***			
	13.000	**Specialty Construction**			
		(2) Turnkey Playgrounds by TF Harper allowance	1.00 ls	500,000.00 /ls	500,000
		Artificial Turf at playscapes	0.00 ea	0.00 /ea	0
					500,000
		SPECIALTY CONSTRUCTION	***1.00 ls***	***500,000.00 /ls***	***500,000***
			0.00 Labor Hours		
31		***EARTHWORK***			
	31.000	**Erosion Controls**			
		Erosion Control allowance	1.00 ls	2,500.00 /ls	2,500
					2,500
	31.000	**Earthwork**			
		Misc. Final Grading	1.00 ls	1,500.00 /ls	1,500
					1,500
		EARTHWORK	***1.00 ls***	***4,000.00 /ls***	***4,000***
			0.00 Labor Hours		
32		***SITE IMPROVEMENTS***			
	32.000	**Fence & Gates**			
		Gate for "Gaga Pit" allowance	1.00 ls	1,000.00 /ls	1,000
					1,000
	32.000	**Landscaping**			
		Terrace Option 1	1.00 ls	91,033.00 /ls	91,033
					91,033
		SITE IMPROVEMENTS	***1.00 ls***	***92,033.00 /ls***	***92,033***
			0.00 Labor Hours		
33		***SITE UTILITIES***			
	33.000	**Site Utilities**			
		Raise existing area inlet	1.00 ls	4,500.00 /ls	4,500
		18" Storm line	161.00 lf	100.00 /lf	16,100
		3x3 area inlets	2.00 ea	7,500.00 /ea	15,000
					35,600
		SITE UTILITIES	***1.00 ls***	***35,600.00 /ls***	***35,600***
			0.00 Labor Hours		

Estimate Totals

Description	Amount	Totals	Hours	Rate	Percent of Total
Supervision	$ 47,950		1,120.0 hrs		3.59%
Labor	$ 1,500		#REF! hrs		0.11%
Material & ST&S	$ 1,000				0.07%
Subcontract	$ 1,078,197				80.74%
Equipment	$ 11,773				0.88%
Other	$ 4,575				0.34%
	$ 1,144,995	**$ 1,144,995**			
Payroll Burden	N/A (Inc. above)				
GL Insurance	$ 2,974			0.28	0.22%
Construction Contingency	$ 114,499			10.00 %	8.57%
	$ 117,473	**$ 1,262,468**			
Builders Risk Insurance	$ 6,861			0.51 %	0.51%
P&P Bond	$ 16,854			1.26 %	1.26%
Fee	$ 49,236			**3.90** %	3.69%
	$ 72,951	**$ 1,335,419**		**3.00**	
Sales Tax (Exempt)	$ -			8.25 %	0.00%
	$ -	**$ 1,335,419**			

Total ***$ 1,335,419***

Flynn Construction

1/28/2022

Assumptions & Clarifications

Serene Hills Elementary Renovations

1.) Includes a 10% contingency ($114,499).

2.) Base bid does not include the kiln relocation and associated renovations. Add $165,382 to include.

3.) Base bid includes Terrace Option 2 . For Option 1, Add $60,804.

4.) Includes an Allowance of $500,000 for playgrounds by TF Harper.

5.) Includes an Allowance of $20,000 for furniture moving.

6.) Includes an allowance of $9/sf for demo and new epoxy flooring at (5) common restrooms.

7.) Includes an allowane of $1,000 for "Gaga Pit" gate.

8.) Includes Payment & Performance Bond.

9.) Includes sod for revegetating disturbed areas.

10.) Excludes drainage piping or concrete subbase for 2x2x4 limestone blockes. Includes 12" compacted fill underneath. Excludes radial turned or custom cuts on blocks.

11). Excludes flashign repair at gym due to lack of information. Suggest doing this on Time & Material basis once able to furhter investigate and offer better solution.

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Supplemental Pay Rate Adjustments for 2021-2022

RECOMMENDED ACTION
Approve the 2021-22 Supplemental Pay Rate Adjustments as presented.

RATIONALE
Lake Travis Independent School District Administration would like to implement the proposed compensation adjustments for teachers effective for the 2021-2022 school year:

- Tutoring Students $37.00 per hour
- Planning $30.00 per hour

BUDGET PROVISIONS
2021-2022 Budget

RESOURCE PERSONNEL
Evalene Murphy - Assistant Superintendent of Employee/Community Relations

ATTACHMENTS
None

MEETING DATE
February 16, 2022

AGENDA ITEM ACTION SHEET

AGENDA ITEM
TEA Expedited Waiver Request for Staff Development Minutes Waiver

RECOMMENDED ACTION
Approval of the Application for the TEA Application for Staff Development Minutes Waiver.

RATIONALE
Lake Travis ISD is requesting the approval to apply for the Staff Development Minutes Waiver for the 2022-2023 school year. This waiver was not available at the time that the Instructional Calendar was approved by the Board in December. The Professional Development times were noted in the Calendar approved pending the opening of the waiver request. This is an expedited waiver and is granted by TEA once submitted.

This waiver allows the district to train staff on various educational strategies designed to improve student performance in lieu of student instruction during the school year. The Staff Development Minutes Waiver provides for a maximum of 2100 total waiver minutes to use for professional development.

This waiver is for staff development in place of student instruction; therefore, the waiver minutes are only applicable to staff development provided instead of student instruction during the school year. The Staff Development Minutes Waiver may not be used prior to the first day of student instruction or after the last day of student instruction.

The dates requested are October 7th, February 16th, and February 17th.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Stefani Allen - Assistant Superintendent of Curriculum & Instruction
Kathy Burbank - Director of Accountability & Assessment

ATTACHMENTS

MEETING DATE
February 16, 2022

Texas Education Agency

Waivers

2021-2022 Application for Staff Development Minutes Waiver — Waiver ID: 65909

Application Information

Category: Expedited
Creator: Kathy Burbank, District Editor
Status: Draft
Creation Date: 2/11/2022
Approving Superintendent:
Assigned To: Kathy Burbank

LEA Contact

Full Name: Kathy Burbank
Phone: (512) 533-6091
Email: burbankk@ltisdschools.org

LEA Information

LEA: LAKE TRAVIS ISD (227913)
Address: 3322 RANCH RD 620 S, AUSTIN, TX 78738-6801
Phone: (512) 533-6000

Date of LEA Board of Trustees Approval

Date:

Information

Pursuant to Texas Education Code (TEC) §25.081 this waiver allows the district or charter school to train staff on various educational strategies designed to improve student performance in lieu of a maximum of:

- 2,100 minutes of student instruction for districts and charter schools that provide operational and instructional minutes; or
- 5 days of student instruction for charter schools that provide 180 days of operation

Requested Years

2022-2023

LEA Attachments (0)

There are no LEA attachments.

DRAFT

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AGENDA ITEM ACTION SHEET

AGENDA ITEM
Resolution No. 021622-01 Authorizing Travis Central Appraisal District Chief Appraiser to Act as Agent for Property Value Protests

RECOMMENDED ACTION
I move to approve Resolution No. 021622-01 Authorizing Travis Central Appraisal District Chief Appraiser to Act as Agent for Property Value Protests.

RATIONALE
The Resolution presented permits the district under 34 Texas Administrative Code § 9.4302 to designate the Chief Appraiser and other employees of the appraisal district to act as its agent for the school district in the protest of the Comptroller's Property Value Study Audit. The Comptroller has declared the district's local property values, as certified by the Travis Central Appraisal District (TCAD), invalid for tax year 2021. The administration has asked the TCAD to file a protest on behalf of the district which requires the designation of the Chief Appraiser as the district's agent.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Pam Sanchez – Assistant Superintendent of Business Services
Amber King – General Counsel

ATTACHMENTS
Resolution No. 021622-01 Authorizing Travis Central Appraisal District Chief Appraiser to Act as Agent for Property Value Protests

MEETING DATE
February 16, 2022

RESOLUTION NO. 021622-01 OF THE LAKE TRAVIS INDEPENDENT SCHOOL DISTRICT AUTHORIZING THE TRAVIS CENTRAL APPRAISAL DISTRICT CHIEF APPRAISER OR OTHER EMPLOYEE OF TCAD TO ACT AS AGENT IN REGARD TO FILING A PROTEST AGAINST THE COMPTROLLER'S 2021 PROPERTY VALUE STUDY AND AUDIT FINDING FOR LAKE TRAVIS ISD:

WHEREAS, the Board of Trustees of said Independent School District intend to protest the Comptroller's Property Value Study and Audit findings for tax year 2021;

WHEREAS, 34 TEX. ADMIN. CODE § 9.4302 permits the governing body of a school district to designate the Chief Appraiser and other employees of the appraisal district to act as its agent for the school district in the protest of the Comptroller's Property Value Study and Audit;

WHEREAS, the Board of Trustees of said Independent School District have unanimously voted to approve and grant authority to the Chief Appraiser of the Travis Central Appraisal District ("TCAD") and all other TCAD employees, as delegated and determined by the TCAD Chief Appraiser, to act as its agent regarding its protest of the Comptroller's Property Value Study and Audit Findings for tax year 2021;

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of said Independent School District hereby authorize and otherwise grant authority to the TCAD Chief Appraiser and all other employees of TCAD to act as its agent in its protest of the Comptroller's Property Value Study and Audit Findings for tax year 2021

This resolution shall become effective upon its passage.

* * * * *

Passed, adopted and resolved by the Board of Trustees, at a meeting at which a quorum was present and a majority of the trustees voting for and at which meeting this resolution, in written form, was before the Board at the time of its adoption.

ADOPTED on the 16th day of February, 2022.

LAKE TRAVIS INDEPENDENT SCHOOL DISTRICT

_____

John Aoueille
President, Board of Trustees

ATTEST:

_____

Lauren White
Secretary, Board of Trustees

(DISTRICT SEAL)

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Superintendent's Employment Contract

RECOMMENDED ACTION
Approval of the revisions to the Superintendent's Employment Contract as discussed at the January 26, 2022 board meeting.

RATIONALE

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
John Aoueille – President, LTISD Board of Trustees
Paul Norton – Superintendent of Schools

ATTACHMENTS
Superintendent's Employment Contract

MEETING DATE
February 16, 2022

SUPERINTENDENT'S EMPLOYMENT CONTRACT

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

THIS SUPERINTENDENT'S EMPLOYMENT CONTRACT ("Contract") is made and entered into by and between the Board of Trustees (the "Board") of the Lake Travis Independent School District (the "District") and Paul A. Norton ("Superintendent").

WITNESSETH:

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of the terms hereinafter established and pursuant to Section 11.201(b) and Chapter 21, Subchapter E of the Texas Education Code, have agreed, and do hereby agree, as follows:

I. Term

1.1 Term. The Board, by and on behalf of the District, does hereby employ the Superintendent, and the Superintendent does hereby accept employment as Superintendent of Schools for the District for a term of three (3) years, commencing on January 1, 2021 and ending on December 31, 2023. Each Contract year during the term of this Contract, or any renewal or extension thereof, shall commence on January 1st of each calendar year and run through December 31st of the following calendar year. The District may, by action of the Board, and with the consent and approval of the Superintendent, extend the term of this Contract as permitted by state law. Any such extension shall be set forth in an addendum to this Contract, which addendum shall be a part hereof for all purposes. Failure to extend the Contract shall not constitute nonrenewal under Board policy. The Superintendent does not have a property or liberty interest, or any other legally recognized and/or protected interest or expectation, in such extension by the Board.

1.2 No Tenure. The Board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this Contract. No property interest, express or implied, is created in continued employment beyond the Contract term.

II. Employment

2.1 Duties. The Superintendent is the chief executive of the District and shall faithfully perform the duties of the Superintendent of Schools for the District as prescribed in the job description and as may be lawfully assigned by the Board, and shall comply with all lawful Board directives, state and federal law, district policy, rules, and regulations as they exist or may hereafter be adopted, enacted, or amended. Specifically, it shall be the duty of the Superintendent to recommend for employment all professional employees of the District subject to the Board's approval. It shall be the further duty of the Superintendent to employ all other personnel consistent

with the Board's Policies. It shall be the further duty of the Superintendent to direct, assign, reassign, and evaluate of all the employees of the District consistent with Board policies and federal and state law. It shall be the further duty of the Superintendent to organize, reorganize, and arrange the staff of the District, and to develop and establish administrative regulations, rules, and procedures which the Superintendent deems necessary for the efficient and effective operation of the District consistent with the Board's lawful directives, the Board's policies, and state and federal law. It shall be the further duty of the Superintendent to accept all resignations of employees of the District consistent with the Board's policies, except the Superintendent's resignation, which must be accepted by the Board. The Superintendent shall perform the duties of the Superintendent of Schools for the District with reasonable care, diligence, skill and expertise. All duties assigned to the Superintendent by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent.

2.2 Professional Certification. The Superintendent shall at all times during the term of this Contract, and any renewal or extension thereof, hold and maintain a valid certificate required of a superintendent by the State of Texas and issued by the State Board for Educator Certification or the Texas Education Agency and all other certificates required by law.

2.3 Reassignment. The Superintendent may not be reassigned from the position of Superintendent to another position without the Superintendent's express written consent.

2.4 Board Meetings. Unless otherwise prohibited by law, the Superintendent shall attend, and shall be permitted to attend, all meetings of the Board, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on the Contract or the Superintendent's salary and benefits as set forth in this Contract, or the Superintendent's evaluation, or for purposes of resolving conflicts between individual Board members, or when the Board is acting in its capacity as a tribunal. In the event of illness or Board President approved absence, the Superintendent's designee may attend such meetings, subject to the exceptions noted above.

2.5 Criticisms, Complaints, and Suggestions. The Board, individually and collectively, shall refer all substantive criticisms, complaints, and suggestions called to the Board's attention to the Superintendent for study and appropriate action, and the Superintendent shall investigate such matters and inform the Board of the results of such action.

2.6 Indemnification. To the extent it may be permitted to do so by applicable law, including, but not limited to Texas Civil Practice & Remedies Code Chapter 102, the District does hereby agree to defend, hold harmless, and indemnify Superintendent from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings brought against Superintendent in the Superintendent's individual or official capacity as an employee and as a Superintendent of the District, providing the incident(s), which is (are) the basis of any such demand, claim, suits, actions, judgments, expenses and attorneys' fees, arose or does arise in the future from an act or omission of Superintendent as an employee of the District, acting within the course and scope of Superintendent's employment with the District; excluding,

however, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Superintendent committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith, with conscious indifference or reckless disregard; and excluding any costs, fees, expenses or damages that would be recoverable or payable under an insurance contract, held either by the District or by Superintendent. The selection of Superintendent's legal counsel shall be with the mutual agreement of Superintendent and by the District if such legal counsel is not also District's legal counsel. A legal defense may be provided through insurance coverage, in which case Superintendent's right to agree to legal counsel provided for him will depend on the terms of the applicable insurance contract. To the extent this Section 2.6 exceeds the authority provided and the limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly. The provisions of this Section 2.6 shall survive the termination of this contract.

III. Compensation

3.1 Salary. The District shall provide the Superintendent with an annual base salary in the sum of Three Hundred and Twenty-Five Thousand Dollars ($325,000.00). The annual salary rate approved by the Board shall be paid to the Superintendent in equal installments consistent with the Board's policies.

3.2 Salary Adjustments. During the term of this Contract, or any renewal or extension thereof, the Superintendent shall, on September 1 of each school year, receive the same percentage increase in his then base salary as is received for that school year by full-time classroom teachers, unless the Superintendent notifies the Board President in writing that he has elected not to receive all or a portion of this increase. At any time during the term of this Contract, the Board may, in its discretion, review and adjust the salary of the Superintendent, but in no event shall the Superintendent be paid less than the amount in Section 3.1 of this Contract, except by mutual agreement of the two pursuant to a lawful Board resolution. In such event, an addendum shall be attached to this Contract incorporating the adjusted salary.

3.3 Civic Activities. The Superintendent is encouraged to participate in community and civic affairs. The reasonable and actual expense of such activities, subject to Board approval, shall be borne by the District from funds budgeted for that purpose by the Board.

3.4 Insurance. The District shall pay for the Superintendent the same premium contribution amount of coverage under the District's group health care plan that the District makes available to every employee.

3.5 Vacation, Holiday and Personal Leave. The Superintendent may take, at the Superintendent's choice, with prior notice to the Board President, the same number of days of vacation authorized by policies adopted by the Board for administrators on twelve-month contracts, the days to be taken in a single period or at different times. The vacation days taken by the Superintendent will be taken at such time as will least interfere with the performance of the Superintendent's duties set forth in this Contract. The Superintendent shall observe the same legal

holidays as provided by Board policies for administrative employees on twelve-month contracts. All accrued, but unused personal leave days and vacation days shall carry over from year to year. Upon termination of employment, all unused vacation and personal leave days accumulated, but unused, by the Superintendent during his employment by the District will be paid in lump sum to the Superintendent at the Superintendent's then current daily rate of pay calculated by dividing the Superintendent's salary as reported to TRS divided by two hundred and twenty-four (224) das of service per year (less applicable deductions, including withholding taxes). However, the Superintendent shall be required to receive payment for a minimum of one-third of his currently accumulated, unused vacation and personal leave days annually at the end of each Contract year. The value of any accumulated, unused vacation and personal leave days remaining upon termination of this Contract shall be paid to the Superintendent or his survivors within 30 days of termination date of the Contract (less applicable deductions, including withholding taxes).

3.6 Professional Growth. The Superintendent shall devote the Superintendent's time, attention, and energy to the direction, administration, and supervision of the District. The Board, however, encourages the continued professional growth of the Superintendent through the Superintendent's active attendance at and participation in appropriate professional meetings at the local, regional, state and national levels. The Board shall encourage the use of data and information sources, and shall encourage the participation of the Superintendent in pertinent education seminars and courses offered by public or private institutions or by educational associations, as well as the participation in informational meetings with those individuals whose particular skills, expertise, or backgrounds would serve to improve the capacity of the Superintendent to perform the Superintendent's professional responsibilities for the District. In its encouragement of the Superintendent to grow professionally, the Board shall permit a reasonable amount of release time for the Superintendent as the Superintendent and the Board deem appropriate, to attend such seminars, courses or meetings. The District does hereby agree to provide in the District's budget during the term of this Contract for the benefit of the Superintendent, a professional development budget per Contract year to be used for registration, travel, meals, lodging, and other related expenses. The District shall pay the Superintendent's membership dues to the Texas Association of School Administrators, as well as other memberships necessary to maintain and improve the Superintendent's professional skills. The District shall bear the reasonable cost and expense for such attendance and membership.

3.7 Educational Development. The Board supports this educational development by the Superintendent and believes that the attainment of a doctorate degree will enhance his professional knowledge and leadership of the District. Upon enrollment and working toward a doctorate degree, the Superintendent shall be entitled to an additional ten (10) educational development leave days per year for this purpose. These leave days shall be accounted for separate from the Superintendent's other leave, they may not be accumulated from year to year, and they may not be exchanged for compensation at any time. These educational development leave days shall be used by the Superintendent solely for his work toward a doctorate degree and shall be taken at times that do

not interfere with the performance of his duties as Superintendent. The Superintendent shall periodically report to the Board his progress toward a doctorate degree.

3.8 Business Expenses. The District shall pay for or reimburse the Superintendent for reimbursable expenses incurred by the Superintendent in the continuing performance of the Superintendent's duties under this Contract from funds budgeted for that purpose by the Board. The District also agrees to pay the actual and incidental costs incurred by the Superintendent for travel outside of the Lake Travis Independent School District attendance zone; such costs may include, but are not limited to, airline tickets, hotels and accommodations, meals, mileage, rental car and other expenses incurred in the performance of the business of the District. The Superintendent shall comply with all policies, procedures and documentation requirements in accordance with the Board policies and established procedures. Annually, the Superintendent's business expenses will be subject to review by the District's independent auditors. In addition, the Superintendent shall submit a quarterly report on his business expenses to the Board.

3.9 Teacher Retirement System of Texas. The District shall supplement the Superintendent's annual salary by an amount equal to one-hundred percent (100%) of the Superintendent's portion of the monthly member contribution to the Texas Teacher Retirement System ("TRS") for the term of this Contract, with any extensions made by the Board for performance of Superintendent duties. This supplement shall include both the retirement and TRS-Care parts of the TRS member contribution, as applicable. This additional salary supplement shall be paid to the Superintendent in regular monthly payroll installments and shall be reported as "creditable compensation" by the District for purposes of TRS, to the extent permitted by TRS.

3.10 Supplemental Retirement Plan. For each payroll period during the Term of this Contract beginning January 1, 2022, including any extensions thereof, the District shall add to the Salary of the Superintendent the amount necessary to contribute fifty percent (50%) of the maximum combined voluntary contribution amount allowable under Section 402(g) of the Code for a 403(b) and a 457(b) Plan, at the beginning of the Contract year, as indexed, including the age 50 catch-up, if applicable. One-twelfth of this amount shall be paid as a monthly salary deferral contribution, at the election of the Superintendent, to a plan established by the District under Section 403(b) and/or Section 457(b) of the Code. ("Additional Salary"). In the event the Superintendent executes a salary deferral agreement in accordance with the requirements of Sections 403(b) and/or 457(b) of the Internal Revenue Code (the "Code") in at least the amount of the Additional Salary, the Additional Salary shall be paid as a salary deferral contribution ("Salary Deferral Contribution"). Under and pursuant to applicable Internal Revenue Service rules the Superintendent shall have the option to elect to receive the Additional Salary in cash rather than as a Salary Deferral Contribution. All such Salary Deferral Contributions contemplated herein shall be paid to a plan established by the District under Section 403(b) and/or Section 457(b) of the Code. Such plans shall include investments as allowed under Sections 403(b), 403(b)(7) and/or 457(b) of the Code, respectively, and the investments for the Superintendent's accounts shall be solely at his discretion. The Superintendent shall always be 100% vested in his account under the 403(b) and/or 457(b) plan. The Salary Deferral Contributions contemplated herein shall be treated as salary deferrals under the Code and shall be reported as "creditable compensation" by the District for purposes of the Teacher Retirement System of Texas. No payments under this Section shall be made after the Superintendent's employment terminates.

3.11 Longevity Pay. In order to encourage continuity of leadership in the District, the

District wishes to provide additional compensation to the Superintendent as a reward for reaching certain longevity goals. This longevity payment shall be made as follows:

(a) For each contract year of service with the District, the District shall supplement the Superintendent's monthly salary by 3% of the Superintendent's annual salary and shall be paid to the Superintendent by regular payroll installments for twelve months beginning on January 1, 2022 and shall be reported as creditable compensation to TRS.

3.12 Information Technology/Communications. The District shall provide the Superintendent with a personal cellular telephone and/or personal digital assistant (PDA) with nationwide coverage, a laptop and a printer, and a wireless router, which he may use for his business and personal purposes, provided that any personal use of such equipment shall not interfere with its business use, and further provided that the Superintendent shall not use such equipment for any personal purposes that are inconsistent with or prohibited by District policies, regulations or Board directives, or by state or federal law, for use of property owned by the District.

3.13 Primary Residence. The Superintendent shall maintain his primary residence within the geographical boundaries of the District during the term of this Contract, and any extension or renewal thereof.

3.14 Annual Physical Examination. The Superintendent shall undergo an annual physical examination by the Superintendent's primary care physician, or other physician mutually acceptable to the Superintendent and the Board President. The physician shall submit a confidential statement to the Board President verifying the Superintendent's fitness to perform the essential functions of his job, and copies of all such statements shall be confidential to the extent permitted by law. The District shall pay all actual and reasonable costs of the annual physical examination. The examination shall be performed on or before November 1st of each year of this Contract, and any extension or renewal thereof.

IV. Annual Performance Goals

4.1 Development of Goals. The Superintendent shall submit to the Board each year, for the Board's consideration and adoption, a preliminary list of goals for the District. The goals approved by the Board shall at all times be reduced to writing and shall be among the criteria on which the Superintendent's performance will be reviewed and evaluated.

V. Review of Performance

5.1 Time and Basis of Evaluation. The Board shall evaluate and assess in writing the performance of the Superintendent at least once each year during the term of this Contract. The evaluation and assessment shall be reasonably related to the duties of the Superintendent as outlined in the Superintendent's job description and the goals adopted by the Board.

5.2 Confidentiality. Unless the Board and Superintendent expressly agree otherwise in writing, the evaluation of the Superintendent shall at all times be conducted in closed session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

5.3 Evaluation Format and Procedures. The evaluation format and procedure shall be in accordance with the evaluation instrument selected by the Board in accordance with the provisions of Article V of this Contract, the Board's policies, and state and federal law. In the event the Board deems that the evaluation instrument, format and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

VI. Extension or Nonrenewal of Employment Contract

6.1 Extension/Nonrenewal. Extension or nonrenewal shall be in accordance with Board policy, Texas Education Code Chapter 21, Subchapter E, and applicable law. Notwithstanding anything to the contrary in Section 21.212(a) of the Texas Education Code, the Superintendent shall be entitled to written notice not later than the 45th day before the last day of the Contract term, containing reasonable notice of the reason(s) for the proposed non-renewal of the Superintendent's Contract with the District.

VII. Termination of Employment Contract

7.1 Mutual Agreement. This Contract may be terminated by the mutual agreement of the Superintendent and the Board in writing, upon such terms and conditions as may be mutually agreed upon.

7.2 Retirement or Death. This Contract shall be terminated upon the retirement or death of the Superintendent.

7.3 Dismissal for Good Cause. The Board may dismiss the Superintendent during the term of the Contract for good cause. The term "good cause" is defined as follows:

a. Failure to fulfill duties or responsibilities as set forth under the terms and conditions of this Contract;
b. Incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written communication from the Board; provided, however, the terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent a reasonable opportunity to remediate any incompetency or inefficiency.
c. Insubordination or failure to comply with lawful written Board directives;
d. Willful failure to comply with written Board Policies or District administrative directives;
e. Neglect of duties;
f. Drunkenness or excessive use of alcoholic beverages;
g. Illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
h. Conviction of a felony or crime involving moral turpitude;
1. Failure to meet the District's standards of professional conduct;
j. Failure to comply with reasonable District professional development requirements regarding advanced course work or professional development
k. Disability, not otherwise protected by law, that substantially impairs the Superintendent's performance of required duties;
l. Immorality, which is conduct not in conformity with the accepted moral standards of the community encompassed by the District. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency or depravity;
m. Assault on an employee or student;
n. Knowingly falsifying records or documents related to the District's activities;
o. Conscious misrepresentation of material facts to the Board or other District officials in the conduct of the District's business;
p. Failure to fulfill requirements for the Superintendent certification;
q. Failure to fulfill the requirements of a deficiency plan; or,
r. Any other reason constituting "good cause" under Texas law.

7.4 Termination Procedure. In the event the Board proposes the termination of this Contract for "good cause," the Superintendent shall be afforded all the rights as set forth in the Board's policies, and state and federal law.

7.5 Resignation of Superintendent. The Superintendent may leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following school year. The Superintendent may resign, with the consent of the Board, at any other time.

Article VIII. Miscellaneous

8.1 Controlling Law. This Contract shall be governed by the laws of the State of Texas and shall be performable in Travis County, Texas, unless otherwise provided by law.

8.2 Complete Agreement. This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties, except as expressly provided herein.

8.3 Conflicts. In the event of any conflict between the terms, conditions and provisions of this Employment Contract and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.

8.4 Savings Clause. In the event any one or more of the provisions contained in this Contract shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. All existing agreements and contracts, both verbal and written, between the parties hereto regarding the employment of the Superintendent have been superseded by this Contract, and this Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract.

LAKE TRAVIS INDEPENDENT SCHOOL DISTRICT

By: _____
John Aoueille, President
Board of Trustees, Lake Travis ISD

Attest:

By: _____
Lauren White, Secretary
Board of Trustees, Lake Travis ISD

Executed this _____ day of _____ , 2022

Superintendent

By: _____

Paul Norton

Executed this _____ day of _____ , 2022

AGENDA ITEM ACTION SHEET

AGENDA ITEM
2022-2023 Off-Campus Physical Education Providers

RECOMMENDED ACTION
For approval with consent agenda.

RATIONALE
Students may request a waiver to substitute physical education training from an outside provider for a LTISD physical education class provided the student meets the following criteria:

1. The student will be participating in a program provided through an approved physical education provider.
2. The student's participation level meets the requirements of one of the following categories:
   Category 1 = Student must be participating in a program for a minimum of 15 hours per week of highly intense, professionally supervised training that leads to an Olympic level of participation and/or competition. Student may be dismissed from school one period per day.
   Category 2 = Students must be participating in a program that is of high quality, well supervised by appropriately trained instructors, and consisting of a minimum of 5 hours per school week. Student can receive a P.E. credit, but may not leave campus for any portion of the day.

Each year, the board is asked to approve the list of new off campus physical education providers. The list of providers for the 2022-2023 academic year is attached.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Jennifer Lyon - Director of Health and Social Emotional Learning

ATTACHMENTS
List of off campus physical education providers for 2022-2023 academic year

MEETING DATE
February 16, 2022

Currently Approved Off-Campus Physical Education Providers
2021-2022

Activity	Providers	Description
Baseball	Hill Country Baseball Club	Category I and II training in hitting, pitching, fielding, throwing, catching, arm care, speed and agility conditioning, as well as gameplay and strategy aspects of baseball
Dance	West Austin Dance Academy Alissa' Dance Academy Ballet Austin Dance Inst Performance Acad TexArts O'Hara Dance Agency 620 Dance Centre Zach Theatre Pre Professionals Balance ONE Academy PAIYH Grace Ballet The Dance Spot Premiere Dance Center	Dance Training that includes 15 hours/ week for Category I or 5 hours/week for Category II; training can include ballet, tap, jazz, contemporary styles as well as workouts to build core
Equestrian	Madrone Ranch Stable Longhorn Polo Center Westridge Farms Paul Cates Stables Cooper Hill Show Jumpers Bee Cave Riding Center L&D Farms Carragio Equestrian Glendaloch Farms Lazy Rockin B Riding Center Little Green Barn Countyline Polo Bel Canto Farms XLR8 Ranch Rio Vista Farm Southern Way Farm Galloping Springs Ranch- Ashley Shaw Dressage	Equestrian Training that includes 15 hours/ week for Category I or 5 hours/week for Category II; training can cardiovascular training to assist in more agility on the horse, as well as riding, jumping and caring for the animal
Golf	Falcon Head Golf Course Spanish Oaks Golf Club The Academy of Golf Dynamics World of Tennis (Hills) Golf River Place Country Club The Hills Golf Austin Golf Institute The UT Golf Club The Hills Country Club Garry Rippy, PGA	Golf Training that includes 15 hours/ week for Category I or 5 hours/week for Category II; training can cardiovascular training to assist in more agility as well as working on improving golf swing through muscle movement activities

Activity	**Providers**	**Description**
Gymnastics	Flipnastics Gymact National Elite Gymnastics Champions Westlake Crenshaw Athletic Club Moxie Austin Tumbling Academy Cheer Athletics Austin AcroTex Gymnastics Austin Elite Gymnastics (formerly Champions, TX) Electric Avenue Acro Tumble Tech Powerhouse Cheer & Fitness	Gymnastic Training that includes 15 hours/ week for Category I or 5 hours/week for Category II; training can cardiovascular training to assist in more agility as dance training, weight lifting and overall core training.
Lacrosse	LT Boys Lacrosse LT Girls Lacrosse Austin Girls Lacrosse	Lacrosse training that includes cardiovascular workouts along with strength training
Swimming	Nitro Swimming UT Longhorn Aquatics Austin Swim Club Lost Creek Aquatics Lakeway Aquatic Physical Therapy	Swim Training that includes 15 hours/week for Category I or 5 hours/week training that includes cardiovascular workouts along with strength and core training.
Tennis	Austin Tennis Academy Brian McPhee, Tennis Pro Cross Court Tennis Mac 360 World of Tennis (the Hills) Grey Rock Tennis Club UT Tennis Club The Hills Country Club ATX D3 Tennis Pollo Tennis	Tennis Training that includes 15 hours/week for Category I or 5 hours/week training that includes cardiovascular workouts along with strength and core training
Martial Arts	Lakeway Tae Kwan Do	Martial Arts Training that includes 15 hours/week for Category I or 5 hours/week training including cardiovascular workouts along with strength and core training
Soccer	Lonestar Soccer Club Austin Texans Soccer Club Hill Country Indoor Soccer Academy One World Soccer Dundee Juniors of Central TX Austin FC	Soccer Training that includes 15 hours/week for Category I or 5 hours/week training that includes cardiovascular workouts along with strength and core training

Rowing and Sailing	Austin Rowing Club Texas Rowing Center Austin Yacht Club	Team Rowing Training that includes 15 hours/week for Category I or 5 hours/week training that includes cardiovascular workouts along with strength and core training
Volleyball	Austin Performance Volleyball Austin Juniors VB Austin Skyline Juniors Project Serve Beach Volleyball Roots Volleyball TX Volleyball Tour	Volleyball Training that includes 15 hours/week for Category I or 5 hours/week training that includes cardiovascular workouts along with strength and core training
Activity	**Providers**	**Description**
Miscellaneous	Xcleration Sports Performance LT Mountain Biking Club(s) Chaparrel Ice: Hockey and Figure Skating Doug Lang MX School (The Summit Bike Club) Helix Elite Performance Round Rock Fencing Club Lake Travis Racing Mt. Biking Hill Country Indoor Sports and Fitness Athletic Training Capital City Strength and Conditioning G10 Academy *The Summit Bike Club* Coach Ahmadi Cycling Team Texas Climbing- Ahmed Toure Emperical Fitness	Various Trainings that includes 15 hours/week for Category I or 5 hours/week training that includes cardiovascular workouts along with strength and core training *Summit=Category 1 only*

Off Campus Physical Education Providers: Requesting Local Board Approval for 2022-2023 School Year

Activity	Providers	Description
Ice Skating	McLaughlin Elite Skating Academy	Ice Skating training that includes 15 hours/ week for Category I or 5 hours/week for Category II; cardiovascular training to assist in balance, agility and ballet, strength and conditioning, jumps, etc.
Miscellaneous	Camp Gladiator	Category II only training that includes cardiovascular workouts along with strength and core training
Gymnastics	Capital Gymnastics Cedar Park	Gymnastic Training that includes 15 hours/ week for Category I or 5 hours/week for Category II; cardiovascular training to assist in more agility as dance training, weight lifting and overall core training.

LAKE TRAVIS INDEPENDENT SCHOOL DISTRICT

AGENDA ITEM ACTION SHEET

AGENDA ITEM
Locally Approved Courses for UIL No Pass/No Play Exemptions

RECOMMENDED ACTION
For approval with consent agenda.

RATIONALE
The following courses are identified as advanced and, as such, eligible for exemption as noted in section 33.081 of the Texas Education Code:

- Any College Board Advanced Placement (AP) Course or International Baccalaureate (IB) Course and;
- Honors and high school/college concurrent enrollment classes (that are included in Part One of the "Community College General Academic Course Guide Manual) in the subject areas of English Language Arts, Mathematics, Science, Social Studies, Economics or language other than English.

Local districts are permitted to establish other courses that are also exempt from UIL No-Pass/No-Play regulations. The locally-determined courses must be approved by the Board of Trustees. The attached list includes the courses that the administration recommends for UIL No-Pass/No-Play exempt status.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Carl McLendon - Director of Curriculum & Instruction, Secondary

ATTACHMENTS
1. List of Locally Approved Courses for UIL No Pass/No Play Exemptions

MEETING DATE
February 16, 2022

Lake Travis ISD Pre-AP, AP, Dual Credit/Enrollment, Honors and Advanced Honors Courses
UIL No Pass/No Play Exemption policy for 2022-23

Pre-AP/Honors Courses

- Algebra I Pre-AP
- Geometry Pre-AP
- Algebra II Honors
- Precalculus Honors
- Biology Pre-AP
- Chemistry Pre-AP
- English 1 Pre-AP
- English 2 Pre-AP
- World Geography Pre-AP
- Spanish Honors
- French Honors
- Latin III Honors
- American Sign Language Honors

AP Courses

- AP English III
- AP English IV
- AP Statistics
- AP Calculus AB
- AP Calculus BC
- AP Computer Science Principles
- AP Computer Science A
- AP Physics 1&2
- AP Physics C
- AP Biology
- AP Chemistry
- AP Environmental Science
- AP Human Geography
- AP World History
- AP United States History
- AP United States Government

- AP Macroeconomics
- AP Microeconomics
- AP European History
- AP Psychology
- AP Research
- AP Seminar
- AP Spanish IV
- AP Spanish V
- AP Latin IV
- AP Art 2D Drawing and Painting
- AP Art 3D Art and Design
- AP Art History
- AP Music Theory

Dual Credit/Enrollment Courses

- English 1301 English Composition I (ACC Dual-Credit)
- English 1302 English Composition II (ACC Dual-Credit)
- English 2323 British Literature 18th Century to the Present (ACC Dual-Credit)
- Rhetoric and Writing RHE306 & RHE309K (University of Texas OnRamps Dual-Enrollment)
- Math 1314 College Algebra (ACC Dual-Credit)
- College Algebra A Bridge to Abstraction: A College Algebra Course Containing Algebra II (University of Texas OnRamps Dual-Enrollment)
- Math 1324 Mathematics for Business and Economics (ACC Dual-Credit)
- Math 1332 Contemporary Mathematics (ACC Dual-Credit)
- Discovery Precalculus: Preparation for Calculus (University of Texas OnRamps Dual-Enrollment)
- Elementary Statistical Methods (University of Texas OnRamps Dual-Enrollment)
- Physics I: Mechanics, Heat, and Sound + Lab (University of Texas OnRamps Dual-Enrollment)
- GEOL 1301 Natural Hazards & Disasters (ACC Dual-Credit)
- Geoscience: Earth, Wind, and Fire (University of Texas OnRamps Dual-Enrollment)
- United States History 1492-1865 and U.S. Since 1865 (University of Texas OnRamps Dual-Enrollment)
- HIST 1301 United States History (ACC Dual-Credit)
- GOVT 2305 United States Government (ACC Dual-Credit)
- GOVT 2306 Texas State and Local Government (ACC Dual-Credit)
- ANTH 2351 Cultural Anthropology (ACC Dual-Credit)
- SOCI 1301 Introduction to Sociology
- Computer Science: Thriving In Our Digital World (University of Texas OnRamps Dual-Enrollment)

- Quantum Computing (University of Texas OnRamps Dual-Enrollment)
- Foundations of Arts and Entertainment Technologies (University of Texas OnRamps Dual-Enrollment)
- MUSI 1311 Music Theory (ACC Dual-Credit)

Honors Elective Courses

- Anatomy & Physiology (Science Credit)
- Aquatic Science (Honors) (Science Credit)
- Digital Electronics (Math Credit)
- Discovery (Gifted & Talented)
- English IV: Shakespeare Selected Plays Honors
- English IV: Literary Criticism 19th Century British Literature Honors
- English IV: Literary Criticism 20th Century British Literature Honors
- Medical Microbiology & Immunology (Science Credit)
- Pathophysiology (Science Credit)
- Science Research and Design for Chemistry (Science Credit)
- Science Research and Design for STEM (Science Credit)
- Principles of Engineering (Science Credit)
- Engineering Design & Development (Science Credit)

Advanced Honors Courses

- French V
- Latin V
- Multivariable Calculus
- Linear Algebra

LAKE TRAVIS INDEPENDENT SCHOOL DISTRICT

AGENDA ITEM ACTION SHEET

AGENDA ITEM
2022-2023 Innovative Course Approval

RECOMMENDED ACTION
For approval with consent agenda.

RATIONALE
The Texas Administrative Code, Section 74.27, Innovative Courses and Programs, allows districts to offer state-approved innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum. With the approval of the local Board of Trustees, school districts may offer any state-approved innovative course for state elective credit. No application is required for a district or school to offer one of these courses. Currently, with the approval of the Board of Trustees, students enrolled in the courses listed below would earn state elective credit which would be applied toward these graduation requirements.

Course Name	PEIMS #	Course Name	PEIMS #
G/T Independent Study Mentorship I-III	N1290309 N1290313 N1290317	Forensic Psychology	N1303012
Multivariable Calculus	N1110018	Sports Medicine I-III	N1150040 N1150041 N1150044
Linear Algebra	N1110021	Strategic Learning for High School Math	N1110030
Music & Media Communications I-II	N1170160 N1170161	Student Leadership	N1290010
Path College Career I-IV	N1290051 N1290052 N1290053 N1290054	Theatre & Media Communications I-II	N1170170 N1170171
Peer Assistance & Leadership I-II	N1290005 N1290006	Introduction to Engineering Design	N1303742
Entrepreneurship II	N1303423	Civil Engineering & Architecture	N1303747
Science of Nursing	N1302120	Engineering Design and Dev	N1303749
AP Seminar AP Research	N1130026 N1100014	Gateway	N1303756 N1303757 N1303758 N1303759
Practicum in Entrepreneurship	N1303425	Geographic Information Systems	N1302805
Marketing	N1303424	Raster Based GIS	N1302806
Sports & Entertainment Marketing II	N1303422	Spatial Technology & Remote Sensing	N1302807
Retail Management	N1303420	IT Troubleshooting	TBD
Introduction to Event & Meeting Planning	N1302269	Internetworking Technologies I	N1302803
Tourism Marketing Concepts & Applications	N1302270	Internetworking Technologies II	N1302804

Practicum in Event & Meeting Planning	N1302275	Advanced Cloud Computing	N1302813
Child Development Associate Foundations	N1300500	Programmable Logic Controller I	N1303689
Communication & Technology in Education	N1300510	Programmable Logic Controller II	TBD
Special Populations	TBD	Introduction to C# Programming Applications	N1302812
Practicum in Early Learning	TBD		
Principles of Exercise & Wellness	N1303107	Computer Integrated Manufacturing	N1303748
Kinesiology I	N1302104	Principles of Biomedical Science	N1302092
Kinesiology II	N1302124	Human Body Systems	N1302093
Medical Intervention & Evaluation	TBD	Medical Interventions	N1302094
Healthcare Information Systems & Management	TBD	Biomedical Innovation	N1302095
Imaging & Technology I	TBD	Introduction to Renewable Energy	TBD
Imaging & Technology II	TBD	Environmental Sustainability	N1303746
Medical Assistant	TBD	Practicum in Energy	TBD
Leadership & Management in Nursing	TBD	Legal Research & Writing	N1303014
Practicum in Nursing	TBD	Advanced Legal Skills & Professions	N1303016

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Lori Wristers - Coordinator Curriculum and Instruction, Secondary Career & Technical Education
Carl McLendon - Director of Curriculum and Instruction, Secondary

ATTACHMENTS
None

MEETING DATE
February 16, 2022

AGENDA ITEM ACTION SHEET

AGENDA ITEM
January 18, 2022 Board Meeting Minutes

RECOMMENDED ACTION
For approval with consent agenda.

RATIONALE
Minutes for each Board meeting shall be approved and on file in the Superintendent's office.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Suzanne Kelbaugh - Administrative Assistant to Superintendent

ATTACHMENTS
January 18, 2022 Board Meeting Minutes

MEETING DATE
February 16, 2022

Minutes of Board Meeting
The Board of Trustees
Lake Travis Independent School District
A meeting of the Board of Trustees of Lake Travis Independent School District was held on January 18, 2022, beginning at 6:00 p.m. in the Educational Development Center, Live Oak Room, 607 RR 620 North, Austin, Texas 78734.

Call to Order
President John Aoueille called the meeting to order at 6:00 pm.

Quorum Determination
Trustees in attendance were John Aoueille, Kim Flasch, Bob Dorsett, William Beard, and Phillip Davis. Absent Trustees Lauren White, Jessica Putonti.

Pledge of Allegiance and Moment of Silence
Izzy Zuela, led the Pledge of Allegiance. A moment of silence was then observed.

Recognition
- **School Board Recognition Month – Rising Above**
  Mr. Norton recognized school board members John Aoueille, President; Bob Dorsett, Jr., Vice President; Lauren White, Secretary; and Trustees Kim Flasch, Phillip Davis, Jessica Putonti and William Beard. The theme "Rising Above "was chosen by the Texas Association of School Boards to recognize and thank school trustees for their service throughout January 2022 as a part of School Board Recognition Month.

Public Comments/Citizen Participation
1. Corina Semph - CRT
2. Christi Hasselberg – Child Safety
3. Israel Zuela – Education and Health
4. Shannon Norris – LPE
5. Jami Keller – LPE Administration
6. Laura Nova – LPE Administration
7. Andrea Wilder - LPE

Public Hearing
- **2020-2021 Texas Academic Performance Report Public Hearing**
  Kathy Burbank, Director of Accountability presented the 2020-2021 Annual Performance Report (TAPR).

Presentation / Discussion Items
- **Presentation by TransCend4 Regarding Bond Committee Facilitation Services**
  Paul Norton, Superintendent, introduced Dr. Lizzy Johnson, founder of TransCend4, to the Board of Trustees and community regarding the bond committee facilitation process services that her company can provide to the district as it prepares for the calling of a bond election in November 2022. The cost for the bond facilitation services are approximately $45,000.

This item was for discussion/presentation only; no action was requested.

- **Population and Survey Analysts (PASA) 2022 Demographic Update**
  Mr. Norton, Superintendent, and Pam Sanchez, Assistant Superintendent of Business Services, presented that Lake Travis ISD is a fast growth district, and as such, must be diligent in anticipating the programming and facilities needs of the District. Administration's ability to accurately forecast and plan for the needs of Lake Travis students requires timely and meaningful data, and demographic studies serve as one source of the needed information. Population and Survey Analysts (PASA) is highly regarded as one of the premier demographers in the state. PASA representatives presented to the Board of Trustees a summary of their findings at tonight's meeting.

This item was for discussion/presentation only; no action was requested.

- **Debt Management Update**
  The District's financial advisor, RBC Capital Markets, LLC will complete the redemption of $21,690,000 in outstanding callable obligations from its Unlimited Tax School Building Bonds, Series 2012 and Variable Rate Unlimited Tax School Building Bonds, Series 2018B. By aggressively paying down the district's debt service requirements, Lake Travis Independent School District is able to save the citizens of the district interest and also build capacity for future bond programs. Including the upcoming defeasance, the district will have early retired approximately $87.9 million and refinanced $256.6 million since 2013, saving the taxpayers approximately $97.3 million of interest over the life of the outstanding bonds.

This item was for discussion/presentation only; no action was requested.

- **December 2021 Monthly Financial Reports-Statement of Revenues and Expenditures, Balance Sheet, Tax Statement, and 2018 Capital Projects Report**
  Pam Sanchez, Assistant Superintendent of Business Services, presented the following documents:

  1. Statement of Revenues and Expenditures-December 2021
  2. Balance Sheet-December 2021
  3. Tax Statement-December 2021
  4. 2018 Capital Projects Report-December 2021

This item was for discussion/presentation only; no action was requested.

- **2022-2023 Preliminary Budget Overview**
  Ms. Sanchez, Assistant Superintendent of Business Services, presented the 2022-2023 Preliminary Budget to serve as a starting point for budget discussions.

This item was for discussion/presentation only; no action was requested.

- **2022-2023 Off Campus Physical Education Providers**
  Jennifer Lyon, Director of Health and Social Emotional Learning, presented a list of off-campus physical education providers for the 2022-2023 school year.

This item was for discussion only; action will be requested at the February 16, 2022 meeting.

- **Locally Approved Courses for UIL No Pass/No Play Exemptions**

Carl McLendon, Director C&I – Secondary, presented a list of locally approved courses for UIL No Pass/No Play Exemptions.

This item was for discussion only; action will be requested at the February 16, 2022 meeting.

- **2022-2023 Innovative Course Approval**
  Mr. McLendon presented an updated list of innovative courses and programs for the 2022-2023 school year.

This item was for discussion only; action will be requested at the February 16, 2022 meeting.

Consideration Items

- **Order Calling the May 7, 2022 Board of Trustees Election**
  Ms. Sanchez stated under Election Code the Board must order the election to fill positions designated on the school board as Places 3, 4, and 5 for full three-year terms.

A MOTION was made by Trustee William Beard and seconded by Trustee Bob Dorsett to approve the order calling the May 7, 2022 Board of Trustees Election.

The motion passed by a vote of 5 -0.

- **Selection of Flynn Construction as Contractor for the CMR-12 Serene Hills Elementary Renovation Project for the Summer of 2022**
  Mr. Winovitch, Director of Facilities and Construction, presented that they selected Flynn Construction as Contractor for the CMR-12 Serene Hills Elementary School Renovation Project for the Summer of 2022.

A MOTION was made by Trustee Kim Flasch and seconded by Trustee Phillip Davis to approve the selection of Flynn Construction as general contractor for the CMR-12 Serene Hills Elementary School Renovation Project for the Summer of 2022 and authorize the Superintendent or designee to negotiate and execute a contract.

The motion passed by a vote of 5 - 0.

- **Selection of American Constructors as Contractor for the JOC-6 District Marquee Signs at Bee Cave Middle School and Rough Hollow Elementary School for 2022**
  Mr. Winovitch presented that in August 2021, the Board approved use of a Job Order Contract (JOC) as the contract award method for the digital marquee sign project in Summer 2022.

  The Cost of Work for JOC-6 includes the following work:
  - Marquee sign at Bee Cave Middle School, $62,530.
  - Marquee sign at Rough Hollow Elementary School, $48,352.

A MOTION was made by Trustee Philip Davis and seconded by Trustee William Beard to approve the selection of American Constructors as general contractor for the JOC-6 district marquee signs at Bee Cave Middle School and Rough Hollow Elementary School and authorize the Superintended or designee to negotiate and execute a contract.

The motion passed by a vote of 5 - 0.

- **First Amendment to the Custodial Services Agreement**
  Mr. Brad Bailey, Assistant Superintendent for Operations and Title IX, presented that the District's current contract with SSC Services Solutions was awarded on May 19, 2021 with a first year term of July 1, 2021 to June 30, 2022. Due to the ongoing COVID-19 pandemic and labor shortage, SSC has requested an increase to the annual contract price of a maximum of no more than $167,000 in order to maintain the current level of cleaning service at all district campuses and facilities. The annual contract price in the original agreement was $3,248.503.20. The increase would result in a new maximum contract price of $3,415,503.20 for the current term of the agreement.

A MOTION was made by Trustee William Beard and seconded by Trustee Kim Flasch to approve the first amendment to the amended and restated service agreement between Southeast Service Corporation and Lake Travis Independent School District and give the Superintendent or designee authority to execute the amendment.

The motion passed by a vote of 5 - 0.

Consent Agenda

- Fourth Renewal Grazing License Between Lake Travis ISD and John Hert on Lake Travis ISD's Land Located on Reimers-Peacock Road
- December 15, 2021 Board Meeting Minutes

A MOTION was made by Trustee William Beard and seconded by Trustee Kim Flasch to approve the consent agenda items as presented.

The motion passed by a vote of 5 - 0.

Upcoming Meetings and Events

Board President John Aoueille announced the following upcoming meetings and events:

- January 26, 2022 – 6:00 p.m. – Superintendent Summative Conference
- February 16, 2022 – 6:00 p.m. – Monthly Board Meeting, EDC
- March 23, 2022 – 6:00 p.m. – Monthly Board Meeting, EDC

Closed Session

Trustees adjourned into Closed Session at 8:32 p.m., as permitted by Texas Government Code 551.001 et seq.

Section 551.074 - Personnel Matters

1. The Board will discuss the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees or officials. (This may involve consultation with attorney as permitted under Section 551.071)
    a. Superintendent's Evaluation and Contract

Section 551.072 - Deliberation Regarding Real Property

1. The Board will discuss the purchase, exchange, lease or value of real property. (This may involve consultation with attorney as permitted under section 551.071.)

Section 551.0821 - School Board: Personally Identifiable Information About a Public School Student

1. The Board will discuss personally identifiable information about a public school student.

Section 551.076 - Deliberation Regarding Security Devices or Security Audits; Closed Meeting. This chapter does not require a governmental body to conduct an open meeting to deliberate:

1. The deployment, or specific occasions for implementation of security personnel or devices.

Open Session

Trustees returned from Closed Session at 10:19 p.m. There was no action after closed session.

Adjournment

There being no further action, the January 18, 2022 Board of Trustees' meeting adjourned at 10:19 p.m.

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John Aoueille, President **Lauren White, Secretary**

AGENDA ITEM ACTION SHEET

AGENDA ITEM
January 26, 2022 Superintendent's Summative Conference Minutes

RECOMMENDED ACTION
For approval with consent agenda.

RATIONALE
Minutes for each Board meeting shall be approved and on file in the Superintendent's office.

BUDGET PROVISIONS
None

RESOURCE PERSONNEL
Suzanne Kelbaugh - Administrative Assistant to Superintendent

ATTACHMENTS
January 16, 2022 Superintendent's Summative Conference Minutes

MEETING DATE
February 16, 2022

Minutes of Board Meeting
The Board of Trustees
Lake Travis Independent School District

A meeting of the Board of Trustees of the Lake Travis Independent School District was held January 26, 2022 at the Educational Development Center, 607 Ranch Road 620 North, Austin, Texas, 78734.

Call to Order

President John Aoueille called the meeting to order at 6:04 p.m.

Board Members Present:

Trustees in attendance were Kim Flasch, Phillip Davis, John Aoueille, William Beard, and Bob Dorsett. Absent Trustees were Lauren White and Jessica Putonti.

Pledge of Allegiance and Moment of Silence

Suzanne Kelbaugh, led the Pledge of Allegiance. A moment of silence was then observed.

Audience Comments/Citizen Participation

There were no audience comments.

Closed Session

Trustees adjourned into Closed Session at 6:05 p.m. as permitted by the Texas Government Code 551.001 et seq.

Section 551.074 - Personnel Matters

1. The Board will discuss the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees or officials. (This may involve consultation with attorney as permitted under Section 551.071)
    a. Superintendent's Evaluation and Contract

Open Session

Trustees returned from Closed Session recessed at 8:39 p.m. No action was taken.

Adjournment

With no other business, the meeting adjourned at 8:39 p.m.

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John Aoueille, President **Lauren White, Secretary**