

Vantage Points

A Board Member's Guide to Update 79

Vantage Points is an executive summary, prepared for board members, of the TASB Localized Update. The topic-by-topic outline and the thumbnail descriptions survey the update landscape, focusing attention on key issues to assist local officials in studying specific changes found in the policies. The description of policy changes in ***Vantage Points*** is a highly summarized overview and should not substitute for careful attention to the significantly more detailed, district-specific Explanatory Notes and the policies within the localized update packet.

PLEASE NOTE: This Update 79 ***Vantage Points*** and the Localized Update 79 packet may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

We welcome your comments or suggestions for improving ***Vantage Points***. Please write to us at TASB Policy Service, P.O. Box 400, Austin, TX 78767-0400, or call us at 800-580-7529 or 512-467-0222.

For further information about Policy Service, check out our Web site at <http://www.tasb.org/services/policy>.

© 2006 Texas Association of School Boards, Inc. All rights reserved.

The Big Picture:

Update 79 is a broad mix of recent statutory and regulatory changes and encompasses:

- Remaining provisions of HB 1 from the third called session of the 79th Legislature—election of board members, school year start date, tax bills, educator contract nonrenewal, regional service center training, and academic excellence indicators
- New Commissioner's rules—"School FIRST," coordinated health programs, classroom supply reimbursement, and alternatives to TAKS exit-level assessments
- New State Board of Education rules—physical activity programs and parent education on dyslexia
- New Texas Ethics Commission rule— political advertising

Details of these changes are summarized below.

Board Members Elections

HB 1 calls for joint elections of board members and other public officials under specific circumstances that may supersede a district's previous option to hold elections in May or November. As noted in **BBB(LEGAL)**, a district may continue to schedule its board member elections in May only if:

- Any incorporated municipality within the school district holds its elections on that date, and
- A joint election is held with that municipality using common polling places.

Otherwise, the district must move its election to the November uniform election date, which in even-numbered years will be the general election date for state, county, and national offices.

Residency

At **BBA(LEGAL)**, we added clarification of the trustee residency requirement for a single-member district. As determined by *Brown v. Patterson*, a candidate must have resided in the "territory" for at least six months.

Responsibilities

The modified language at **BBD(LEGAL)** more clearly states that the training requirement for open meetings and open records will be fulfilled only by training received within 90 days after taking office.

The "holdover doctrine," previously expressed at **BBC(LEGAL)** as an effect of resignation from a trustee position, does not immediately free the board member of his or her responsibilities. Until a successor is sworn in, "the trustee continues to serve and have the duties and powers of office," except for voting on the successor's appointment. The provision also remains at **DBE(LOCAL)** for its application to nepotism.

***(LOCAL) POLICY CONSIDERATIONS:
BDAA and BDB***

The recommended revisions to BDB(LOCAL) clearly delineate the role of the board and its president in regard to establishing committees and their membership. At BDAA(LOCAL), we have deleted from the president's general duties a redundant provision in this regard.

**Superintendent's
Job Description**

Specific statutory responsibilities of the superintendent span a great number of topics scattered throughout the policy manual at the appropriate codes. Consequently, at **BJA(LEGAL)** we have retained for a sharper focus only those statutory duties specifically listed at Education Code 11.201.

***(LOCAL) POLICY CONSIDERATIONS:
BJA and BJCD***

As the superintendent's responsibilities have evolved over time to the current role of chief executive officer, the job description currently in most districts' policies at BJA(LOCAL) has not kept pace. The responsibilities typically in the list appear, deceptively, to carry equal weight, despite the fact that some are essential to the execution of the job and some are merely incidental.

TASB's view is that the superintendent's responsibilities fall logically into three major domains—educational leadership, district management, and board and community relations. Accordingly, both the superintendent evaluation instrument developed by TASB and the recommended (LOCAL) policy in this update are organized around those domains, or systems, and incorporate within each of the systems the areas for evaluation recommended by the Commissioner's rule.

BJCD(LOCAL) language anchors the superintendent's evaluation on the job description, incorporating the systems approach of BJA(LOCAL) as well as performance goals previously established for the superintendent. Both the instrument and the newly determined performance goals for the superintendent should be adopted by the board.

**Business Issues
School FIRST
Rules**

The Commissioner's "School FIRST" rules, mandated by the Education Code and effective on August 13, 2006, are now at **BR(LEGAL)** and provide the procedures for preparing and distributing the district's annual financial management report. The report must address the district's performance

under each indicator of state-established financial accountability ratings for both the current and previous years and must include:

- A copy of the superintendent's contract
- A 12-month summary of reimbursements to the superintendent and to each board member
- A summary schedule of any type of compensation received by the superintendent during the fiscal year for professional consulting and/or personal services for other school districts or other outside entities
- A summary schedule of gifts in excess of \$250 that were received by the executive officers and board members, including gifts to their immediate family members, during the fiscal year
- A summary schedule of the dollar amount for business transactions, excluding reimbursements, received by each board member for the fiscal year
- "Any other information the board . . . determines to be useful"

The explanatory note for **BR(LEGAL)** provides resources for further information on the School FIRST rules.

ESC Training

GNB(LEGAL) now reflects a new service requirement for regional education service centers to provide assistance with the administrative issues involved when entering into an agreement for a cooperative shared services arrangement.

Purchasing Authority

(LOCAL) POLICY CONSIDERATIONS: CH

New text more clearly delegates authority for single, budgeted purchases. The threshold at which even budgeted purchases must be approved by the board—typically set by board action at \$10,000 or more—remains unchanged. If your district wishes to change that amount or wishes to review sample text for exceptions of certain categories, please contact your Policy Consultant/Analyst.

Classroom Supply Reimbursement

Commissioner's rules for the Classroom Supply Reimbursement Grant Program, formerly the Teacher Supply Reimbursement Grant Program, now include campus library media specialists. That addition, as well as the revisions below, is found at **DEE(LEGAL)**:

- The funds must be expended by the “end of the grant period,” rather than by the specific date previously in the rules.
- The funds must be accounted for in accordance with state and federal requirements, rather than in an account set up specifically for the grant funds.
- Matching funds may be provided by local donations.
- Receipts for expended funds no longer have to be retained by the district for audit purposes.

Grant funds must be solicited by the district each year.

Employees Rights and Privileges

Provisions related to employee immunity from liability, previously found at **DH(LEGAL)**, Employee Standards of Conduct, are now more appropriately placed at **DG(LEGAL)**, Employee Rights and Privileges.

A new provision reflects a recent U.S. Supreme Court decision in *Barcetti v. Ceballos* stating that when an employee makes statements regarding his or her official duties, the employee is not speaking as a citizen for First Amendment purposes and, consequently, is not protected from employer discipline. Unaffected by the decision and still included at **DG(LEGAL)** are the “Whistleblower” protections.

Other additions to the policy that limit or shield the employee from liability pertain to employees who serve as members of attendance committees, administer medication to students, or refuse to provide certain services as nurses.

Standards of Conduct

Adding provisions of the federal Drug-Free Workplace Act to **DH(LEGAL)** has expanded the existing text on drug abuse to include alcohol abuse as well.

Political Advertising

The Texas Ethics Commission’s exclusion of e-mail from the definition of “political advertising” has been added at **CPAB(LEGAL)**.

Termination

In refining the text at **DF(LEGAL)**, Termination of Contract:

- Material regarding termination based on certain convictions, also found at **DC(LEGAL)**, was added; and
- Text regarding abandonment of contract was deleted from this code but was retained at **DFE(LEGAL)**, Resignations.

(LOCAL) POLICY CONSIDERATIONS:
DFBB

HB 1 calls for the creation of a “campus intervention team” with authorization to make decisions such as restaffing a campus that has been identified as academically unacceptable for two consecutive school years. Accordingly, this policy now includes such a decision as a reason to nonrenew a Chapter 21 contract.

Instruction
Required
Instruction

The scope of the coordinated health programs that TEA must provide for the prevention of obesity, cardiovascular disease, and type 2 diabetes in students was added to **EHAA(LEGAL)**. New Commissioner’s rules now permit districts to use locally developed programs if they include health education, physical education and physical activity, nutritional services, and parental involvement. Districts must, however, use TEA-approved textbooks or materials developed by nationally recognized or government-approved entities for implementation at the elementary, middle, and junior high school levels. Implementation is not required at the high school level.

Although SB 42 authorized the State Board of Education to require physical activity at the middle/junior high school level, recently issued State Board rules cited at **EHAC(LEGAL)** simply:

- Require that local policy determine the extent to which students enrolled at those grade levels are allowed to meet physical activity requirements throughout the school year, and
- Include both required and permissive exemptions.

Statute requires that the elements of financial literacy be incorporated into any course for which economics credit is awarded. New State Board of Education rules specify those elements that districts are permitted to augment, but not omit.

The new rules also allow credit for foreign language beyond Level III.

(LOCAL) POLICY CONSIDERATIONS:
EHAC

The recommended policy at this code complies with the State Board of Education policy requirement noted above for districts that require a program of physical activity at the middle or junior high school level. If your district does not require such a program, please advise your Policy Consultant/Analyst that this policy should be deleted from our records of your manual.

**Graduation
Alternatives**

HB 25 authorized the Commissioner to adopt a nationally recognized norm-referenced assessment that would serve as an alternative exit-level assessment for a student who, after January 1 of the year in which the student would be eligible to graduate:

- Enrolls in a Texas public school for the first time, or
- Enrolls in a Texas public school after an absence of at least four years from any public school in the state.

See **EIF(LEGAL)**.

A new policy at **EHBL(LEGAL)** incorporates all of the High School Equivalency Program (HSEP) and General Education Development (GED) provisions previously found at **EK(LEGAL)**, as well as the following additional details from State Board of Education rules:

- The district must conduct a public hearing prior to applying to TEA for approval to operate an HSEP.
- A student may attend an HSEP for a maximum of six hours of instruction per day.

**Testing/
Reporting**

EK(LEGAL), Testing Programs, now carries more detail from State Board of Education rules, including a definition of assessment instruments subject to the rules, as well as the requirements for verification and reporting of test results.

**Academic
Excellence
Indicators**

GND(LEGAL) has two new academic excellence indicators added by HB 1:

- The measure of progress toward preparation for postsecondary success
- The measure of progress toward dual language proficiency for students of limited English proficiency

**School Start
Date**

Both **BF(LEGAL)** and **EB(LEGAL)** carry the HB 1 requirement that the school year begin no earlier than the fourth Monday in August unless the district is operating on a year-round schedule. The new start date requirement becomes effective with the 2007–08 school year with no waivers permitted, including any granted previously by the Commissioner.

**Parent
Education**

State Board of Education rules previously permitted—but now require—districts to provide education programs for parents/guardians of students with dyslexia and related disorders. See **EHB(LEGAL)**.

Student Issues
Health

From existing statute, the following have been added at **FFAD(LEGAL)**:

- A school administrator, defined by the Texas Department of State Health Services as a superintendent or principal, is not considered a medical director; consequently, he or she is exempt from reporting certain diseases to health authorities.
- With TEA's approval, a district may report bacterial meningitis information in an alternative way from that prescribed by the agency.

Explanatory
Notes

For further information on these policy changes, refer to the policy-by-policy Explanatory Notes—customized for each district's policies—and the policies themselves, found in your localized update packet.