

# Explanatory Notes

## TASB Localized Policy Manual Update 99

District: Brackett ISD

ATTN (NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

**Please note:** Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to bills from the 83rd Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted. Throughout the explanatory notes, House Bill is abbreviated as HB and Senate Bill is abbreviated as SB.

A18 (INTRO) INTRODUCTION

We have revised the Introduction to the manual for clarification and to update the list of terms and abbreviations.

AG (LEGAL) HOME-RULE DISTRICTS

This legally referenced policy addressing the option to operate the district under a home-rule charter is recommended for inclusion in the district's policy manual. These existing statutory provisions explain the legal requirements to become a home-rule charter and applicable law once a home-rule charter is established.

AIA (LEGAL) ACCOUNTABILITY  
ACCREDITATION AND PERFORMANCE INDICATORS

Revisions to this legally referenced material addressing accreditation are from HB 5:

- As a condition of ACCREDITATION, districts must now make Algebra II available to each high school student.
- At STUDENT ACHIEVEMENT INDICATORS, the definition of "required improvement" has been amended to refer to college readiness.
- QUALITY OF LEARNING INDICATORS must include the percentage of students who meet the requirements for the foundation high school program, the distinguished level of achievement under the foundation program, and each endorsement. For each campus, the indicators must also include the number of students, disaggregated by student populations, who take courses under the foundation program and take additional courses to earn an endorsement, disaggregated by type of endorsement.

AIC (LEGAL) ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

HB 5 requires a district that follows the recommendations from an ON-SITE INVESTIGATION to make reasonable efforts to seek assistance from a third party in developing an action plan for improving district performance.

The criteria for the Commissioner to authorize a SPECIAL ACCREDITATION INVESTIGATION were also revised as a result of the legislative session.

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- In accordance with SB 123, the list of criteria no longer imposes a mandatory obligation on the Commissioner to conduct an investigation. The Commissioner *may* (rather than *must*) do special accreditation investigations if a criterion is met.
- HB 5 deleted references to the Recommended High School Program and investigations based on excessive numbers of students graduating under the Minimum High School Program.
- HB 5 added new criteria regarding a disproportionate number of students in a demographic group or an excessive number of students graduating with a particular endorsement.
- The Commissioner may authorize an investigation if a complaint alleges inaccurate PEIMS or other data on which TEA bases accountability determinations, per SB 123.

#### BBFB      (LEGAL)      ETHICS PROHIBITED PRACTICES

Beginning on page 6 at RESTRICTIONS ON PUBLIC SERVANTS – FEDERAL LAW, existing provisions have been added to this legally referenced material addressing prohibited practices. The first provision, at BRIBERY – GENERAL, prohibits a public official from accepting anything of value in return for being influenced in the performance of an official act, defrauding the U.S. government, or violating the person's official duties. The U.S. Supreme Court has held that this law applies to individuals who administer programs funded with federal money. The second provision, at BRIBERY – FEDERAL PROGRAMS, addresses recipients of funds under federal programs and prohibits district employees and officials from engaging in fraudulent activities or accepting bribes.

#### BDD      (LOCAL)      BOARD INTERNAL ORGANIZATION ATTORNEY

This local policy identifies who is authorized to submit inquiries to the district's legal counsel. To ensure the board has a point of contact with legal counsel even when the board has not named a specific board designee, we recommend adding the board president to the list of individuals who may seek advice or information from the district's legal counsel.

Other recommended changes are to conform to policy style.

#### BP      (LOCAL)      ADMINISTRATIVE REGULATIONS

Recommended revisions to this local policy regarding administrative regulations are to reflect common district practices. At DEVELOPMENT, the changes clarify that the superintendent or designee, who is responsible for developing and enforcing procedures, will also resolve any discrepancies among conflicting regulations. These provisions include the superintendent's authority to revise regulations when needed, making the existing text addressing revision unnecessary.

The provision requiring an official copy of the administrative regulations to be kept in the superintendent's office is recommended for deletion. Districts commonly keep official copies electronically and/or at individual campuses, so this statement no longer matches common practice.

Other recommended changes are to conform to policy style.

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CCE        (LEGAL)        LOCAL REVENUE SOURCES  
                                 ATHLETIC STADIUM AUTHORITY

This legally referenced policy addressing the creation of an athletic stadium authority is recommended for inclusion in the district's policy manual. These existing statutory provisions explain how the board establishes an authority and that the authority can issue revenue bonds for any of its purposes.

CCG        (LEGAL)        LOCAL REVENUE SOURCES  
                                 AD VALOREM TAXES

HBs 97 and 709 amended provisions regarding the individuals eligible to pay taxes on a residence homestead through INSTALLMENT PAYMENTS. See page 8.

Beginning on page 10 at Section V, addressing exemptions, we have significantly reorganized and revised the text, including:

- Removing provisions addressing common school districts;
- Deleting provisions on an obsolete tax limitation;
- Updating provisions on PORTABILITY OF TAX CEILING;
- Adding existing statutory provisions regarding tax limitations for surviving spouses of deceased individuals who had qualified for an exemption based on age at SURVIVING SPOUSE OF PERSONS 65 OR OLDER;
- Adding an existing statutory provision allowing a partial year exemption for a 100 PERCENT DISABLED veteran;
- Adding a provision from HB 97 allowing partial exemption of a residence homestead donated to a disabled veteran by a charitable organization at PARTIALLY DISABLED WITH DONATED RESIDENCE;
- Adding a provision from SB 163 exempting the residence homestead of the surviving spouse of a military member killed in action at SURVIVING SPOUSE OF INDIVIDUAL KILLED IN ACTION;
- Adding an existing statutory provision allowing a DISABLED VETERAN a partial exemption for property, which can be, but is not required to be, a residence homestead; and
- Updating the OPTIONAL EXEMPTIONS.

In addition to the above changes, we have added a table of contents and reordered several provisions.

CFB        (LEGAL)        ACCOUNTING  
                                 INVENTORIES

This legally referenced policy addressing inventories is recommended for inclusion in the district's policy manual. These existing provisions from the Administrative Code include the obligation for the district to maintain inventories of its assets in accordance with the TEA *Financial Accountability System Resource Guide*.

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### CFEA (LOCAL) PAYROLL PROCEDURES SALARY DEDUCTIONS AND REDUCTIONS

This local policy addressing salary deductions and reductions is recommended for deletion. Several of the items listed as optional deductions are now included as mandatory deductions in the legally referenced policy at this code and therefore are unnecessary to list in local policy. Other employee requests for deductions can be addressed in administrative regulations.

The provisions addressing deductions for unauthorized leave are included in DEC(LOCAL), the policy on leaves and absences.

### CG (LEGAL) BONDED EMPLOYEES AND OFFICERS

This legally referenced policy addressing bonding of employees and officers is recommended for inclusion in the district's policy manual. These existing statutory provisions explain the circumstances when district employees and officers are required to post bond.

### CK (LOCAL) SAFETY PROGRAM/RISK MANAGEMENT

The recommended revisions to this local policy addressing safety are to reflect common district practice and to streamline the policy. Recognizing that it is impractical to include the details of the district's safety and risk management programs in board policy, the recommended policy text gives broad authority to the superintendent to develop, implement, and promote comprehensive safety programs to address the safety of all who interact with the district.

In line with the broad scope of CK(LOCAL), specific provisions addressing student safety at FFF(LOCAL) are recommended for deletion. See FFF(LOCAL), below.

### COB (LEGAL) FOOD SERVICES MANAGEMENT FREE AND REDUCED-PRICE FOOD PROGRAM

Effective with the 2014–15 school year, SB 376 requires that, if 80 percent or more of the students on a campus that participates in the national school BREAKFAST PROGRAM qualify for a free or reduced-priced breakfast, the campus must offer a free breakfast to every student.

The district may obtain for a campus a waiver from this requirement, not to exceed one year, if the board lists the issue separately on the agenda, receives public comment, and votes to request the waiver at the annual meeting to adopt the budget and tax rate.

### CRF (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT UNEMPLOYMENT INSURANCE

We have added existing statutory provisions that address how a district should handle the INITIAL CLAIM AND RESPONSE to a claim for unemployment benefits.

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**CRG            (LEGAL)            INSURANCE AND ANNUITIES MANAGEMENT  
DEFERRED COMPENSATION AND ANNUITIES**

A new provision from SB 366 permitting a district to establish ROTH CONTRIBUTION PROGRAMS, if authorized by federal law, has been added on page 1.

**DAC            (LOCAL)            EMPLOYMENT OBJECTIVES  
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS**

This local policy addressing objective criteria for personnel decisions is recommended for deletion. The policy was originally required by Civil Order 5281, which is no longer applicable to your district.

**DBD            (LEGAL)            EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST**

The Texas Constitution prohibits individuals from holding at the same time more than one civil office of emolument, with certain exceptions. An existing statutory provision, added at HOLDING CIVIL OFFICE on page 4, clarifies that state military service is not considered to be a civil office of emolument. Therefore, state military service would not disqualify an individual from employment at a school district during the period of military service.

**DEAA          (LEGAL)            COMPENSATION AND BENEFITS  
INCENTIVES AND STIPENDS**

HB 1751 repealed the District Awards for Teacher Excellence (DATE) program and created the Educator Excellence Innovation Program (EEIP), which is a competitive grant program for the purpose of systematically transforming educator quality and effectiveness. New Commissioner rules on the EEIP, effective November 18, 2013, address:

- District eligibility;
- The requirement to develop a local educator excellence innovation plan;
- Use of grant funds, which can include mentoring, evaluation systems, restructuring of the school day or year, alternative teacher compensation or retention systems, and incentives to reduce turnover; and
- Waiver requests for certain statutory requirements, which require approval by a majority of the educators employed at each campus for which the waiver is sought, along with other conditions listed in the policy.

**DK            (LEGAL)            ASSIGNMENT AND SCHEDULES**

Changes to this policy are a result of amendments to State Board for Educator Certification rules:



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At LIMITATIONS ON TAKING EXAMINATIONS, the rules repeat statutory provisions prohibiting a student from attempting to earn credit by examination for a specific high school course more than two times and requiring enrollment in the course if a student fails to earn credit by examination for a specific high school course before the school year in which the student would ordinarily enroll in the course.

#### EHDC      (LOCAL)      ALTERNATIVE METHODS FOR EARNING CREDIT CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

HB 2694, SB 1365, and recent State Board rules prompted recommended changes to this policy regarding credit by examination without prior instruction. Because many of the issues previously recommended for inclusion in local policy are now addressed in the rules, we recommend deleting from this local policy provisions addressing selection of test dates, requests for alternate examinations or test dates, fees, and award of credit. The broad language in the first paragraph of the policy requires the district to provide opportunities for credit by examination in accordance with law and State Board rule using examinations that, as required by law, are approved by the school board.

#### EIF      (LEGAL)      ACADEMIC ACHIEVEMENT GRADUATION

This legally referenced policy addressing graduation has been extensively revised as a result of legislation and new State Board of Education rules.

As a result of HB 5, at the high school level, a staff member must review PERSONAL GRADUATION PLAN (PGP) options with all entering ninth graders and their parents. By the end of the school year, the student and parent must sign a PGP that identifies a course of study. A student may change his or her PGP; if so, the district must notify the student's parent.

Beginning on page 5 are new State Board rules addressing graduation requirements for STUDENTS ENTERING GRADE 9 IN THE 2014–15 SCHOOL YEAR and specific requirements for the FOUNDATION HIGH SCHOOL PROGRAM, including information on endorsements, permissible substitutions for physical education and fine arts, and performance acknowledgements.

Other changes, beginning on page 10, address the TRANSITION TO THE FOUNDATION HIGH SCHOOL PROGRAM and are a result of new Commissioner's rules, effective December 16, 2013. Students who entered grade 9 before the 2014–15 school year may graduate under one of the three previous graduation plans if they were participating in that program before the 2014–15 school year, or these students can graduate under the foundation program if they take courses under it during the 2014–15 school year. At any time prior to graduation, these students may choose to complete a different high school program than that selected by the student in the 2014–15 school year.

We have deleted obsolete provisions regarding graduation requirements for students who entered grade 9 before the 2007–08 school year.

**Please note:** In early March, Policy Service sent the district a brief electronic survey to gather information about the district's decisions regarding the foundation graduation program that must be included in board-adopted policy, such as whether the district will require additional credits for graduation and whether students may substitute certain courses and activities for physical education and fine arts credits. From the survey responses, the district's policy consultant will develop and send a draft of EIF(LOCAL) for board adoption, separate from Update 99.

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### EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

Revised Commissioner's rules, effective February 13, 2014, resulted in changes to this legally referenced policy.

- For STUDENTS ENROLLED BELOW HIGH SCHOOL LEVEL who take a high school course with an applicable end-of-course (EOC) assessment, the assessment result shall be applied toward the student's high school assessment graduation requirements. See page 5.
- At ASSESSMENT REQUIREMENTS FOR GRADUATION, the rules clarify that a student must meet satisfactory performance on each required EOC assessment to receive a Texas diploma. However, the rules provide EXCEPTIONS for a student who was administered separate reading and writing EOC assessments under certain circumstances.
- The rules deleted a provision addressing students receiving SPECIAL EDUCATION services who are enrolled in a course for which there is no alternative version of the EOC assessment and a provision allowing a student to request to take an EOC when the student is not required to take an EOC assessment.
- On page 7, the rules prohibit an EOC assessment from being used for the purposes of CREDIT BY EXAMINATION.
- At RETAKES, the rules clarify that if a student must retake a course that he or she failed but for which the student achieved satisfactory performance on the EOC assessment, the student is not required to retake the assessment.

At SUBSTITUTE ASSESSMENTS, on page 6, we have added new Commissioner's rules, effective December 16, 2013. These rules explain when a student is eligible to use a substitute assessment in place of an EOC assessment required for graduation. A substitute assessment may be used in place of only one EOC assessment. After the student provides his or her score on a substitute assessment, the district must verify the results.

Text on exit-level assessments has been deleted, as students subject to these graduation testing requirements will graduate in 2014.

Revised Commissioner's rules, effective March 2, 2014, clarify that a district must notify each student's teacher in the tested subject of the student's test results. See TO PARENTS, STUDENTS, AND TEACHERS on page 8.

### FBA (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY SERVICE ANIMALS

Changes to this policy are from HB 489, which updated state law provisions regarding assistance animal access to public facilities to better correspond with the federal Americans with Disabilities Act rules regarding service animals.

As reflected on page 3, an ASSISTANCE ANIMAL may also be referred to as a service animal and is now limited to dogs. Specific statutory requirements regarding the trainer of an assistance animal in training have been deleted.



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At HARASSMENT AND HARM PROHIBITED, an existing statutory definition of *harass* has been added to support existing provisions prohibiting harassment and other such activities against an assistance animal. Another new provision provides that a person is not entitled to ask about a service animal's qualifications or certifications for purposes of granting access to a public facility except as needed to determine the type of assistance provided by the animal.

The bill also amended the PENALTIES that may be assessed against a person who violates state law regarding assistance animal access.

FFF (LOCAL) STUDENT WELFARE  
STUDENT SAFETY

As mentioned above, the content of this local policy addressing student safety is covered under the broad provisions of CK(LOCAL). Therefore, this local policy is recommended for deletion.

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

Based on recommendations by the U.S. Department of Education, Office for Civil Rights (OCR), we have amended the text of this policy to clarify that the TITLE IX COORDINATOR also handles reports of gender-based harassment and to require that the district give NOTIFICATION OF THE OUTCOME of an investigation to the relevant parties.

Recommended changes at INVESTIGATION OF THE REPORT explain how the district should proceed with its investigation when a criminal or regulatory investigation is occurring at the same time. The revisions provide that if a law enforcement or regulatory agency notifies the district of an investigation, the district will confer with the criminal or regulatory agency to determine if the district's investigation would impede the agency's investigation. During the agency investigation, the district will continue with its investigation only to the extent that it does not impede the agency investigation. Once the agency has finished gathering its evidence, however, the district is obligated to resume its investigation. Prior to completion of the district's investigation, and regardless of whether a criminal or regulatory investigation is pending, the district must take INTERIM ACTION if appropriate to address prohibited conduct or bullying.

At CONCLUDING THE INVESTIGATION, we have clarified that a pending agency investigation could constitute an extenuating circumstance that would prevent the district from completing its investigation within 10 business days.

A recommended change at CORRECTIVE ACTION replaces a reference to *harassment* with *prohibited conduct* for consistency with the terminology throughout the policy.

Language at APPEAL has been amended to clarify that either a student or *parent* may appeal the outcome of an investigation.

**Please note: Board action may also be required for FB(LOCAL) and DIA(LOCAL).** Carefully review the contact information for the district's TITLE IX COORDINATOR and ADA/SECTION 504 COORDINATOR in FFH(LOCAL). If the contact information has changed, you will need to update the information in this policy and in FB(LOCAL). If the same individuals serve as the coordinators for students and employees, you will also need to update DIA(LOCAL). Contact your policy consultant for drafts, since any policy revisions will need board action.

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#### GB (LEGAL) PUBLIC INFORMATION PROGRAM

This legally referenced policy addressing notification to students and parents about indoor pest control application is recommended for deletion. This provision is already included in FD(LEGAL), addressing student admissions.

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

Changes to the definition of "public information" on page 1 are from SB 1368. Public information now includes information that is *written* or *produced* (in addition to collected, assembled, or maintained) under a law or ordinance or in connection with the transaction of official business:

- For a board that spends public money to write, produce, collect, assemble, or maintain the information; or
- By an individual officer or employee of a district in his or her official capacity if the information pertains to official business of the district.

The definition of public information also includes any electronic communication on any device if the communication is in connection with the transaction of official business. New definitions of "official business" and "in connection with the transaction of official business" and a list of the FORMS OF PUBLIC INFORMATION have been added.

A new provision from HB 2414 and SB 1297 on page 3 provides that if a board maintains an ONLINE MESSAGE BOARD, communications removed from the board must be maintained for six years and are public information.

Regarding public access to PERSONAL INFORMATION, HB 2961 prohibits a district from requiring an employee or former employee to choose whether to allow access to the employee's or former employee's social security number.

The date of birth of PEACE OFFICERS/SECURITY OFFICERS and certain other individuals is confidential in accordance with HB 1632. See page 4.

There are several changes to the list of INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE beginning on page 7:

- At item 2, a Texas Supreme Court case from 2010 explains the balancing test that will be applied to the disclosure of an employee's birth date;
- At item 12, a new provision from SB 1512 prohibits a district from releasing a sensitive crime scene image that is in the district's possession;
- At item 21, HB 1009 protects from disclosure the identity of a school marshal; and
- At item 34, HB 3357 expands the protections for records related to participants in the TRS retirement program.

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GKA (LEGAL) COMMUNITY RELATIONS  
CONDUCT ON SCHOOL PREMISES

A revision at TRESPASS on page 1 is to better track the statutory language, which provides that an *unauthorized* person who trespasses on school district grounds commits a misdemeanor.

GNC (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES  
COLLEGES AND UNIVERSITIES

At DROPOUT RECOVERY PROGRAM beginning on page 2, we have deleted obsolete text, including an effective date and provisions limiting district eligibility.

