

Vantage Points

A Board Member's Guide to Update 103

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



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.

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, e-mail us at policy.service@tasb.org, or call us at 800-580-7529 or 512-467-0222.

For more information about Policy Service, visit our website at <http://policy.tasb.org>.

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Update 103 is the first of two post-legislative updates, and it encompasses changes in law from the 84th Legislative Session that have an immediate effect on the governance and management of school districts. Local policies included in Update 103 address topics including training requirements for district peace officers, the use of prepaid meal cards/accounts for students, employee conflicts of interest and standards of conduct, harassment and discrimination, e-cigarettes, and student attendance. In addition to the local policies affected by the legislative session, Update 103 includes local policy recommendations to address new federal regulations governing federal grants and awards as well as recommendations to clarify the structure of the policy manual and the application of policy in relation to the award of credit or a final grade.

Throughout this document, House Bill is abbreviated as HB and Senate Bill as SB. For more information about the bills described below, download the TASB *2015 Legislative Summary for TASB Members* (PDF), available free from the online TASB Store at <http://store.tasb.org>.

Accountability

HB 1842 prompts several changes to the A Section of the policy manual, covering accountability:

- New code AF(LEGAL) describes provisions for districts of innovation.
- Revisions to AIC(LEGAL) address TEA monitoring reviews and special accreditation investigations, as well as significant changes related to the sanctions applied when a campus does not meet accountability standards.

Also added at AIC(LEGAL) are provisions from HB 3106 allowing the Commissioner of Education to extend the term of a district's board of managers.

Governance Issues

Edits to improve organization, better reflect statutory wording, and delete unnecessary provisions related to elections have been made at BBA(LEGAL), BBB(LEGAL), and BBC(LEGAL). Legislative changes include the following:

Qualifications for Office

- HB 484 requires that a person be registered to vote to qualify for an elected office, as reflected at BBA(LEGAL).

Elections

- At BBB(LEGAL):
 - HB 2027 requires, with certain exceptions, county election precincts to be used as the precincts in a school district election.

- SB 1703 establishes a deadline of no later than 78 days prior to an election day to call for an election and to file for a place on the ballot, as well as a 74-day deadline for write-in candidates regardless of the uniform election date used. Note that the 78-day deadline also applies to bond elections and tax ratification elections. See also CCA(LEGAL) and CCG(LEGAL), respectively.
- HB 2721 requires an election notice to be posted on the district website.
- SB 1073 also requires the disclosure of a public mailing address and e-mail address on a candidate's application.

Board Meetings

HB 283 requires school districts with a student enrollment of 10,000 or more to make a video and audio recording of regularly scheduled open meetings. This requirement is reflected at BE(LEGAL) and is effective January 1, 2016.

Policy Development

BF(LOCAL) POLICY CONSIDERATIONS

Recommended revisions to this policy, which lays out the structure and protocol of the local policy manual, include new text:

- Reminding readers that at each policy code the legally referenced policy must be read together with the local policy to further a full understanding of a topic.
- Explaining that "board member" and "trustee" are used interchangeably throughout the local policy manual, without any intent to distinguish between the terms. Both terms reflect all the duties and obligations of the position.
- Explaining that newly enacted law is applicable when effective.

District Operations

Multiple bills affect district operations from a safety and conduct perspective, including what is allowed or prohibited on district property:

Safety and Conduct

- HB 2684 mandates that districts with a student enrollment of 30,000 or more adopt a policy to require school district peace officers and school resource officers to complete a model training curriculum developed by the Texas Commission on Law Enforcement. This requirement has been incorporated at CKE(LEGAL); see also the recommended revisions for CKE(LOCAL), described below.

- SB 158 requires a policy if a law enforcement agency operates a body-worn camera program. Districts that have a police department and are contemplating this type of program will need to review the entire bill closely and may contact TASB Policy Service for sample local policy language. The relevant provisions are addressed at CKE(LEGAL), with a provision also added at GBA(LEGAL) indicating that these recordings are generally considered public information.
- SB 996 requires districts to provide to a parent, upon request, written notice indicating whether any district employee is currently appointed as a school marshal. This change is also reflected at CKE(LEGAL). The identity of a school marshal may not be disclosed, as reflected at GBA(LEGAL).
- HB 1396 provides that a peace officer may not search a person's cell phone or other wireless communications device pursuant to a lawful arrest of the person without obtaining a warrant, subject to several exceptions. See FNF(LEGAL).
- HB 910, effective January 1, 2016, authorizes open carry of handguns by license holders. Among other provisions, this bill changes the reference from "license to carry a concealed handgun" to "license to carry a handgun." Corresponding revisions are reflected at CKE(LEGAL) and GKA(LEGAL).
- SB 273 prohibits a school district from posting signs barring a handgun license holder from having a concealed handgun where the license holder is not otherwise prohibited by law from having a handgun. See GKA(LEGAL), as well as the recommended revisions for DH(LOCAL), described below.
- SB 97 requires a school district to prohibit anyone from using e-cigarettes at a school-related or school-sanctioned activity on or off school property. The district must publish in the student handbook and on the district's website a statement as to whether the district has policies and procedures that prescribe penalties for such use. See BDF(LEGAL), DH(LEGAL), FNCD(LEGAL), and GKA(LEGAL), as well as the recommended revisions for DH(LOCAL) and GKA(LOCAL), described below.
- SB 339 prohibits a district from enacting, adopting, or enforcing a rule or regulation that prohibits the possession of low-THC (non-intoxicating) cannabis as authorized by Chapter 487 of the Health and Safety Code, which permits possession in limited circumstances. Relevant provisions

have been added at DH(LEGAL), and a recommended change at DH(LOCAL) is described below.

- SB 1574 clarifies procedures for exposure to infectious diseases and explains when a district must designate an infection control officer. See DBB(LEGAL) and GRC(LEGAL).

CKE(LOCAL) POLICY CONSIDERATIONS

For districts that have provisions at CKE(LOCAL) addressing commissioned district police officers or an agreement for the presence of school resource officers, recommended revisions to this local policy correspond to the training provisions of HB 2684, described above. The recommended language is broadly drafted to be suitable for districts of any size.

DH(LOCAL) AND GKA(LOCAL) POLICY CONSIDERATIONS

Provisions from HB 910 and SB 273 regarding licensed carrying of handguns, described above, prompted recommended changes at DH(LOCAL) and GKA(LOCAL). Based on the employment relationship, TASB Legal Services believes that a district can continue to prohibit employees from possessing firearms on district property. Recommended text at DH(LOCAL), previously at GKA(LOCAL), prohibits employees from using, possessing, or displaying weapons, including firearms, on district property except at certain district-approved activities. The existing provision at GKA(LOCAL), applicable to community members, is recommended for revision to conform with the changes in law and prohibit the "unlawful" use, possession, or display of weapons, including firearms.

Prompted by SB 97, a recommended revision at both DH(LOCAL) and GKA(LOCAL) prohibits the use of e-cigarettes by employees and other individuals at school-related activities on or off school property.

In addition to these changes, new exceptions to a district's drug prohibitions at DH(LOCAL) are recommended to reflect provisions from SB 339 regarding low-THC cannabis, or any other controlled substance or drug, prescribed by a licensed physician.

Business and Funding Issues

State and Federal Awards and Grants

New federal regulations governing all federal grants and awards, known as the new Education Department General Administrative Regulations (EDGAR), prompted changes to legally referenced policies and recommendations for local policy changes. Relevant provisions have been added to CBB(LEGAL). See TEA's website at [http://tea.texas.gov/Finance and Grants/Grants/Administering a Grant/The New EDGAR/](http://tea.texas.gov/Finance_and_Grants/Grants/Administering_a_Grant/The_New_EDGAR/) for more information related to the EDGAR requirements.

CAA(LOCAL) AND CB(LOCAL) POLICY CONSIDERATIONS

At CAA(LOCAL), recommended revisions extend financial ethics standards of conduct to include "agents," as referred to in the EDGAR conflict of interest provisions. In addition, new recommended text clarifies that "fraud and financial impropriety" includes the failure to provide financial records as required by federal entities and the failure to comply with requirements for state and federal awards. A recommended statement reiterates the legal requirement for a district to disclose in writing to the federal awarding agency or pass-through entity (TEA) any violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a federal grant award.

Also as a result of EDGAR, a new local policy on state and federal revenue sources is recommended for inclusion at CB(LOCAL). The new policy clarifies the superintendent's authority regarding state and federal grants and awards and provides for development of relevant administrative procedures as required by EDGAR. In addition, the policy includes provisions concerning conflicts of interest and gifts and aligns these federally required provisions with the disclosure amounts established in Chapter 176 of the Local Government Code applicable to state law disclosures.

Fiscal Issues

Legislation and other rule amendments prompted changes to numerous policies dealing with revenue sources, investments, and other fiscal management issues:

- HB 114 prohibits the issuance of capital appreciation bonds except when a district complies with extensive requirements. See CCA(LEGAL).
- HB 1933 revised the deadlines associated with installment payments of ad valorem taxes. See CCG(LEGAL).
- HB 870 reduced the hours of ongoing training required for districts' chief financial officers and investment officers. See CDA(LEGAL).

- SB 810 adds an exception to the prohibition against a school district using district resources for improvements to real property not owned or leased by the district, allowing a district to use its resources on certain projects with a municipality. See CE(LEGAL) and CX(LEGAL), as well as the existing prohibition at BAA(LEGAL).
- New state rules regarding audit requirements have been incorporated at CFC(LEGAL).
- SB 1812 requires districts to submit information by February 1 of each year to the comptroller for maintenance of an eminent domain database. See CHG(LEGAL).
- HB 473 prohibits a district from selling or transferring a marked patrol car or other law enforcement vehicle to the public unless the district first removes all law enforcement equipment and insignias. See CI(LEGAL).
- HB 1474 changes the payment cycle of a school district's instructional materials allotment from annual to biennial. See CMD(LEGAL).
- HB 2812 allows a district to include for purposes of ADA funding students who attend approved off-campus instructional programs pursuant to Commissioner rules. See EHDD(LEGAL).

Food Service

Two bills affect the operation of district school food programs:

- HB 1305 allows a district to choose, on a campus-by-campus basis, whether to participate in the national school breakfast program or in a locally funded and developed program to provide free meals, including breakfast and lunch. This bill also changes the way that educationally disadvantaged students will be calculated for purposes of compensatory education funding. Applicable changes have been made at COB(LEGAL) and EHBC(LEGAL). Also reflected at EHBC(LEGAL) is the requirement, as a result of HB 2660, that the Commissioner base funding for optional flexible school day programs on the same instructional hour requirements as the regular program.
- HB 3562 prompted changes at CO(LEGAL) to address policy requirements associated with insufficient meal card balances. Also incorporated at that code are recent federal rules addressing requirements for nutrition program directors as well as newly adopted Texas Department of Agriculture rules allowing schools to establish fundraisers exempt from the competitive food standards.

CO(LOCAL) POLICY CONSIDERATIONS

To comply with provisions from HB 3562 regarding insufficient meal card balances, we recommend inclusion of a new local policy at CO(LOCAL) on food services management. The new recommended text requires the superintendent to develop administrative regulations specifying the length of the grace period during which a student may continue to purchase meals when a card or account is exhausted and addressing parental notification, including a schedule of repayment.

Purchasing and Construction-Related Issues

Several bills affect policy text relating to purchasing and construction:

- HB 744 extends the coverage of insurance that school districts may obtain for students participating in athletic competitions or school-sponsored activities by deleting the requirement that the activity must occur on a school campus. See FFD(LEGAL).
- CH(LEGAL) has been adjusted to address SB 1281, clarifying that a district can participate in a cooperative purchasing program in this state or another state.
- Changes from HB 2049 and HB 2634 relating to architect and engineer services have been incorporated at CV(LEGAL) and CVD(LEGAL).

Transparency and Conflict of Interest Disclosures

In addition to a number of new required Internet postings incorporated at CQA(LEGAL), legislative changes related to transparency and conflict of interest are also addressed at other codes:

- HB 1295 requires a business entity to file a disclosure of interested parties, developed by the Texas Ethics Commission, before a district may enter into a contract that requires board action or is valued at \$1 million or more. See CH(LEGAL).
- HB 3683 requires electronic filing of a trustee financial statement with the Ethics Commission, and HB 3680 makes confidential an electronic report or any financial statement data that is temporarily stored with the Ethics Commission pending official filing. See BBFA(LEGAL).
- HB 23 made significant changes to the conflict disclosure statement provisions in Chapter 176 of the Local Government Code, including:
 - Adding a requirement for a local government officer to report a family relationship, within the third degree by blood and the second degree

- HB 218 updated the certification requirements for bilingual and dual language programs. See EHBE(LEGAL).
- HB 786 requires districts to develop a policy on the expression of breast milk by employees. See the *2015–16 Model Employee Handbook* for language to address the requirement. DG(LEGAL) incorporates these provisions and existing federal provisions on breaks for nursing mothers who are nonexempt employees, previously at DEAB(LEGAL).
- HB 2186 requires that staff development for educators include suicide prevention training. See DMA(LEGAL).

DIA(LOCAL) AND DIA(EXHIBIT) POLICY CONSIDERATIONS

A recommended revision to the local policy on freedom from harassment, discrimination, and retaliation is in response to HB 1151, which prohibits sexual harassment of unpaid interns. Solely for the purposes of this policy, unpaid interns are included in the definition of “employee” and are thereby required to report any alleged harassment and comply with the other procedural elements of the policy.

In addition, to eliminate the need for the board to readopt DIA(LOCAL) every time the district’s Title IX or ADA/Section 504 coordinator changes, we have moved the contact information for those positions to DIA(EXHIBIT), which is not a board-adopted document.

Compensation and Benefits

Policies related to compensation and benefits were affected by the legislature as follows:

- HB 2974 modifies the method for determining the health insurance contributions surcharge imposed on a district that hires a retiree. See DEA(LEGAL).
- As a result of SB 925, SB 934, and SB 972, certain stipends cannot be considered in determining whether a district is paying an educator the state minimum monthly salary. See DEAA(LEGAL).
- HB 445 requires a district to provide written notice of the number of work-days of paid leave available to a member of the Texas military forces. See DECB(LEGAL).

In addition, provisions at DECA(LEGAL) have been revised in accordance with the June 2015 U.S. Supreme Court ruling in *Obergefell v. Hodges* and the Department of Labor's new definition of "spouse."

Curriculum and Instruction

In addition to amended Commissioner rules related to the Texas Virtual School Network incorporated at EHDE(LEGAL), numerous changes from the 84th Legislature affected legally referenced policies regarding curriculum and instruction:

- The definitions of school year and school day, now measured in minutes, have been modified as a result of HB 2610. A district may add minutes to the end of normal school hours as necessary to compensate for minutes of instruction lost due to school closures. HB 2610 also prohibits a district from scheduling the last day of school before May 15. See EB(LEGAL) and EC(LEGAL).
- HB 4 prescribes the requirements for a district that wishes to participate in a grant for a high-quality prekindergarten program. Provisions from this bill have been added at EC(LEGAL), EEB(LEGAL), EHBG(LEGAL), and FD(LEGAL).
- HB 18 requires districts to provide to students, at least once in seventh or eighth grade, instruction in high school, college, and career preparation. See EHAC(LEGAL).
- HB 3987 allows a district to establish a school-based savings program to facilitate personal financial literacy instruction. See EHAD(LEGAL).
- HB 1613 provides that a student in a college preparatory English or math course under Education Code 28.014 who satisfies the college readiness benchmarks of the Texas Success Initiative assessment is exempt from the relevant end-of-course (EOC) assessment. See EHBC(LEGAL).
- SB 453 prompted changes at EHDC(LEGAL) to reflect that a score of 50, rather than 60, on a College-Level Examination Program (CLEP) exam is sufficient to receive credit by examination for acceleration/advancement purposes.
- At EHDD(LEGAL), changes regarding dual credit result from the following legislation:
 - HB 505 and HB 2812 repealed a provision that prohibited a student from enrolling in more than three dual credit courses at a college if the

college did not have a service area that included the student's high school.

- HB 18 mandates certain requirements for instructors of courses for joint high school and college credit.
- HB 181 prompted changes at EI(LEGAL) and EIF(LEGAL), deleting the requirement that diplomas carry information related to endorsements, performance acknowledgments, and the distinguished level of achievement. This information is now only required on a student's academic achievement record (transcript).
- HB 1993 allows a district to permit parents to acknowledge and sign required progress reports that are sent electronically, but the district must continue to offer parents the option of providing a handwritten signature. See EIA(LEGAL).
- SB 149 added provisions on the use of an individual graduation committee when a student has not passed up to two EOC assessments required for graduation. See EIF(LEGAL) and EKB(LEGAL).
- SB 1494 required changes at EIF(LEGAL) to reflect that a homeless student in 11th or 12th grade who transfers to a different district and does not meet the graduation requirements of the new district is entitled to graduate from the previous district if the student meets that district's graduation requirements.
- HB 2349 prompted additional changes related to state assessment at EKB(LEGAL) to clarify that a student must meet satisfactory performance on EOC assessments only for courses in which the student is enrolled. The bill repealed the required college prep courses for students who appeared unlikely to pass all required EOCs at the completion of 11th grade.

Student Issues

Legislative changes related to admissions and attendance include the following:

Admissions and Attendance

- SB 206 clarifies that students in foster care are entitled to continued enrollment regardless of whether a relocation is because of an initial placement or a change in placement. See FD(LEGAL). SB 206 also prompted changes at FEA(LEGAL) and FEB(LEGAL) regarding excused absences of students in foster care for compulsory attendance and funding purposes.

- HB 1559 requires a campus to post information on the campus website about local programs and services available to assist homeless students. This requirement applies when a campus is within a district with 3,000 or more students and located in a county with at least 50,000 people. See FDC(LLEGAL).
- HB 2398 necessitated changes to multiple policy codes, including FEA(LLEGAL), FED(LLEGAL), and DEC(LLEGAL). Significant provisions from HB 2398 include:
 - Extending compulsory attendance through age 18, rather than through age 17.
 - Changing the procedures related to a student who voluntarily enrolls after his or her 19th (rather than 18th) birthday.
 - Removing the criminal offense of "failure to attend school" for students under Education Code 25.094 and adding the option to refer a student in a civil case to a specific truancy court.
 - Revising the requirements for the written notices a district sends to students and their parents after a student reaches a certain number of absences.
 - Mandating that certain truancy prevention measures be applied.
 - Defining truant conduct as failing to attend on ten or more days or parts of days within a six-month period.
 - Modifying the definition of "child," in terms of a referral to truancy court, as one who is 12 years of age or older and younger than 19 years of age.
 - Allowing a district to delay a referral to truancy court under certain circumstances.
 - Prohibiting a truancy referral when a student is pregnant, in foster care, is homeless, or is the principal income earner for the student's family.
 - Requiring the employment or designation of a truancy prevention facilitator.
 - Prohibiting termination of an employee who is required to attend a truancy court hearing with his or her child.

FEA(LOCAL) POLICY CONSIDERATIONS

Recommended changes to this local policy on compulsory attendance correspond with provisions from HB 2398. Because the law now extends compulsory attendance to students through age 18 and requires a student who voluntarily attends or enrolls after his or her 19th birthday to attend school for the entire period the program of instruction is offered, we recommended deletion of the local policy provision to the same effect. Provisions regarding withdrawal for nonattendance are also recommended for revision to make them applicable to students under the age of 19.

FEC(LOCAL) POLICY CONSIDERATIONS

Recommended revisions to this policy on attendance committees are to improve the structure and to clarify that the policy applies when a student has not been in attendance for 90 percent of the days that the class is offered. In addition, text regarding the attendance committee appeal process has been simplified to give the district more flexibility by deleting the reference to the specific level at which the appeal of the attendance committee's decision must begin.

Health and Wellness

Several pieces of legislation address student health and wellness issues:

- SB 66 addresses school district administration of district-provided epinephrine auto-injectors to individuals reasonably believed to be experiencing anaphylaxis on a school campus, at an off-campus school event, or while in transit to or from a school event. A district that chooses to authorize trained volunteers and school personnel to administer epinephrine as permitted by SB 66 must adopt a policy that meets certain requirements and must provide written notice to parents before the policy is implemented and before the start of each school year. FFAC(LEGAL) contains the statutory requirements of SB 66. Also see FFAF(LEGAL) for related provisions. TASB Policy Service has sample materials available for districts that choose to implement an epinephrine program.
- SB 265 requires that districts permit students to possess and use over-the-counter sunscreen products on school property or at school-related events. See FFAC(LEGAL).
- SB 206 requires that if the Department of Family and Protective Services conducts an investigation of child abuse or neglect involving a district employee, the agency must provide, on request, a copy of the completed

report to the board, superintendent, and principal. See FFG(LEGAL).

Discipline

SB 107 prompted changes to several legally referenced policies concerning student discipline:

- The bill creates the position of campus behavior coordinator (CBC), which is addressed in detail at FO(LEGAL). Each campus must designate a CBC, who may be the principal or any other campus administrator selected by the principal. The CBC is responsible for maintaining student discipline and implementing any duties assigned by law and as established by campus or district policy. Changes from SB 107 specifically referencing the CBC are also addressed at FOA(LEGAL), FOC(LEGAL), FOD(LEGAL), and the *2015 Model Student Code of Conduct*.
- SB 107 also deleted from statute a detailed list of prohibited weapons and instead now references Penal Code 46.02, Unlawful Carrying of Weapons, and 46.05, Prohibited Weapons. These changes affect mandatory expulsions of students. See FNCG(LEGAL) and FOD(LEGAL).

GRA(LOCAL) POLICY CONSIDERATIONS

At this local policy on state and governmental authorities, we recommend the addition of a cross-reference to policy code FO as a reminder of the CBC's obligation to provide written notice to a parent when a student is taken into custody by law enforcement under Chapter 37 of the Education Code.

Public Information Program

At GBA(LEGAL), HB 4046 modified provisions on public information regarding the confidentiality of student records. Changes reflecting HB 2160 provide that e-mail addresses and phone numbers of election judges or clerks are confidential.

At GBAA(LEGAL), provisions from HB 685 have been added to permit a public information officer to comply with a request by referring the requestor to an exact Internet location or URL address on a website maintained by the district. As a result of HB 2134, provisions have been revised to allow a district to e-mail any request to narrow or clarify a request for public information originally sent by e-mail.

More Information

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

