

Vantage Points

A Board Member's Guide to Update 82

Vantage Points is an executive summary of the TASB Localized Update prepared specifically for board members. The topic-by-topic outline and the thumbnail descriptions focus attention on key issues to assist local officials in studying 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 significantly more detailed, district-specific Explanatory Notes and the policies within the localized update packet.

PLEASE NOTE: This Update 82 ***Vantage Points*** and the Localized Update 82 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, e-mail us at policy.service@tasb.org, or call us at 800-580-7529 or 512-467-0222.

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Update 82 is the second of two post-legislative updates and is primarily focused on incorporating changes in the law from the 80th Legislative session that were not included in Update 81. Update 82 covers numerous issues, including required participation in county appraisal districts, employee health insurance, energy conservation, and emergency response.

Board

Educational Philosophy

AE(LOCAL) POLICY CONSIDERATIONS:
The requirement from HB 2563 that the board adopt a vision statement and comprehensive goals for the district and superintendent prompted us to consolidate these topics in a single code, AE. If the district had locally developed goals at AF(LOCAL), they have been moved to this code. Text at AF(EXHIBIT), addressing the mission, goals, and objectives of the public education system, has also been moved to AE.

Closed Meeting

SB 11 adds the discussion of security audits to the list of reasons a board may go into closed session. The law already permitted a board to discuss the deployment of security personnel or devices in closed session; now districts may discuss sensitive safety and security information not previously covered by the exception. See BEC(LEGAL).

Nepotism

For districts in counties with a population over 35,000, the law regarding nepotism has changed. The board is now subject to the nepotism prohibitions for all personnel even when it has delegated hiring authority to the superintendent. The superintendent, as a public official, is also subject to the nepotism prohibitions for the employees he or she hires. Employees hired before September 1, 2007, are not prohibited from continuing employment. These provisions from HB 2563 were added to DBE(LEGAL) with Update 81 and are now being added to BBFB(LEGAL) on prohibited practices for board members.

Finances

Goods-in-Transit

Districts that choose to tax property meeting the definition of goods-in-transit may do so by following the procedures from HB 621, included at CCG(LEGAL). The board must take official action before January 1 of the first tax year in which the district proposes to tax the goods and must conduct a public hearing prior to taking action.

Leasing District Property

To promote a public purpose of the district, HB 2618 permits a district to lease district property or provide office space to another governmental entity. The district is not required to comply with competitive purchasing or obtain fair market value. See CDB(LEGAL).

Health Insurance

Two bills affect the cost and administration of employee health insurance, as outlined at CRD(LEGAL). SB 1846 changes the district’s obligation to make TRS contributions for retired employees by moving the effective date of the provision from January to September 2005.

HB 973 makes an employee who resigns after the end of the school year eligible to continue health insurance coverage for one year from the date coverage was made available to the employee the previous year. The district must continue its contributions during this time; as a result, most employees who resign will have coverage during the summer months.

Federal law extended the period for which an employee on military leave may continue health insurance coverage from 18 to 24 months.

Appraisal Districts

CCH(LOCAL) POLICY CONSIDERATIONS:
HB 1010 eliminates the option for districts that extend into two or more counties to participate in only one appraisal district. As a result, this provision was deleted from CCH(LEGAL). A district must now participate in all appraisal districts in which it has property. Because the only issue in CCH(LOCAL) was the board’s choice of which appraisal district to participate in, the policy is no longer necessary and should be deleted.

Operations

Energy Conservation

CL(LEGAL) contains new material on energy conservation. HB 3693 requires the board to establish a goal to reduce the district’s annual electric consumption by five percent each year for six years, beginning in 2007. A record of utility usage amounts and the respective costs must be reported on the district’s Web site. In addition, light fixtures in instructional facilities must have energy efficient light bulbs.

SB 831 enables districts to finance energy savings performance contracts under a lease/purchase contract for a longer term than previously allowed. Financing may now be for 20 years from the final date of installation, rather than 15 years, as before. The bill also extends the permissible financing term when the provider of the energy or water conservation measure provides the financing. The same bill adds detail about the cost savings review that must occur before a district may enter into an energy savings performance contract.

Facilities Construction

Several bills affect CV(LEGAL), on facilities construction:

- HB 2918 removes certain catalog purchases made through the state from the list of permissible purchasing methods for contracts valued at or above \$25,000.
- HB 1268 prohibits construction contracts from providing for an award of attorney fees to the district when the district prevails in a dispute, unless the contract also provides for such an award to the other parties should they prevail.
- SB 883 addresses payment of impact fees for new development.
- HB 1886 prohibits the use of an interlocal contract to purchase engineering or architectural services.
- HB 2625 removes the requirement that a U.S. Department of Labor survey used by a district to determine the prevailing wage on public works be conducted within the previous three years.

Train Derailment Emergency response to train derailments is now at CKC(LEGAL). For a district with a school located within 1000 yards of a railroad track, SB 1504 requires the district’s multihazard emergency operations plan to address how the district will respond to a train derailment.

Transportation HB 323 addresses seat belts on school buses. On school buses equipped with seat belts, districts must require students to wear the belts; for buses without seat belts, districts must consider offers of donations to install seat belts. The same bill requires districts to make school bus accident reports to TEA. See CNB(LEGAL).

HB 273 permits a district to establish a transportation system outside the district through an interlocal contract, as reflected at GR(LEGAL).

Employees

Nonschool Employment

DBD(LOCAL) and DBF(LOCAL) POLICY CONSIDERATIONS:

Local text on nonschool employment previously found at DBF has been re-developed and recoded to DBD(LOCAL). The recommended new provisions require an employee to disclose in writing to his or her immediate supervisor any outside employment that may create a potential conflict of interest with the employee’s duties or the best interest of the district. These disclosures permit the supervisor to examine the nonschool employment on a case-by-case basis and determine whether it should be prohibited based on a conflict of interest. A separate provision addresses private tutoring of district students for pay. DBF is no longer an active code.

Nonrenewal of Superintendent

BJCF(LOCAL) POLICY CONSIDERATIONS:

To match changes made at Update 80 to DFBB(LOCAL) for term contract employees, two reasons for nonrenewal of the superintendent's contract have been revised. Nonrenewal may be based on the superintendent's failure to report an indictment, no contest or guilty plea, or any other adjudication for certain offenses. Nonrenewal based on convictions or deferred adjudication has been broadened to include additional offenses.

Students

Handbooks

FN(LOCAL) POLICY CONSIDERATIONS:

New recommended text includes the common practice of distributing student handbooks electronically on the district's Web site. Districts that choose to distribute the handbooks electronically must still provide a hard copy of the handbook if a student or parent requests one.

Graduation

When a special education student has completed four years of high school but has not completed his or her IEP, SB 673 requires a district to issue the student a certificate of attendance and allow the student to participate in a graduation ceremony. See FMH(LEGAL).

At EIF(LEGAL), provisions from HB 2237 have been added encouraging districts to develop a personal graduation plan for each student entering ninth grade. Districts are already required to develop these plans for students who fail a state assessment instrument or who are not likely to graduate within five years of beginning ninth grade.

Also at EIF(LEGAL) is the HB 1563 requirement that a district award, at the request of a parent, a posthumous diploma to a student who dies while enrolled in the district as a senior if the student was academically on track to graduate at the time of death and does not have certain felony offenses.

Physical Fitness Assessments

Two bills contributed changes to FFAA(LEGAL). SB 530 requires physical fitness assessments of each student in grades three through twelve. TEA communicated with districts this fall regarding the details and administration of this new program. SB 415 converts the acanthosis nigricans screening program to a broader risk assessment screening for type 2 diabetes.

Student Expression

FNAA(LOCAL) POLICY CONSIDERATIONS:

At Update 81, a provision was added to FNA(LEGAL) based on the recent U.S. Supreme Court case *Morse v. Frederick*, which clarified that a district may restrict student expression that it reasonably regards as promoting illegal drug use. This case also applies to student distribution of nonschool literature. Accordingly, the recommended provision added to FNAA(LOCAL) prohibits student distribution of nonschool literature that promotes illegal use of drugs, alcohol, or other controlled substances.

Extracurricular Activities

Three bills that affect a student's eligibility to participate in extracurricular activities have prompted revisions to FM(LEGAL).

- SB 8 requires the UIL to adopt rules and implement steroid testing of students during the 2007–08 school year.
- HB 208 clarifies that students who are in dual-credit courses or concurrent enrollment programs are not considered ineligible because of their absence from the district campus.
- SB 1517 states that now only certain advanced courses are exempt from the no pass, no play requirements.

Discipline

Policies regarding student discipline have been revised as follows:

- At FNCG(LEGAL), HB 2112 modifies the felony offense for firearms on school property to expressly include parking lots and garages on the property.
- At FOD(LEGAL), districts that admit students ages 21–25 may not place such students in a JJAEP. If such a student engages in conduct that would normally result in JJAEP placement, the district must revoke the student's admission, in accordance with HB 1137. Also, from HB 8, continuous sexual abuse of a young child has been added as a school-related offense that results in mandatory expulsion.

DAEP

The operation of the district's DAEP, as detailed at FOCA(LEGAL), is affected by HB 426. DAEP teachers must meet all certification requirements, and instructional time per day in the DAEP must not be less than that required for non-disciplinary programs.

Also at FOCA(LEGAL), HB 2532 requires districts to assess the academic growth of students placed in a DAEP for 90 school days or longer. The commissioner will develop an assessment instrument for this purpose.

Truancy

At FEA(LEGAL) revisions prompted by SB 1161 and HB 2884 clarify that the district has ten school days after the student’s tenth absence to refer a student for failure to attend school.

To allow truant students to meet compulsory attendance requirements, a new provision from HB 2237 allows peace officers to return a truant student to the appropriate district campus. See FED(LEGAL).

Accountability

GND(LEGAL) has been revised based on SB 1031, which implements end-of-course assessments beginning in the 2011–12 school year. Until the State Board of Education develops the end-of-course assessments, students will continue to take exit-level assessments.

Two other provisions from SB 1871 and SB 1031, respectively, have been added to GND(LEGAL). The academic excellence indicators used to assess campus and district performance must include the performance of limited English proficient students disaggregated by the bilingual education or special language program in which they are or were enrolled. This information will be used to evaluate the effectiveness of the different programs. In addition, the Commissioner may initiate a special accreditation investigation in response to a possible violation of an assessment instrument security procedure.

Community

Firearms

At GKA(LEGAL), HB 2112 modifies the restriction against the public bringing firearms onto school property in the same manner as at FNCG(LEGAL) for students. In accordance with HB 1889 and HB 2300, certain concealed handgun license holders may assert a defense to prosecution if they carry a handgun to interscholastic events or board meetings. This defense is available if the holder is a judge or justice of a federal court, an active judicial officer, a district or county attorney, or a bailiff at the time of the commission of the offense.

Distribution of Literature

GKDA(LOCAL) POLICY CONSIDERATIONS:
As at FNAA(LOCAL), a recommended provision prohibiting members of the public from distributing nonschool literature that promotes illegal use of drugs, alcohol, or other controlled substances has been added.

Emergency Management

GRC(LEGAL) is a new policy that was developed to gather together in a single code provisions on emergency management involving other governmental entities. HB 1471 established the Texas Statewide Mutual Aid System, which permits a district to render aid to another local government entity, including a

school district. If a district receives a request for aid, the district must assess whether it has sufficient resources to provide assistance. The requesting governmental entity is responsible for reimbursing the provider district for the cost of the aid.

Also at GRC(LEGAL), SB 11 adds that an appointed public officer whose job includes emergency management responsibilities must complete a training course regarding the responsibilities of state and local governments under the mutual aid provisions.

Local Government Authorities

Several other bills addressing interaction with local government authorities have prompted revisions to GRA(LEGAL) as follows:

- HB 776 allows a person who has taken a child into custody to release the child to the principal, principal's designee, or a peace officer at the child's school if the school staff member agrees to assume responsibility for the child for the remainder of the school day.
- HB 2532 now requires the office of the prosecuting attorney to notify a district when a student is required to register as a sex offender. In addition, when a superintendent receives information from the prosecuting attorney about the conviction or adjudication of a student, the superintendent must provide notification to personnel within 24 hours of receiving the information.
- HB 2532 also changes the requirements to notify personnel when a student is arrested or taken into custody. The superintendent must promptly notify personnel who have responsibility for supervising the student. In addition, the superintendent may provide to the relevant personnel confidential information about the arrest if the superintendent determines that the information is needed for educational or safety purposes.
- SB 758 requires a district to release to the Texas Department of Family and Protective Services (FPS) otherwise confidential information regarding the location or identifying information of a family subject to a Child Protective Services investigation if FPS requests the information.

More Information

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.