

Localized Policy Manual

Update 82

Denton ISD

Localized Update 82 represents the second of two post-legislative updates, focusing primarily on incorporating changes in 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 coverage, energy conservation, and emergency response.

Please bear in mind that the (LEGAL) policies reflect the ever-changing legal context for governance and management of the district. They should NOT be adopted but, rather, should inform local decision making. The (LOCAL) policy recommendations in this update will need close attention by both the administration and the board to ensure that they reflect the practices of the district and the intentions of the board. Board action is needed to adopt, revise, or repeal (LOCAL) policy.

In addition to the updated policies, your Localized Update 82 packet contains:

- **INSTRUCTIONS** . . . providing specific, policy-by-policy directions on how this update, if accepted as prepared, should be incorporated into your Localized Policy Manual.
- **EXPLANATORY NOTES** . . . summarizing changes to the policies in each code. Unless otherwise indicated, all bills referenced in the Explanatory Notes are from the 80th Legislative Session. Please note that, where appropriate, the Explanatory Notes ask you to **verify that a particular policy reflects your current practice and to advise us of changes needed** so that our records and your manual accurately track the district's practice.

Vantage Points—A Board Member's Guide to Update 82 may be found in the separately wrapped package accompanying this packet. ***Vantage Points*** offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute the enclosed copies of *Vantage Points* to your board members** at the earliest possible opportunity, preferably with their review copies of this update.

Update 82 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this Update, please call your policy consultant/analyst, Amy Kadlecek, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 82 . . .

- Board action on Localized Update 82 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 82, affecting (LOCAL) policies (see attached list).” Using the Instruction Sheet as a guide, create and attach to the posting a list of the (LOCAL) policy codes added, revised, or deleted **and the titles/subtitles of those policies**. BoardBook compilers should use “Policy Update 82, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.
- An appropriate motion for board action on Localized Update 82 is as follows:
“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 82 [with the following changes:]”
- The board’s action on Localized Update 82 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the minutes where they make up the authoritative record of your board’s actions. Include a copy of new, replaced, or rescinded (LOCAL) policies.
- In constructing the separate historical record of the manual, the emphasis is on tracking the history of individual policies. For guidance on maintaining this record, please refer to the **Policy Administrator’s Guide** at https://www.tasb.org/docs-mytab/gov_svcs/policy_svc/adminguide/policy_admin_guide.pdf.cfm.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant/analyst of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. If the district uses *Policy On Line*, you will need to notify us of the board’s action on Update 82 so that your district’s Localized Policy Manual as it appears on TASB’s Web server can be updated. *Policy On Line* staff may be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618, using the tan form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (<http://www.tasb.org/policy/pol/private/polfdbk.html>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 82 policy changes should be inspected and revised as needed. If the district routinely submits (REGULATIONS) to Policy Service for processing or desires that the updated (REGULATION) be included in the district’s *Policy On Line* manual, please submit these changes to your policy consultant/analyst at your earliest convenience.

PLEASE NOTE: This Localized Update packet and the Update 82 **Vantage Points** may not be considered as legal advice and are not intended as a substitute for the advice of the board’s own legal counsel.

Instruction Sheet

TASB Localized Policy Manual Update 82

District Denton ISD

Code	Action To Be Taken	Note
A (LEGAL)	Replace table of contents	Revised table of contents
AE (EXHIBIT)	ADD exhibit	See explanatory note
AF (EXHIBIT)	DELETE exhibit	See explanatory note
BBB (LEGAL)	No policy enclosed	See explanatory note
BBFB (LEGAL)	Replace policy	Revised policy
BDAF (LEGAL)	Replace policy	Revised policy
BEC (LEGAL)	Replace policy	Revised policy
BJCF (LOCAL)	Replace policy	Revised policy
CBB (LEGAL)	Replace policy	Revised policy
CCA (LEGAL)	Replace policy	Revised policy
CCG (LEGAL)	Replace policy	Revised policy
CCH (LEGAL)	Replace policy	Revised policy
CDB (LEGAL)	Replace policy	Revised policy
CDC (LEGAL)	Replace policy	Revised policy
CKC (LEGAL)	Replace policy	Revised policy
CKE (LEGAL)	No policy enclosed	See explanatory note
CL (LEGAL)	Replace policy	Revised policy
CNB (LEGAL)	Replace policy	Revised policy
CRD (LEGAL)	Replace policy	Revised policy
CRG (LEGAL)	Replace policy	Revised policy
CS (LEGAL)	Replace policy	Revised policy
CV (LEGAL)	Replace policy	Revised policy
CVF (LEGAL)	Replace policy	Revised policy
D (LEGAL)	Replace table of contents	Revised table of contents
DBD (LOCAL)	Replace policy	Revised policy
DBE (LEGAL)	Replace policy	Revised policy
DH (LEGAL)	Replace policy	Revised policy
DHE (LEGAL)	Replace policy	Revised policy
DK (LEGAL)	Replace policy	Revised policy
EIF (LEGAL)	Replace policy	Revised policy
EK (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy

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FEA	(LEGAL)	Replace policy	Revised policy
FED	(LEGAL)	Replace policy	Revised policy
FFAA	(LEGAL)	Replace policy	Revised policy
FM	(LEGAL)	Replace policy	Revised policy
FMH	(LEGAL)	Replace policy	Revised policy
FN	(LOCAL)	Replace policy	Revised policy
FNAA	(LOCAL)	Replace policy	Revised policy
FNCG	(LEGAL)	Replace policy	Revised policy
FOCA	(LEGAL)	Replace policy	Revised policy
FOD	(LEGAL)	Replace policy	Revised policy
G	(LEGAL)	Replace table of contents	Revised table of contents
GKA	(LEGAL)	Replace policy	Revised policy
GKDA	(LOCAL)	Replace policy	Revised policy
GND	(LEGAL)	Replace policy	Revised policy
GR	(LEGAL)	Replace policy	Revised policy
GRA	(LEGAL)	Replace policy	Revised policy
GRC	(LEGAL)	ADD policy	See explanatory note

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A (LEGAL) BASIC DISTRICT FOUNDATIONS

We have removed AF (Goals and Objectives) from the A section table of contents since materials on that topic have been moved to code AE at this update. AF is no longer an active code.

AE (EXHIBIT) EDUCATIONAL PHILOSOPHY

The requirement from HB 2563, effective September 1, 2007, that the board adopt a vision statement and comprehensive goals for the district and superintendent prompted us to combine these topics into a single code. Therefore, this exhibit addressing the mission, goals, and objectives of the public education system has been moved, unchanged, from AF to this code.

AF (EXHIBIT) GOALS AND OBJECTIVES

As indicated above, we have moved this exhibit addressing the mission, goals, and objectives of the public education system to policy code AE.

BBB (LEGAL) BOARD MEMBERS
ELECTIONS

BBB(LEGAL) as issued in Update 81 included a provision from SB 670, effective April 25, 2007, that allows the board to adopt a resolution changing the length of its trustee terms in order to comply with the joint election obligations added by HB 1 from the third called session of the 79th Legislature. If your district has adopted such a resolution, please contact your policy consultant/analyst so that we may update both your BBB(LEGAL) and BBB(LOCAL) policies accordingly.

BBFB (LEGAL) ETHICS
PROHIBITED PRACTICES

At COUNTIES WITH POPULATION 35,000 OR MORE, on page 4, is a new provision from HB 2563, effective September 1, 2007, which significantly changes the nepotism rules for a district located wholly in, or whose largest part is located in, a county with a population of 35,000 or more. Board members now remain subject to the nepotism prohibitions for all district employees, even when the district delegates to the superintendent final authority to select district personnel. Previously, when the board delegated hiring authority to the superintendent, board members were not subject to the nepotism prohibitions to the extent of the delegation.

This change in the nepotism rules does not apply to a district located wholly in, or whose largest part is located in, a county with a population of less than 35,000. As indicated at COUNTIES WITH POPULATION LESS THAN 35,000, when a board delegates hiring authority to the superintendent in these districts, trustees are not subject to the nepotism prohibitions to the extent of the delegation.

At DEPOSITORY CONFLICT, on page 5, a provision has been added from HB 2411, effective June 15, 2007, allowing a bank seeking to become the district's depository to submit either a bid or proposal. Now a trustee who is a stockholder, officer, director, or employee of a bank is prohibited from voting to award a depository contract to the bank when the bank submits either a bid or a proposal.

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BDAF (LEGAL) OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

At ASSESSOR, item 2, is a provision from HB 923, effective September 1, 2007, stating that, if the tax assessor mails a tax bill to the mortgagee, the assessor is not required to also mail the tax bill to the mortgagor.

BEC (LEGAL) BOARD MEETINGS
CLOSED MEETINGS

At SECURITY, on page 2, is a new provision from SB 11, effective September 1, 2007, that permits the board to go into closed session to discuss a security audit. The law already permitted a board to go into closed session to discuss the deployment of security personnel or devices; now districts may discuss sensitive safety and security information not previously covered by the closed meeting exception on security.

BJCF (LOCAL) SUPERINTENDENT
NONRENEWAL

On page 1 of the policy, those REASONS for nonrenewal of the superintendent's term contract that pertain to certain violations of law have been revised as follows:

- Item 11 now includes the failure to report an indictment, no contest or guilty plea, or any other adjudication (for any felony or any crime involving moral turpitude) as well as any other offense listed at DH(LOCAL).
- Item 12 has been rephrased to include conviction or deferred adjudication of any other offense listed at DH(LOCAL).

At Update 80, similar changes were made to DFBB(LOCAL) for other employees on term contracts.

CBB (LEGAL) STATE AND FEDERAL REVENUE SOURCES
FEDERAL

HB 2358, effective September 1, 2007, changes the account into which districts must deposit federal funds received to pay for state RETIREMENT AND INSURANCE CONTRIBUTIONS. Previously, the deposit was made to the General Revenue Fund; now the deposit must be made to the state contribution account.

CCA (LEGAL) LOCAL REVENUE SOURCES
BOND ISSUES

At EXISTING DEBT ALLOTMENT, HB 1922, effective September 1, 2007, defines bonds eligible for state funding as those on which the district made payments during the 2006–07 school year, ensuring that districts are guaranteed state funding for the majority of bonds they are currently responsible for paying.

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CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

Under SPLIT PAYMENT on page 5, SB 796, effective June 15, 2007, allows a district located in a county with a population of 250,000 or more that borders Harris County and the Gulf of Mexico and that has its taxes collected by another taxing unit that has adopted the split-payment option to decline the option for the district's taxes.

On page 10, HB 621, effective January 1, 2008, provides that property that meets the statutory definition of GOODS-IN-TRANSIT is exempt from taxation. A school board, however, may provide for the taxation of goods-in-transit by official action. Such action must be taken before January 1 of the first tax year in which the district proposes to tax the goods, and the board must conduct a public hearing prior to taking action.

Obsolete text regarding the election to approve the adopted 2006 tax rate has been deleted from page 4.

CCH (LEGAL) LOCAL REVENUE SOURCES APPRAISAL DISTRICT

At PARTICIPATION, a provision allowing districts that extend into two or more counties to participate in only one appraisal district is deleted by HB 1010, effective January 1, 2008. As a result, districts must participate in the appraisal districts of all counties in which they have property.

CDB (LEGAL) OTHER REVENUES SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

At LEASE OF PROPERTY TO A GOVERNMENTAL ENTITY, beginning on page 2, is a new provision from HB 2618, effective May 25, 2007. To promote a public purpose of the district, a district may lease district property or provide office space to another governmental entity. While the district must ensure that the terms of the lease or agreement promote the public purpose, the district is not required to comply with competitive purchasing and may provide the lease or office space for less than fair market value.

CDC (LEGAL) OTHER REVENUES GRANTS FROM PRIVATE SOURCES

At APPLICATION FOR GRANT, HB 2358, effective September 1, 2007, changes the account into which districts must deposit grant funds received to pay for state contributions to the retirement system and to the group insurance program for retirees. Previously, the deposit was made to the General Revenue Fund; now the deposit must be made to the state contribution account.

CKC (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT EMERGENCY PLANS

The district's multihazard emergency operations plan must now include provisions for responding to a TRAIN DERAILMENT near a district school if a district school is located within 1000 yards of a railroad track. Although the statutory text, from SB 1504, effective September 1, 2007, refers to the train derailment provisions as a "policy," the provisions are to be included in the multihazard emergency operations plan, rather than the district's policy manual.

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Districts must also report the results of their SECURITY AUDITS to the Texas School Safety Center, as provided by SB 11, effective September 1, 2007.

CKE (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT SECURITY PERSONNEL/PEACE OFFICERS

Our records indicate that your district may be among those that commission peace officers as part of its police department. If that information is outdated or incorrect, please let us know so we may amend or update our records accordingly.

However, if your board has indeed authorized the commissioning of peace officers, it should adopt a (LOCAL) policy setting the geographical jurisdiction of the district police officers, and the district must develop a memorandum of understanding (MOU) between the school district police department and the law enforcement agencies with which it has overlapping jurisdiction. This MOU serves to coordinate activities and communication between the law enforcement agencies and school district peace officers. Please contact your policy consultant/analyst for additional information on this issue.

CL (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

A new provision at REDUCTION OF ENERGY CONSUMPTION reflects material from HB 3693, effective September 1, 2007. The board must establish a goal to reduce the district's annual electric consumption by five percent each year for six years, beginning in 2007.

Two other provisions are also added from HB 3693 at ENERGY USAGE REPORT and LIGHT BULBS, beginning on page 3. A district must electronically record and report on the district's Web site utility usage amounts and the respective costs. In addition, light fixtures in instructional facilities must have energy efficient light bulbs.

At FINANCING, beginning on page 2, SB 831, effective June 15, 2007, 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.

SB 831 also adds detail about the COST SAVINGS REVIEW that must occur before a district may enter into an energy savings performance contract.

The Texas Building and Procurement Commission's obligation to work with districts to develop a RECYCLING PROGRAM has been shifted to the comptroller. This change, reflected on page 4, comes from HB 3560, effective September 1, 2007.

CNB (LEGAL) TRANSPORTATION MANAGEMENT DISTRICT VEHICLES

Pursuant to HB 3560, effective September 1, 2007, two references to the Texas Building and Procurement Commission have been changed to the comptroller:

- At AUTHORIZATION TO PURCHASE OR LEASE VEHICLES, on page 1, districts may now purchase school motor vehicles through the comptroller; and
- At SALE OF BUSES, on page 2, districts may ask the comptroller to dispose of school buses that the district no longer needs.

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CS (LEGAL) FACILITY STANDARDS

A new provision from HB 1886 is added at PORTABLE BUILDINGS, on page 4. All portable, modular buildings capable of being relocated that are purchased or leased after September 1, 2007, must be inspected as provided by the Occupations Code to ensure compliance with mandatory building codes or approved designs, plans, and specifications.

CV (LEGAL) FACILITIES CONSTRUCTION

Various bills from the 80th Legislative Session affect this policy:

- HB 2918, effective September 1, 2007, removes certain catalog purchases made through the state from the list of permissible purchasing methods for CONTRACTS VALUED AT OR ABOVE \$25,000, on page 1.
- HB 1268, effective September 1, 2007, prohibits construction contracts from providing for an award of ATTORNEY FEES to the district when the district prevails in a dispute, unless the contract provides for such an award to the other parties should they prevail in a dispute.
- SB 883, effective May 25, 2007, provides that districts do not need to pay IMPACT FEES imposed under Local Government Code Chapter 395 unless the board consents through a contract with the governmental entity that imposes the fees.
- HB 1886 prohibits the use of an interlocal contract after September 1, 2007, to purchase engineering or architectural services, as reflected at PROFESSIONAL SERVICES on page 3.
- HB 3560, effective September 1, 2007, transfers several duties from the Texas Building and Procurement Commission to the comptroller, requiring a conforming change at OUT-OF-STATE BIDDERS, on page 6.
- HB 2625, effective September 1, 2007, 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.

CVF (LEGAL) FACILITIES CONSTRUCTION JOB ORDER CONTRACTS

HB 1886, effective September 1, 2007, clarifies that when ARCHITECT OR ENGINEER services are required for a job order contract, the district shall follow the usual method of selection under Government Code Chapter 2254, which requires consideration of demonstrated competence and qualifications.

D (LEGAL) PERSONNEL

We have revised the D section table of contents to remove the obsolete policy code DBF, to update the title of the DF series from Termination of Contract to Termination of Employment, and to update the title of policy DMB (previously Special Programs Training) to Career Advancement.

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DBD (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

Added to this code are provisions addressing NONSCHOOL EMPLOYMENT. The 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. Employees must also report in writing any private tutoring of district students for pay. These disclosures permit the supervisor to examine nonschool employment on a case-by-case basis and determine whether it should be prohibited based on a conflict of interest.

DBE (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

We have rearranged text and added margin notes to distinguish between the different nepotism provisions that apply depending on whether a district is located wholly in, or whose largest part is located in, a county with a population of 35,000 or more. [See COUNTIES WITH POPULATION 35,000 OR MORE and COUNTIES WITH POPULATION LESS THAN 35,000, on page 1.] See the explanatory note at BBFB(LEGAL) for more information on the nepotism provisions.

DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

A provision from SB 606, effective June 16, 2007, is added at REPORT TO SBEC OF EDUCATOR MISCONDUCT. In a report to SBEC of an improper relationship between an educator and a student, a superintendent must report the name of the student or minor. The student's name is not subject to release in a request for information under the Public Information Act.

DHE (LEGAL) EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

At REPORTS, beginning on page 2, SB 328, effective September 1, 2007, clarifies that a district must report a dilute specimen to the Department of Public Safety only if it results in a positive test. The definition of "dilute specimen" from the federal regulations has also been added.

DK (LEGAL) ASSIGNMENT AND SCHEDULES

At ASSIGNMENT, SB 158, effective September 1, 2007, requires educational diagnosticians to be certified or to hold an appropriate permit. This bill codifies current practice based on existing regulations at 19 TAC 230.601.

EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION

HB 1563, effective June 15, 2007, requires a district to award 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. There is an exception for students convicted or adjudicated as having engaged in a felony offense under Titles 5 or 6 of the Penal Code. This provision applies beginning with students enrolled in grade 12 during the 2005–06 school year.

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HB 2237, effective June 15, 2007, encourages 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.

Detailed provisions on EXIT-LEVEL ASSESSMENT have been moved from this policy to EKB(LLEGAL), a policy dedicated to state assessment testing. Provisions regarding notice of graduation requirements, which require districts to inform parents of state testing requirements for graduation, have been deleted from this code since they are already included at EKB(LLEGAL).

EK (LEGAL) TESTING PROGRAMS

An introductory statement from SB 1031 has been added to the section on COLLEGE PREPARATION ASSESSMENTS indicating that provisions from Education Code 39.0261 apply only if the legislature appropriates funds for these purposes. Because no funds were appropriated for this purpose, the provisions are not effective for this biennium.

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

Changes were made throughout this code, as follows:

- Text at STATE ASSESSMENT OF ACADEMIC SKILLS, on page 1, and NOTICE TO PARENTS AND STUDENTS, on page 2, has been revised for clarity.
- Limitations on student participation in UIL activities during state testing, adopted by TEA in April 2006, have been added at SCHEDULE, on page 1.
- Provisions on ACCOMMODATIONS, on page 3, including accommodations for dyslexic students, have been moved to clarify that such accommodations are not limited to special education students.
- As indicated in the explanatory note for EIF(LLEGAL), information on EXIT-LEVEL TESTING has been added at page 3.
- A provision requiring TEA to develop alternate assessment instruments for special education students has been deleted, as this is not an obligation of the district.
- Beginning on page 4, provisions addressing special populations have been rearranged for clarity and are now organized in three sections regarding students in SPECIAL EDUCATION, LIMITED ENGLISH PROFICIENCY (LEP) STUDENTS, and LEP STUDENTS IN SPECIAL EDUCATION.

FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

A DISTRICT COMPLAINT OR REFERRAL regarding a student's failure to attend school must now be made within ten school days of the student's tenth absence. Previously, complaints or referrals had to be made within seven days of the student's last absence. These changes, reflected on page 7, come from SB 1161, effective June 15, 2007, and HB 2884, effective September 1, 2007, which were clarified by the recent Attorney General Opinion GA-574 (October 2, 2007).

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FED (LEGAL) ATTENDANCE
ATTENDANCE ENFORCEMENT

Text at this code has been rearranged to address, in sequence, current statutory options regarding attendance enforcement: assigning the duties and responsibilities of the ATTENDANCE OFFICER to a regular district employee or to a PEACE OFFICER who is employed by the district for this purpose. A new provision on page 2 from HB 2237 allows PEACE OFFICERS to return a truant student to the appropriate district campus so that the student may meet compulsory attendance requirements. This provision was effective September 1, 2007.

FFAA (LEGAL) WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

SB 530, effective with the 2007–08 school year, requires districts to do a PHYSICAL FITNESS ASSESSMENT on each student in grades 3 through 12, using an instrument called FitnessGram. [See www.fitnessgram.net/texas/ for more information.] Districts must also report a summary of the results to TEA, though individual student results are confidential and may be released only in accordance with law. As indicated in the *Model Student Handbook*, parents may request a copy of their child's assessment at the end of the school year.

SB 415, effective September 1, 2007, converts the acanthosis nigricans screening program to a broader risk assessment screening for type 2 diabetes. Students identified with acanthosis nigricans during the risk assessment screening must be further assessed for body mass index and blood pressure. The bill also creates a new requirement for the superintendent to report the screening results to the University of Texas-Pan American Border Health Office. These changes are reflected at RISK ASSESSMENT FOR TYPE 2 DIABETES, beginning on page 2.

FM (LEGAL) STUDENT ACTIVITIES

Provisions on STEROID TESTING are added from SB 8, requiring the UIL to adopt rules and implement testing of high school students during the 2007–08 school year. In general, districts must keep test results of individual students confidential.

At ELIGIBILITY, HB 208, effective beginning with the 2007–08 school year, clarifies that students otherwise eligible to participate in extracurricular or UIL activities are not ineligible because they are enrolled in dual-credit courses or concurrent enrollment programs. This addresses situations in which a student was considered ineligible because he or she was not enrolled full-time in courses on the district's campus.

At ADVANCED COURSES on page 2 is a new provision from SB 1517, also effective with the 2007–08 school year, stating that all advanced placement and international baccalaureate courses are exempt from the no pass, no play requirements. Honors and concurrent enrollment courses are exempt only if they are in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. We encourage each district to examine the courses it has designated for this purpose to ensure that all courses meet this new standard. Further guidance on the designation of these courses is available on the UIL's Web site at www.uil.utexas.edu/policy/no_pass_update.html.

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FMH (LEGAL) STUDENT ACTIVITIES COMMENCEMENT

At SPECIAL EDUCATION STUDENTS, SB 673, effective May 8, 2007, requires a district to issue a certificate of attendance to a special education student who has completed four years of high school but has not completed his or her IEP and to allow the student to participate in a graduation ceremony with other students receiving high school diplomas. If the special education student subsequently completes his or her IEP, the student may receive a diploma.

FN (LOCAL) STUDENT RIGHTS AND RESPONSIBILITIES

To this policy we have added a provision reflecting the common practice of distributing student handbooks electronically on district Web sites. Districts that choose electronic DISTRIBUTION must still provide a hard copy of the handbook if a student or parent requests one. If your district does not provide for electronic distribution, please contact your policy consultant/analyst for appropriate text.

FNAA (LOCAL) STUDENT EXPRESSION DISTRIBUTION OF NONSCHOOL LITERATURE

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 because of the special characteristics of the school environment and the governmental interest in stopping student drug use, 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, we have added a provision at LIMITATIONS ON CONTENT prohibiting student distribution of nonschool literature that promotes illegal use of drugs, alcohol, or other controlled substances.

FNCG (LEGAL) STUDENT CONDUCT WEAPONS

HB 2112, effective September 1, 2007, modified the restriction against FIREARMS on school property to expressly include parking areas and garages on the property. A violation of the prohibition occurs only if the person intends to cause alarm, personal injury to another person, or damage to school property and if the person intentionally exhibits, uses, or threatens to exhibit or use the firearm.

FOCA (LEGAL) PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

Two changes from HB 426, effective September 1, 2007, are added at items 7 and 8 at DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM, on page 1: DAEP teachers must meet all certification requirements, and instructional time per day in the DAEP must not be less than the minimum amount of time required for non-disciplinary programs.

A new provision from HB 2532, effective June 15, 2007, is at ASSESSMENT OF ACADEMIC GROWTH on page 1. This provision 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.

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FOD (LEGAL) STUDENT DISCIPLINE EXPULSION

Districts that admit OVERAGE STUDENTS for the purpose of allowing the students to obtain a diploma may not place such students in a JJAEP. If an overage student engages in conduct that would normally result in JJAEP placement, the district must revoke the student's admission. This provision, on page 1, comes from HB 1137 and is effective with the 2007–08 school year.

From HB 8, effective September 1, 2007, is added a new school-related offense that results in MANDATORY EXPULSION: continuous sexual abuse of a young child or children.

G (LEGAL) COMMUNITY

We have revised the G section table of contents to include the new policy code GRC, Emergency Management.

GKA (LEGAL) COMMUNITY RELATIONS CONDUCT ON SCHOOL PREMISES

At FIREARMS/WEAPONS on page 3, HB 2112, effective September 1, 2007, modifies the restriction against firearms on school property to expressly include parking areas and garages on the property. A violation of the prohibition occurs only if the person intends to cause alarm, personal injury to another person, or damage to school property and if the person intentionally exhibits, uses, or threatens to exhibit or use the firearm.

It is now a DEFENSE TO PROSECUTION for a concealed handgun license holder who carries a handgun to interscholastic events or board meetings 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. This new text, beginning on page 4, is from HB 1889 and HB 2300, both effective June 15, 2007.

GKDA (LOCAL) NONSCHOOL USE OF SCHOOL FACILITIES DISTRIBUTION OF NONSCHOOL LITERATURE

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 because of the special characteristics of the school environment and the governmental interest in stopping student drug use, a district may restrict student expression that it reasonably regards as promoting illegal drug use. This case also permits a district to regulate the distribution of nonschool literature on district premises. Accordingly, we have added a provision at LIMITATIONS ON CONTENT prohibiting distribution of nonschool literature that promotes illegal use of drugs, alcohol, or other controlled substances.

GND (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES STATE EDUCATION AGENCY

Item 5 at ACADEMIC EXCELLENCE INDICATORS 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 be assessed using exit-level assessments.

Explanatory Notes

TASB Localized Policy Manual Update 82

On page 2, text from SB 1871, effective June 15, 2007, requires districts to report the performance of limited English proficient students disaggregated by the bilingual education or special language program in which they are or were enrolled.

Also from SB 1031 is a new provision, at item 8 on page 5, allowing the Commissioner to initiate a special ACCREDITATION INVESTIGATION following suspicion of a possible violation of an assessment instrument security procedure.

The performance of students confined to a Texas Youth Commission facility is reported separately from the performance of other students in the district in which the facility is located. Now, HB 3092, effective with the 2007–08 school year, also exempts from a district's performance CONFINED STUDENTS in a residential program or facility operated by or under contract with the Texas Juvenile Probation Commission or any other governmental entity, including a juvenile board. This change is reflected on page 7.

GR (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES

At TRANSPORTATION SYSTEM, HB 273, effective June 15, 2007, permits a district to establish a transportation system outside the district through an interlocal contract.

GRA (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES LOCAL GOVERNMENTAL AUTHORITIES

On page 2 at STUDENTS IN CUSTODY, a new provision is added from HB 776, effective September 1, 2007, allowing 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, effective June 15, 2007, now requires the office of the prosecuting attorney to provide to a district information on whether a student is required to register as a sex offender. This change appears at NOTICE OF DISPOSITION OF CHARGES, on page 3. When a superintendent receives information from the prosecuting attorney about the CONVICTION OR ADJUDICATION OF A STUDENT (see page 4), the superintendent must provide notification to personnel within 24 hours of receiving the information. The statute was previously silent on how quickly the superintendent needed to provide the notification.

On page 4, HB 2532 also changes the NOTICE TO PERSONNEL requirements when a student is arrested or taken into custody. The superintendent must *promptly* notify personnel who have responsibility for supervising such a 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.

Any person, including a district, must release to the Texas Department of Family and Protective Services (DFPS) otherwise confidential information regarding the location or identifying information of a family subject to a Child Protective Services investigation if DFPS requests the information. This new provision appears at CPS INVESTIGATIONS AT SCHOOLS beginning on page 5 and is from SB 758, effective September 1, 2007.

Explanatory Notes

TASB Localized Policy Manual Update 82

GRC (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
EMERGENCY MANAGEMENT

This new policy was developed to gather together in a single code provisions on emergency management that involve other governmental entities. HB 1471, effective June 15, 2007, establishes the Texas Statewide Mutual Aid System, which permits a district to render mutual aid to other local government entities. The term "local government entity" is defined to include independent school districts. If a district receives a request for aid, the district must determine whether it has sufficient local resources to provide assistance. The requesting governmental entity is responsible for reimbursing the provider district for the cost of the aid.

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. This new requirement, at EMERGENCY MANAGEMENT TRAINING on page 3, comes from SB 11, effective June 6, 2007.

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
AG	HOME-RULE DISTRICTS
AH	OPEN-ENROLLMENT CHARTER SCHOOLS

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. 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.

OBJECTIVE 5: Educators will prepare students to be thoughtful, active citizens who have an appreciation for the basic values of our state and national heritage and who can understand and productively function 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.

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, 4.002

RESTRICTIONS ON
PUBLIC SERVANTS —
PENAL CODE

“Public servant” shall mean a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

1. An officer, employee, or agent of government; or
2. A candidate for nomination or election to public office.

Penal Code 1.07(a)(41)(A), (E)

Prohibited activities are covered by, but are not limited to, the following:

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
 - a. As consideration for the public servant’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
 - b. As consideration for a violation of a duty imposed on the public servant by law.
 - c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Penal Code 36.01(3), 36.02

ILLEGAL GIFTS

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of the District. *Penal Code 1.07(41)(A), (E), 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section

may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

EXCEPTIONS

“Illegal gifts to public servants” does not apply to:

- a. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
- b. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - (2) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
- d. A political contribution as defined by Title 15, Election Code;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
- g. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

Penal Code 36.10

HONORARIA AND
EXPENSES

3. A public servant commits a class A misdemeanor offense if he or she solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not

have been requested to provide but for his or her official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which he or she renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. *Penal Code 36.07*

ABUSE OF OFFICE

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the office or misuse District property, services, personnel, or any other thing of value, belonging to the District, that has come into his or her custody by virtue of his or her office or employment. *Penal Code 39.02(a)*

“Law relating to the office” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

“Misuse” means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)

NEPOTISM

5. Except as provided by law, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:
- a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree; or
 - b. The public official holds the appointment or confirmation authority as a member of a local board and the person is

related to another member of the board by blood or marriage within a prohibited degree.

Gov't Code 573.002, 573.041; Atty. Gen. Op. JC-184 (2000) [See DBE]

DEFINITION OF
PUBLIC OFFICIAL

"Public official" shall mean:

- a. An officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state; or
- b. An officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state.

Gov't Code 573.001(3)

The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or an independent contractor. *Atty. Gen. Op. DM-76 (1992)*

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible. *Gov't Code 573.083*

COUNTIES WITH
POPULATION
35,000 OR MORE

In a district located wholly in, or whose largest part is located in, a county with a population of 35,000 or more, if, under the District's employment policy [see DC], the Board delegates to the Superintendent the final authority to select District personnel:

- a. The Superintendent is a public official for the purposes of the nepotism prohibitions only with respect to a decision made under that delegation of authority; and
- b. Each member of the Board remains subject to the nepotism prohibitions with respect to all District employees.

For purposes of this provision, a person hired by the District before September 1, 2007, is considered to have been in continuous employment [see DBE] and is not prohibited from continuing employment with the District subject to the abstention requirements.

Education Code 11.1513(f)-(h)

COUNTIES WITH POPULATION LESS THAN 35,000		<p>In a district located wholly in, or whose largest part is located in, a county with a population of less than 35,000:</p> <ul style="list-style-type: none">a. A Trustee of a board that has delegated to the Superintendent final authority for personnel selection is not subject to the nepotism provisions to the extent of such delegation. <i>Atty. Gen. Op. GA-123 (2003)</i>b. Nevertheless, a Trustee may remain the relevant public official for nepotism purposes concerning some employment decisions, such as renewal. <i>Atty. Gen. Op. GA-177 (2004)</i>
FORMER TRUSTEE EMPLOYMENT	6.	A Trustee of the District may not accept employment with the District until the first anniversary of the date the Trustee's membership on the Board ends. <i>Education Code 11.063</i>
INCOMPATIBILITY OF OFFICE	7.	One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while exercising any powers properly attached to either of the other branches of government. <i>Texas Constitution, Art. II, Sec. 1; State v. Martin, 51 S.W.2d 815 (Tex. Civ. App. 1932); Thomas v. Abernathy County Line ISD, 290 S.W. 15 (Tex. Comm. App. 1927); Turner v. Trinity ISD, 700 S.W.2d 1 (Tex. Ct. App. 1983); Atty. Gen. Op. JM-634 (1987)</i>
DEPOSITORY CONFLICT	8.	A Trustee who is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become a depository for the District shall not vote on the awarding of a depository contract to said bank. <i>Education Code 45.204(b)</i>
TEXTBOOK VIOLATIONS— COMMISSIONS	9.	A Trustee commits a class B misdemeanor offense if the Trustee receives any commission or rebate on any textbooks used in the schools with which the Trustee is associated. <i>Education Code 31.152(a)</i>
TEXTBOOK VIOLATIONS— CONFLICT	10.	<p>A Trustee commits a class B misdemeanor offense if the Trustee accepts a gift, favor, or service that:</p> <ul style="list-style-type: none">a. Is given to the person or the person's school;b. Might reasonably tend to influence a Trustee in the selection of a textbook; andc. Could not be lawfully purchased with funds from the state textbook fund.

“Gift, favor, or service” does not include staff development, in-service, or teacher training; or instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152(b)–(d)

TEXTBOOK
VIOLATIONS—
PURCHASE AND
DISTRIBUTION

11. A Trustee commits a Class C misdemeanor offense if the Trustee knowingly violates any law providing for the purchase or distribution of free textbooks for the public schools. *Education Code 31.153*

OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF
(LEGAL)

- APPRAISAL FUNCTION Appraisal of taxable property in the District shall be conducted by the countywide appraisal district(s). *Tax Code 6.01(b)*
- REGISTRATION
REQUIREMENTS In accordance with the Property Taxation Professional Certification Act, the following District tax officials shall be registered with the Board of Tax Professional Examiners:
1. Tax assessor-collector.
 2. Tax collector.
 3. Chief administrator, as designated by the Board, of the District's assessment and/or collecting functions.
 4. All persons engaged in appraisals of real or personal property for ad valorem tax purposes.
 5. Other persons, as required by the chief administrator, who perform assessment or collection functions for the District.
- Occupations Code 1151.151*
- SELECTION OF
ASSESSOR AND
COLLECTOR The Board may, for a tax assessor or collector:
1. Require the county to assess and collect taxes for the District. *Tax Code 6.22(c)*
 2. Contract with another taxing unit or the countywide appraisal district(s) to assess and/or collect. *Tax Code 6.24(a)*
 3. Employ a person to assess or collect taxes. *Education Code 45.231*
- DUTIES The assessor and collector shall assess, collect, or assess and collect taxes as applicable. *Tax Code 6.23(b)*
- ASSESSOR The assessor or designated officer or employee shall calculate the effective tax rate and the rollback tax rate and submit these rates to the Board. *Tax Code 26.04(c), (e)*
- The assessor shall:
1. Calculate the tax on each property by applying the adopted rates to the appraised value. *Tax Code 26.09*
 2. Prepare and mail a tax bill, including school-specific requirements found in Tax Code 31.01(d-1), to each person, and authorized agent, in whose name property is listed on the tax roll. If the assessor mails a tax bill to a mortgagee of a property, the assessor is not required to mail a copy of the bill to any mortgagor under the mortgage or to the mortgagor's authorized agent. *Tax Code 31.01*

OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF
(LEGAL)

3. Perform other legal duties. *Tax Code 6.23, 26.15*

COLLECTOR

The collector shall:

1. Certify to the Board an estimate of the collection rate for the current year, the amount of debt taxes, if applicable, and other required information. *Tax Code 26.04(b)*
2. At the request of any person, issue a certificate showing the amount of delinquent taxes, penalties, and interest due the District on a property according to the District's current tax records. If the collector collects taxes for more than one taxing unit, the certificate must show the amount of delinquent taxes, penalties, and interest due to each of those taxing units. *Tax Code 31.08(a)*
3. At the request of a property owner, or his or her agent, issue a receipt showing the amount of taxes imposed by the District in the year(s) for which information is requested and the amount of taxes paid. *Tax Code 31.075*
4. Prepare and submit to the Board each month a written report made under oath accounting for all taxes collected for the District during the preceding month. *Tax Code 31.10(a)*
5. Prepare and submit to the Board by the 60th day following the last day of the fiscal year an annual report made under oath accounting for all taxes collected or delinquent on property taxed by the District during the preceding 12-month period. *Tax Code 31.10(b)*
6. At least monthly, deposit in the District's depository(ies) all taxes collected for the District. If taxes are collected by the collector or officer of another taxing unit or the appraisal district, deposits shall be made daily, unless the Board, by official action, provides that deposits may be made less often than daily. *Tax Code 31.10(c), (d)*
7. Refund overpayments or erroneous payments of taxes as provided by law. *Tax Code 31.11*
8. Refund duplicate payments of taxes as provided by law and inform the District's auditor monthly of refunds made during the preceding month. *Tax Code 31.111*
9. Prepare a current and cumulative delinquent tax roll each year. *Tax Code 33.03*
10. At least once each year deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls, unless the person's address is undetermined or a tax bill was

OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF
(LEGAL)

not mailed because the collector did not send a tax bill for an amount less than \$15. *Tax Code 31.01(f), 33.04*

11. Perform other legal duties. *Tax Code 6.23, 33.21–33.25*

COLLECTOR'S
BOND

A tax collector who is a District employee shall give bond conditioned on the faithful performance of duties. The bond shall be made payable to and be approved by the Board in an amount determined by the Board.

If the District's taxes are collected by the collector of another taxing unit, by an officer or employee of another taxing unit or of an appraisal district, or by any other person, the Board may require the person to give bond conditioned on the faithful performance of duties. The bond shall be payable to, approved by, and paid for by the Board in an amount determined by the Board.

The District shall pay the premium for the required bond from its general fund or as provided by intergovernmental contract.

Tax Code 6.29

LIMIT ON
CONTRACTING

The District may not enter into a contract relating to the performance of an activity governed by Title 1 of the Tax Code (i.e., the Property Tax Code) with a member of the board of directors of the appraisal district or districts in which the District participates or with a business entity in which a member of the appraisal board 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 share 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(c), (d)

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

EXCEPTIONS FOR
CLOSED MEETINGS

The Board may conduct a closed meeting for the purposes described in the following provisions.

ATTORNEY
CONSULTATION

1. The Board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. *Gov't Code 551.071* [See BE for permissible methods of communication for attorney consultations]

REAL PROPERTY

2. The Board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.072*

PROSPECTIVE GIFT

3. The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.073*

PERSONNEL
MATTERS

4. The Board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*

The closed meeting exception for personnel matters does not apply when the Board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. *Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

EMPLOYEE-
EMPLOYEE
COMPLAINTS

The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. *Gov't Code 551.082*

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

STUDENT
DISCIPLINE

5. The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing. *Gov't Code 551.082*

PERSONALLY
IDENTIFIABLE
STUDENT
INFORMATION

6. The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the District that the directory information should not be released without prior consent. [See FL]

This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

Gov't Code 551.0821

MEDICAL OR
PSYCHIATRIC
RECORDS

7. A board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:
- a. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or
 - b. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

Gov't Code 551.0785

SECURITY

8. The Board is not required to conduct an open meeting to deliberate:
- a. The deployment, or specific occasions for implementation, of security personnel or devices; or
 - b. A security audit.

Gov't Code 551.076

ASSESSMENT
INSTRUMENTS

9. The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. *Education Code 39.030(a)*

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

EMERGENCY
MANAGEMENT

10. The Board is not required to conduct an open meeting to deliberate information confidential under Government Code 418.175–418.182, relating to Homeland Security. However, the Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. *Gov't Code 418.183(f)*

ECONOMIC
DEVELOPMENT
NEGOTIATIONS

11. The Board is not required to conduct an open meeting
 - a. To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the District and with which the Board is conducting economic development negotiations; or
 - b. To deliberate the offer of a financial or other incentive to such a business prospect.

Gov't Code 551.087

PROCEDURES FOR
CLOSED MEETINGS

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given [see BE] and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. *Gov't Code 551.101*

VOTE OR FINAL
ACTION

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. *Gov't Code 551.102* [See BE]

CERTIFIED AGENDA
OR TAPE RECORDING

The Board shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for private consultation with the District's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. *Gov't Code 551.103*

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of the Board. *Zamora v. Edgewood ISD*, 592 S.W.2d 649 (Tex. App.—San Antonio, 1979)

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

PRESERVATION	The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending. <i>Gov't Code 551.104(a)</i>
PUBLIC ACCESS	A certified agenda or tape recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. <i>Gov't Code 551.104(b), (c)</i>
PROHIBITIONS	<p>No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a tape recording of the closed meeting is being made. <i>Gov't Code 551.145</i></p> <p>No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public. <i>Gov't Code 551.146</i></p> <p>No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. <i>Gov't Code 551.144(a)</i></p>
AFFIRMATIVE DEFENSE	It is an affirmative defense to prosecution under Subsection 551.144(a) that a Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board's attorney. <i>Gov't Code 551.144(c)</i>

SUPERINTENDENT
NONRENEWAL

BJCF
(LOCAL)

REASONS

The Board's decision not to renew the Superintendent's contract shall not be based on the Superintendent's exercise of rights guaranteed by the Constitution, or based unlawfully on race, color, religion, sex, national origin, disability, or age. Reasons for the non-renewal of the Superintendent's contract shall be:

1. Deficiencies pointed out in evaluations, supplemental memoranda, or other communications.
2. Failure to fulfill duties or responsibilities.
3. Incompetency or inefficiency in the performance of duties.
4. Insubordination or failure to comply with Board directives.
5. Failure to comply with Board policies or administrative regulations.
6. Failure of the District to make measurable progress towards the goals stated in the District improvement plan. [See BQ]
7. Conducting personal business during school hours when it results in neglect of duties.
8. Drunkenness or excessive use of alcoholic beverages; or possession, use, or being under the influence of alcohol or alcoholic beverages while on school property, while working in the scope of the employee's duties, or while attending any school- or District-sponsored activity.
9. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.
10. Failure to meet the District's standards of professional conduct.
11. Failure to report to the Board any arrest, indictment, conviction, no contest or guilty plea, or other adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL). [See DH]
12. Conviction of or deferred adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL); and conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony. [See DH]
13. Failure to comply with reasonable District requirements regarding advanced coursework or professional improvement and growth.

14. Disability, not otherwise protected by law, that prevents the Superintendent from performing the essential functions of the job.
15. Any activity, school-connected or otherwise, that, because of publicity given it or knowledge of it among students, faculty, or community, impairs or diminishes the Superintendent's effectiveness in the District.
16. Any breach by the Superintendent of an employment contract or any reason specified in the Superintendent's employment contract.
17. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, staff, or the Board.
18. Assault on a person on school property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.
19. Use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.
20. Falsification of records or other documents related to the District's activities.
21. Falsification or omission of required information on an employment application.
22. Misrepresentation of facts to the Board or other District officials in the conduct of District business.
23. Failure to fulfill requirements for Superintendent certification.
24. Failure to fulfill the requirements of a deficiency plan under an Emergency Permit or a Special Assignment Permit.
25. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.
26. Any reason constituting good cause for terminating the contract during its term.

NOTICE

If the Board determines that the Superintendent's contract should be considered for nonrenewal, the Board shall deliver to the Superintendent by hand or certified mail, return receipt requested, written notice of the proposed nonrenewal. This notice shall contain the hearing procedures and shall be delivered not later than the 30th day before the last day of the contract term.

SUPERINTENDENT
NONRENEWAL

BJCF
(LOCAL)

HEARING

If the Superintendent desires a hearing after receiving notice of the proposed nonrenewal, the Superintendent shall notify the Board in writing not later than the 15th day after receiving the notice. When the Board receives a timely request for a hearing on proposed nonrenewal, the hearing shall be held not later than the 15th day after receipt of the request, unless the parties mutually agree to a delay. The Superintendent shall be given notice of the hearing date as soon as it is set.

HEARING
PROCEDURE

The hearing shall be conducted in closed meeting unless the Superintendent requests that it be open, with only the members of the Board, the Superintendent, their chosen representatives, and such witnesses as may be called in attendance. Witnesses may be excluded from the hearing until it is their turn to present evidence. The Superintendent and the Board may each be represented by a person designated in writing to act for them. Notice, at least five days in advance of the hearing, shall be given by each party intending to be represented, including the name of the representative. Failure to give such notice may result in postponement of the hearing.

The conduct of the hearing shall be under the Board President's control and in general shall follow the steps listed below:

1. After consultation with the parties, the Board President shall impose reasonable time limits for presentation of evidence and closing arguments.
2. The hearing shall begin with the Board's presentation, supported by such proof as it desires to offer.
3. The Superintendent may cross-examine any witnesses for the Board.
4. The Superintendent may then present such testimonial or documentary proofs, as desired, to offer in rebuttal or in general support of the contention that the contract be renewed.
5. The Board may cross-examine any witnesses for the Superintendent and offer rebuttal to the testimony of the Superintendent's witnesses.
6. Closing arguments may be made by each party.

A record of the hearing shall be made so that a certified transcript can be prepared, if required.

BOARD DECISION

The Board may consider only such evidence as is presented at the hearing. After all the evidence has been presented, if the Board determines that the reasons given in support of the recommenda-

tion to not renew the Superintendent's contract are lawful, supported by the evidence, and not arbitrary or capricious, it shall so notify the Superintendent by a written notice not later than the 15th day after the date on which the hearing is concluded. This notice shall also include the Board's decision on renewal, which decision shall be final.

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

The Texas Education Agency 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 District's actions relating to participation in a federal financial assistance program. *Education Code 7.021(b), (c); Gov't Code 742.003*

RETIREMENT AND
INSURANCE
CONTRIBUTIONS

If the District applies to obtain money provided by the United States government or its agencies and if any of the money will pay part or all of any employee's salary, the District must also apply for any legally available funds to pay state contributions to the retirement system as set out in Government Code 825.404, and to pay state contributions to the group insurance program for retired school employees as set out in Insurance Code Chapter 1575.

When the District receives funds to pay for state contributions for retirement and insurance pursuant to this application, it shall immediately send such funds to the retirement system for deposit in the state contribution account. The District shall report monthly to the system, in a form it prescribes, the names of each employee paid in whole or in part from a grant, the source of the grant, the amount of the employee's salary paid from the grant, the amount of money provided for state contributions for the employee by the grant, and such other information as the retirement system deems necessary.

The District shall comply with applicable rules governing examination of its records by the Teacher Retirement System.

Gov't Code 825.406; Insurance Code 1575

BLOCK GRANT FUNDS

If the 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. This meeting or hearing may be held in conjunction with another Board meeting or hearing if the meeting or hearing to consider block grant funds is clearly noted on the public announcement for the other meeting or hearing. *Gov't Code 2105.058*

CONTRACTS
SUPPORTED BY
FEDERAL FUNDS

No employee or Board member shall participate in selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

1. An employee or Board member.
2. Any member of the immediate family of an employee or Board member.
3. The partner of an employee or Board member.
4. An organization that employs or is about to employ any of the above.

The District's employees and Board members shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

The District may establish minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

7 CFR 3016.36

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

BONDS AND BOND
TAXES

The Board may obtain funds to construct, acquire, or equip school buildings, to purchase necessary sites, to purchase new school buses, or to acquire or refinance property financed under a contract entered under the Public Property Finance Act by issuing bonds and assessing annual ad valorem taxes sufficient to pay the principal and interest on the bonds as they come due. *Education Code 45.001(a)*

All bonds shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

INSTRUCTIONAL
FACILITY
ALLOTMENT

Except as provided by Education Code 46.005 and 46.006, a district that issues bonds to construct, acquire, renovate or improve an instructional facility is guaranteed certain state funding to pay principal and interest on eligible bonds under the Instructional Facilities Allotment program, Education Code Chapter 46, Subchapter A. *Education Code 46.003; 19 TAC 61.1032*

EXISTING DEBT
ALLOTMENT

Each district is guaranteed certain state funding to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible if the District made payments on the bonds during the 2006–07 school year or taxes levied to pay the principal and interest on the bonds were included in the District's audited debt service collections for that school year, and the District does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032, 46.033; 19 TAC 61.1035*

POLITICAL
ADVERTISING

No officer or employee of the District shall expend or authorize the expenditure of District funds for the purpose of political advertising. Funds may be expended, however, for advertising that describes the factual reasons for a measure and does not advocate the passage or defeat of such measure. *Election Code 255.003*

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*

ELECTIONS

No bonds shall be issued or taxes levied unless approved by a majority of the qualified voters of the District who vote at an election held for such purpose. The election shall be called by Board resolution, which shall set the date, polling places, and propositions to be voted on.

The election shall be held on a uniform election date.

Except for elections held on a uniform election date or in an emergency situation approved by the governor, elections may not be held within 30 days before or after the date of the general election

for state and county officers, general primary election, or runoff primary election.

Education Code 45.003(a); Election Code 41.001(a), (c) [See BBB]

CALL FOR
ELECTION

A call for an election shall be made not later than the 62nd day before election day except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day.
Election Code 3.005

NOTICE OF
ELECTION

Notice of each election shall be published not earlier than the 30th day or later than the tenth day before election day in a newspaper of general circulation in the District or a newspaper of general circulation in the territory if none is published in the District. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication.

The Board shall also deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day. *Election Code 4.008*

POSTING

In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day on the bulletin board used for posting notices of Board meetings. 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(a)(1), (b), (c), 4.004, 4.005

PRECLEARANCE
REQUIRED

A bond election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a bond election or scheduling of events leading up to or following a bond election is subject to the preclearance requirement. *28 CFR 51.17 [See BBB]*

NEW DEBT

Before issuing bonds, the District must demonstrate to the attorney general that, with respect to the proposed issuance, the District has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

CURRENT TAXABLE
VALUE

The District may demonstrate the ability to comply by using the most recent taxable value of property in the District, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

FUTURE TAXABLE
VALUE

The District may demonstrate the ability to comply by using a projected future taxable value of property in the District anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

The District must submit a certification of the projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.

The certification of the District's projected taxable value must be signed by the Superintendent. The attorney general must base a determination of whether the District has complied on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

PROPOSITIONS

Each proposition submitted to authorize the issuance of bonds shall include the question of whether the Board may levy ad valorem taxes either:

1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or
2. Sufficient to pay the principal of and interest on said bonds, provided that the annual aggregate bond taxes in the District shall never exceed the rate stated in the proposition.

Education Code 45.003(b)

REFUNDING BONDS
AUTHORITY

The Board is authorized to refund or refinance all or any part of any of its outstanding bonds and interest thereon, payable from ad valorem taxes, by issuing refunding bonds payable from ad valorem taxes in accordance with legal requirements for the issuance. *Education Code 45.004; Gov't Code 1207*

INSTRUCTIONAL
FACILITIES
REFUNDING BONDS

The District may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:

1. Are issued to refund bonds eligible under Section 46.003;

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded;
4. Result in a present value savings as defined in Education Code 46.007.

Education Code 46.007

AUTHORIZED
UNISSUED BONDS

If the District has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, the Board may call an election to determine whether the authorized bonds may be issued or sold for a different purpose or purposes specified in the election order. If a majority of those voting at the election favor the sale of the unissued bonds, the Board is authorized to issue the bonds and use the proceeds for the purpose or purposes stated in the election order. *Education Code 45.110*

GUARANTEED BONDS

The District may apply to the Commissioner of Education for approval to guarantee bonds issued in accordance with the provisions above or bonds issued under Government Code Chapter 1207, by the corpus and income of the permanent school fund. The application shall include:

1. The name of the District and the principal amount of the bonds to be issued;
2. The name and address of the financial institution designated by the District as its agent for payment of principal and interest for guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

Education Code 45.051, 45.052, 45.054, 45.055

An application must be accompanied by a fee set by rule of the State Board in an amount designed to cover the costs of administering the guarantee program. *Education Code 45.055(c)*

USE OF BOND
PROCEEDS FOR
UTILITIES

The proceeds of bonds issued by school districts for the construction and equipment of school buildings in the District and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the District may provide its public school buildings the water, sewer, or gas services. *Education Code 45.101*

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

MAINTENANCE TAX The Board may levy, assess, and collect annual ad valorem taxes for the maintenance of the District's schools. *Education Code 45.002*

TAX RATE CAP If authorized by a majority of qualified voters of the District voting at an election held for that purpose, the District may impose a maintenance tax rate at a rate not to exceed the rate stated in the proposition. 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 product of the state compression percentage, as determined under Education Code 42.2516, multiplied by \$1.50.

A rate that exceeds this 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 subsection 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.

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 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 the state compression percentage, as determined under Education Code 42.2516, multiplied by the rate of the maintenance tax levied by the District for the 2005 tax year.

Education Code 45.003(a), (d), (e), (f)

APPRAISAL ROLL By August 1 or as soon thereafter as practicable, the District's tax 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.

Note: The Texas comptroller of public accounts annually publishes *Truth in Taxation: A Guide for Setting School District Tax Rates*. School districts should consult the *Truth in Taxation* guide, available in print form or through the comptroller's Web site, for detailed guidance on setting local property tax rates.

By August 1 or as soon thereafter as practicable, the District's tax collector shall certify to the Board the estimates and amounts required by law.

Tax Code 26.04(b)

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

CERTIFIED ESTIMATE	By June 7, the chief appraiser shall prepare and certify an estimate of the taxable value of District property. <i>Tax Code 26.01(e)</i>
MEETING ON BUDGET AND PROPOSED TAX RATE	The Board shall call a public meeting to discuss and adopt its budget and proposed tax rate. The Board must provide notice of the budget and proposed tax rate meeting, as described below. 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. [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 OF NOTICE	The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law. The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.
TAXPAYER INJUNCTION	If the District has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the District is entitled to an injunction restraining the collection of taxes by the District. An action to enjoin the collection of taxes must be filed before the date the District delivers substantially all of its tax bills.
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 in preparing the published 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, the District must publish a revised published notice and hold another public meeting before the District may adopt a tax rate that exceeds:

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

1. The rate proposed in the notice prepared using the estimate;
or
2. The District's rollback rate determined under Tax Code 26.08
using the certified appraisal roll.

Education Code 44.004

TAX RATE

Before the later of September 30 or the 60th day after the date the certified appraisal roll is received, the Board shall adopt a tax rate for the current tax year that reflects the two components, maintenance and operations expenditures and the debt service rate published under Education Code 44.004(c)(5)(A)(ii)(b), and shall notify the assessor of the tax rate adopted. The two components shall be approved separately. *Tax Code 26.05(a)*

The 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 budget shall be adopted before the adoption of the tax rate. *Tax Code 26.05(b); Education Code 44.004(g)*

EFFECTIVE TAX RATE

The vote on the ordinance setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that property taxes be increased by the adoption of a tax rate of (specify tax rate)."

MAINTENANCE AND
OPERATIONS TAX
RATE

If the ordinance 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 taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the Board must include in the ordinance in type larger than the type used in any other portion of the document the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)." The District shall also include on the home page of any Internet Web site operated by the District 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 if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL RAISE TAXES

LOCAL REVENUE SOURCES
AD VALOREM TAXES

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(LEGAL)

FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME
BY APPROXIMATELY \$(Insert amount).”

Tax Code 26.05(b)

ELECTION TO RATIFY
SCHOOL TAXES

If the Board adopts a tax rate that exceeds the District’s rollback tax rate as defined in Tax Code 26.08, the registered voters of the District at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money is necessary due to a natural disaster and the governor has requested federal disaster assistance, an election is not required.

Tax Code 26.08(a)

The Board shall order that the election be held in the District on a date not less than 30 or more than 90 days after the date on which it adopted the tax rate. The election need not be held on a uniform election date unless a uniform election date falls within the 30–90 day time period. *Tax Code 26.08(b)*

APPROVAL OF
PROPOSITION

If a majority of votes cast in the District 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, the Board may not adopt a tax rate for the current year that exceeds the District’s rollback tax rate. *Tax Code 26.08(c), (d)*

CALL FOR
ELECTION

A call for an election shall be made not later than the 62nd day before election day except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. *Election Code 3.005* [See BBB]

NOTICE TO
COUNTY CLERK

The Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day. *Election Code 4.008*

PRECLEARANCE
REQUIRED

A rollback election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a rollback election or scheduling of events leading up to or following a rollback election is subject to the preclearance requirement. *28 CFR 51.17* [See BBB]

DISCOUNTS

The Board may adopt one or both of the following discount options for early payment of District taxes.

OPTION 1

If the Board adopts Option 1, the following 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.

LOCAL REVENUE SOURCES
AD VALOREM TAXES

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(LEGAL)

3. One percent if the tax is paid in December.

Tax Code 31.05

This discount does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*

OPTION 2

If the Board adopts Option 2, the following discounts apply only 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.

BOTH OPTIONS

If the Board adopts both discount options, the discounts described at Option 1 apply unless the District mails its tax bills after September 30, in which case only the discounts described at Option 2 apply.

Tax Code 31.05

SPLIT PAYMENT

The Board may provide for split payment of taxes. If a person pays one-half of the taxes before December 1, he or she may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year. This payment option does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.03, 31.04(c)*

IN CERTAIN
COUNTIES

The board of a district located in a county having a population of 250,000 or more 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 that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit. *Tax Code 31.03(d)*

DISASTER AREA

Owners of certain property in a disaster area are permitted to pay taxes in installment payments. Installment payments are an option for an owner of real property that:

1. Is the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units;
2. Is located in a disaster area and has been damaged as a direct result of the disaster; and

LOCAL REVENUE SOURCES
AD VALOREM TAXES

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(LEGAL)

3. Has had taxes imposed upon it by a taxing unit before the first anniversary of the disaster.

If the owner of such property pays at least one-fourth of the taxes imposed on the property before the delinquency date, accompanied by notice that the person will pay the remaining taxes in installments, the owner may make the remainder of the payments in three equal installments. Such installment payments shall not incur penalty or interest if paid by the applicable dates provided for in the tax code.

Tax Code 31.032

PERFORMING
SERVICES IN LIEU OF
PAYING TAXES

The Board may permit certain individuals or business entities to provide certain services to the District in lieu of paying the District property taxes. While performing services for the 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.

PERSONS 65 AND
OVER

Subject to the requirements contained in Tax Code 31.035, the Board by order or resolution may permit an individual who is at least 65 years of age to perform services for the taxing unit in lieu of paying taxes imposed by the District on property owned by the individual and occupied as the individual's residence homestead.

Tax Code 31.035

TEACHING
SERVICES BY
INDIVIDUAL

Subject to the requirements contained in Tax Code 31.036, the Board by resolution may permit qualified individuals, who are not employed by the District, 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*

TEACHING
SERVICES BY
EMPLOYEE OF
BUSINESS ENTITY

Subject to the requirements contained in Tax Code 31.037, the 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*

INSTALLMENT
PAYMENTS

CERTAIN
HOMESTEADS

An individual who is disabled or at least 65 and qualifies for a homestead exemption may pay taxes on the residence homestead property in installments. To do so, the individual must pay at least one-fourth of the taxes due before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in installments. The person may pay the remaining taxes without penalty or interest. The first installment must

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

be paid before April 1, the second before June 1, and the third before August 1. *Tax Code 31.031*

PARTIAL PAYMENTS The tax collector may decide to accept partial payments of District property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of District taxes. *Tax Code 31.07(c)*

DELINQUENCY DATE Taxes are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below:

1. The District has provided for split payments. *Tax Code 31.03*
2. The District's tax bills are mailed after January 10. *Tax Code 31.04(a)*
3. The District's tax bills are mailed after September 30 and the Board has adopted discounts provided by Tax Code 31.05(c). *Tax Code 31.04(d)*

Tax Code 31.02

DELINQUENT TAX COLLECTION The 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)*

ADDITIONAL PENALTIES If the District or the tax collector for the District has contracted with a private attorney for the collection of delinquent taxes, the Board may impose, by official action, an additional penalty on taxes that become delinquent on or after February 1 but not later than May 1 and remain delinquent on July 1 of the year in which they become delinquent. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall deliver notice to the property owner of the delinquency and the penalty 30 to 60 days before July 1. *Tax Code 33.07*

If the District or the tax collector for the District has imposed the penalty described above and has contracted with a private attorney for collection of delinquent taxes, the Board may impose, by official action, an additional penalty on all taxes that become delinquent on or after June 1 under Tax Code 26.15(e), 31.03, 31.031, 31.032, or 31.04. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes.

LOCAL REVENUE SOURCES
AD VALOREM TAXES

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tion with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall send notice of the delinquency and the penalty to the property owner. The penalty is incurred on the first day of the first month that begins at least 21 days after the date the notice is sent. *Tax Code 33.08*

HOMESTEAD
EXEMPTIONS

An adult is entitled to exemption from taxation of \$15,000 of the appraised value of his residence homestead except that \$10,000 of the exemption does not apply to an entity operating under former Education Code Chapters 17, 18, 25, 26, 27, or 28, as those chapters existed on May 1, 1995. An adult who is disabled or 65 or older is entitled to an additional \$10,000 exemption of the appraised value of his residence homestead. *Tax Code 11.13(b), (c)*

APPLICATION FOR
EXEMPTION

To receive the residence homestead exemptions, the person claiming the exemption must apply for the exemption. *Tax Code 11.43*

PERSONS 65
AND OVER OR
DISABLED
PERSONS

The District shall 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 as defined by Section 11.13 of the Tax Code, 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.

The District may increase the taxes if improvements are made to the property, but that tax amount is then frozen.

Tax Code 11.26(a), (b)

PORTABILITY OF
LIMITATION

If an individual who receives the 65-and-over limitation on tax increases subsequently qualifies for a different resident homestead, the District may impose taxes on the subsequently acquired homestead only in accordance with Tax Code 11.26. *Tax Code 11.26(g), (h)*

ADDITIONAL
EXEMPTIONS

The Board may grant additional tax exemptions for homesteads, historic sites, and charitable organizations, as provided by law. *Tax Code 11.13, 11.184, 11.24; Tex. Const. Art. VIII, Sec. 1-b(e)*

NATURAL DISASTER

If the District is located partly or entirely inside an area declared by the governor to be a natural disaster area, the Board may authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. *Tax Code 23.02(a)*

REINVESTMENT
ZONES / TAX
INCREMENT
FINANCING

When a portion of the real property taxable by the District is proposed for inclusion in a municipal or county reinvestment zone, the Board shall be notified of a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the

LOCAL REVENUE SOURCES
AD VALOREM TAXES

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proposed zone on property values and tax revenues. The District may request additional information from the governing body of the municipality or county proposing to designate a reinvestment zone, and Board members may attend the formal presentation required of the governing body of the municipality or county. Within 15 days of receipt of the notice, the Board shall designate a representative to meet with the governing body of the municipality or county proposing to designate a reinvestment zone to discuss the project plan and the reinvestment zone financing plan and shall notify the municipality or county governing body of its designation. *Tax Code 311.003(e), (f), (g)*

BOARD OF
DIRECTORS

The Board may appoint one member of the reinvestment zone's board of directors or may waive that right. *Tax Code 311.009(a)*

In certain reinvestment zones, the Board may be entitled to appoint more than one member of the reinvestment zone's board of directors. *Tax Code 311.0091(a), (b)*

When the reinvestment zone has been designated upon petition of property owners under Tax Code 311.005(a)(4), the Board may appoint a member or members, as appropriate, of the reinvestment zone's board of directors only if it has approved the payment of all or part of the tax increment produced by the District. *Tax Code 311.009(b), 311.0091(c)*

COLLECTION AND
DEPOSIT OF TAX
INCREMENTS

The District shall provide for the collection of its taxes in the zone as for any other property tax and shall pay into the zone's tax increment fund the amount specified by law. This payment shall be made no later than 90 days after the delinquency date for District property taxes, except that the District is not required to pay the portion attributable to delinquent taxes until those taxes are collected. The District shall not be required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, except as provided by law. *Tax Code 311.013*

The District is not required to pay into the tax increment fund any of its tax increment produced from a reinvestment zone created upon petition of property owners under Tax Code 311.005(a) unless it enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.013(f)*

The District is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to a reinvestment zone under Tax Code 311.007 unless the Board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.013(k)*

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

A district whose taxable value is reduced under Government Code 403.302(d)(5) shall pay into the tax increment fund, in addition to the amount otherwise required to be paid, the amount by which the amount of taxes the District would have been required to pay into the fund in the current year if the District levied taxes at the rate the District levied in 2005 exceeds the amount the District is otherwise required to pay into the fund in the year of the reduction, not to exceed the amount the District realizes from the reduction in the District's taxable value. *Tax Code 311.013(n)*

GOODS-IN-TRANSIT

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.

The Board may provide for the taxation of goods-in-transit exempt as set out above 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 governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the Board must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. The goods-in-transit remain subject to taxation by the District until the Board rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed above will apply to that District.

Tax Code 11.253

REINVESTMENT
ZONES — TAX
ABATEMENT

On or after September 1, 2001, the District may not enter into a tax abatement agreement under Chapter 312. *Tax Code 312.002(f)*

TEXAS ECONOMIC
DEVELOPMENT ACT

In order to attract large-scale capital investments, create new jobs, strengthen the economy, and expand the property tax base, districts may offer certain ad valorem tax benefits and financial benefits in accordance with the Texas Economic Development Act. *Tax Code 313*

Districts should strictly interpret the criteria and selection guidelines and approve only those applications for an ad valorem tax benefit or financial benefit that:

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and

4. Advance the economic development goals of Texas as identified by the Texas Strategic Economic Development Planning Commission.

Tax Code 313.004(3)

Note: For complete information regarding the Texas Economic Development Act, refer to Tax Code Chapter 313.

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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(LEGAL)

PARTICIPATION	The District shall participate in the appropriate countywide appraisal district or districts. <i>Tex. Const., Art. VIII, Sec. 18(b)</i>
ELECTION OF BOARD OF DIRECTORS	The Board shall participate in the election of the board of directors of the appraisal district or districts as provided by law.
ELIGIBILITY	<p>To be eligible to serve on the appraisal district board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the district and must have resided in the district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the board is not ineligible because of membership on the governing body of a taxing unit.</p> <p>A District employee is not eligible to serve on the board of directors unless the employee is also a member of another governing body or an elected official of a taxing unit that also participates in the appraisal district.</p> <p><i>Tax Code 6.03(a)</i></p>
RESTRICTIONS NEPOTISM	An individual is ineligible to serve on an appraisal district board of directors if the individual is related within the second degree by consanguinity or affinity, as determined under Government Code, Chapter 573, Subchapter B [see DBE], to an individual who is engaged in the business of appraising property for compensation for use in proceedings relating to property taxes or of representing property owners for compensation in proceedings relating to property taxes in the appraisal district.
DELINQUENT TAXES	<p>An individual is ineligible to serve on an appraisal district board of directors if the individual 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.</p> <p><i>Tax Code 6.035(a)</i></p>
CONFLICT OF INTEREST	<p>An individual is not eligible to be appointed to or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:</p> <ol style="list-style-type: none">1. The appraisal district.2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity relating to property taxes.

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

CCH
(LEGAL)

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

The Board, by resolution submitted to the county clerk, may call for the recall of a member of the board of directors of an appraisal district for whom the Board cast any of its votes in the appointment of the appraisal district board. *Tax Code 6.033*

APPRAISAL REVIEW
BOARD

An appraisal review board is established for each appraisal district. Members of the appraisal review board are appointed by the appraisal district board of directors. *Tax Code 6.41, 6.412*

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

SALE OR EXCHANGE
OF REAL PROPERTY

The Board may authorize the sale of any property, other than minerals, held in trust for free school purposes, by means of a Board resolution. The Board President shall execute a deed to the purchaser which shall recite the Board resolution authorizing the sale. The District may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property. *Education Code 11.154*

PUBLICATION OF
NOTICE AND
BIDDING
REQUIREMENTS

Any sale or exchange of land by the District, except as permitted by Local Government Code 272.001(b), (g), or (j), shall be in accordance with the following legal requirements:

1. The Board shall publish in a newspaper of general circulation in the county where the land is located or in an adjoining county, if there is no such newspaper, a notice to the general public that the land is to be offered for sale or exchange, its description, its location, and the procedure under which sealed bids to purchase the land or offers to trade for the land may be submitted.
2. Notice shall be so given on at least two separate occasions and no sale or exchange shall be made until after the 14th day after the last notice is published.

Local Gov't Code 272.001(a)

EXCEPTIONS TO
NOTICE AND
BIDDING
REQUIREMENTS

The notice and bidding requirements set out above do not apply to the types of land and real property interests described below and owned by the District. The land and those interests described below may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the property outright. The fair market value is determined by an appraisal obtained by the District that owns the land or interest. The appraisal price is conclusive of the fair market value of the land or interest. This applies to:

1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned outright or used by easement;
3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

4. Land that the District wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2 above may be sold to:
 - a. Abutting property owners in the same subdivision if the land has been subdivided; or
 - b. Abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

This section does not require the Board to accept any bid or offer or to complete a sale or exchange.

Local Gov't Code 272.001(b)–(d)

EXCEPTION:
HIGHER
EDUCATION
INSTITUTION

The District may donate, exchange, convey, sell, or lease land or an interest in real property to an institution of higher education for less than its fair market value and without complying with the notice and bidding requirements of Local Government Code 272.001(a) in order to promote a public purpose related to higher education. The District shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. *Local Gov't Code 272.001(j)*

SALE OF
INSTRUCTIONAL
FACILITY FINANCED
WITH STATE
ALLOTMENT

If an instructional facility financed by bonds paid with state and local funds under Chapter 46 of the Education Code is sold before the bonds are fully paid, the District shall send to the comptroller a percentage of the District's net proceeds as required by statute. *Education Code 46.011* [See also CCA]

LEASE OF PROPERTY
TO A GOVERNMENTAL
ENTITY

To promote a public purpose of the District, the District may:

1. Lease property owned by the District to another political subdivision or an agency of the state or federal government; or
2. Make an agreement to provide office space in property owned by the District to the other political subdivision or agency.

The District:

1. Shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
2. May provide for the lease of the property or provision of the office space at less than fair market value; and

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

3. Is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by this chapter or other law.

Local Gov't Code 272.005

SALE OR LEASE OF
MINERALS

Sale or lease of minerals in land belonging to the District shall be authorized by a resolution adopted by a majority of the Board.
Education Code 11.153; Natural Resources Code 71.005

PUBLICATION OF
NOTICE — MINERAL
LEASES

The Board must give notice of its intention to lease the land. The notice must be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county, and shall:

1. Describe the land to be leased; and
2. Designate the time and place at which the Board will receive and consider bids for the lease.

Natural Resources Code 71.005

When the sale or lease of minerals has been authorized by the Board, the Board President may execute a lease or may sell or exchange the minerals in accordance with the terms authorized by the Board. The mineral lease or deed shall recite the approval of the Board. *Education Code 11.153*

SALE, LEASE, OR
CONVEYANCE OF ANY
INTEREST IN REAL
PROPERTY

The District shall notify the Commissioner of Education whenever it intends to sell, lease, or otherwise convey any interest in real property. The District shall include in the instrument of conveyance the required restrictive covenants prohibiting racial discrimination. *United States v. Texas, Civil Order No. 5281 (E.D. Tex., August 9 and 15, 1973)*

DONATION OF
FORMER SCHOOL
CAMPUS

The Board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization if:

1. Before adopting the resolution, the Board holds a public hearing concerning the donation and, in addition to any other notice required, gives notice of the hearing by publishing the subject matter, location, date, and time of the hearing in a newspaper having general circulation in the territory of the District;
2. The Board determines that:
 - a. The improvements have historical significance;
 - b. The transfer will further the preservation of the improvements; and

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

- c. At the time of the transfer, the District does not need the real property or improvements for educational purposes; and
3. The entity to whom the transfer is made has shown, to the satisfaction of the Board, that the entity intends to continue to use the real property and improvements for public purposes.

The Board President shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization. The deed must:

1. Recite the resolution of the Board authorizing the donation; and
2. Provide that ownership of the real property and improvements revert to the District if the municipality, county, state agency, or nonprofit organization:
 - a. Discontinues use of the real property and improvements for public purposes; or
 - b. Executes a document that purports to convey the property.

Education Code 11.1541(a), (b)

Note: Regarding disposal of school buses, see CNB. Regarding disposal of school-owned personal property, see CI.

OTHER REVENUES
GRANTS FROM PRIVATE SOURCES

CDC
(LEGAL)

APPLICATION FOR
GRANT

If the District applies to obtain money from any privately sponsored source and if any of the money will pay part or all of any employee's salary, the District must also apply for any legally available funds to pay state contributions to the retirement system as set out in Government Code 825.404 and to pay the state contribution to the group insurance program for retired school employees as set out in Insurance Code 1575, Subchapter E.

When the District receives funds to pay for state contributions for retirement and insurance pursuant to this application, it shall immediately send such funds to the retirement system for deposit in the state contribution account. The District shall report monthly to the system, in a form it prescribes, the names of each employee paid in whole or in part from a grant, the source of the grant, the amount of the employee's salary paid from the grant, the amount of money provided for state contributions for the employee by the grant, and such other information as the retirement system deems necessary.

The District shall comply with applicable rules governing examination of its records by the Teacher Retirement System.

Gov't Code 825.406(b), (c); Insurance Code 1575, Subch. F

USE OF FUNDS

All bequests of property for the benefit of the public schools shall, when not otherwise directed by the grantor, vest the property in the Board. Funds or other property donated, or the income therefrom, may be expended:

1. For any purpose designated by the donor that is in keeping with the lawful purposes of the schools that are to benefit from the donation; or
2. For any legal purpose if the donor designated no specific purpose.

Education Code 11.156

FINANCIAL
STATEMENT

All gifts or bequests shall be included among the total receipts of the District which are reported in the annual financial statement.
Local Gov't Code 140.005

SAFETY PROGRAM/RISK MANAGEMENT
EMERGENCY PLANS

CKC
(LEGAL)

EMERGENCY
OPERATIONS PLAN

Each district shall adopt and implement a multihazard emergency operations plan for use in District schools. The plan must address mitigation, preparedness, response, and recovery as defined by the Commissioner in conjunction with the governor's office of homeland security. The plan must provide for:

1. District employee training in responding to an emergency;
2. Mandatory school drills to prepare District students and employees for responding to an emergency;
3. Measures to ensure coordination with local emergency management agencies, law enforcement, and fire departments in the event of an emergency; and
4. The implementation of a required security audit.

TRAIN DERAILMENT

The District shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a District school. The District is only required to adopt the policy if a District school is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. The District may use any available community resources in developing the policy.

SECURITY AUDIT

At least once every three years, the District shall conduct a security audit of the District's facilities. To the extent possible, the District shall follow security audit procedures developed by the Texas School Safety Center (TxSSC) or a comparable public or private entity. The District shall report the results of the security audit to the Board and, in the manner required by the TxSSC, to the TxSSC.

Education Code 37.108

[See GRC for emergency management training requirements and response to requests from other governmental entities for mutual aid]

REDUCTION OF
ENERGY
CONSUMPTION

The Board shall establish a goal to reduce the District's annual electric consumption by five percent each year for six years, beginning September 1, 2007. *Education Code 44.901–44.902*

ENERGY OR WATER
CONSERVATION
MEASURES

The Board may enter into an energy savings performance contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities.

An energy savings performance contract includes a contract for the installation or implementation of:

1. Insulation of a building structure and systems within the building;
2. Storm windows or doors, caulking or weatherstripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;
3. Automatic energy control systems, including computer software and technical data licenses;
4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;
5. Lighting fixtures that increase energy efficiency;
6. Energy recovery systems;
7. Electric systems improvements;
8. Water-conserving fixtures, appliances, and equipment or the substitution of nonwater-using fixtures, appliances, and equipment;
9. Water-conserving landscape irrigation equipment;
10. Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - a. Landscape contouring, including the use of berms, swales, and terraces; and
 - b. The use of soil amendments that increase the water-holding capacity of the soil, including compost;
11. Rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

12. Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
13. Equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
14. Metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
15. Other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

Each energy or water conservation measure shall comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding the list above, an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The Board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

PERFORMANCE
BOND

Before entering an energy savings performance contract, the Board shall require the provider of the energy or water conservation measures to file a payment and performance bond relating to the installation of the measures in accordance with Government Code Chapter 2253. The Board may also require a separate bond to cover the value of the guaranteed savings on the contract.

FINANCING

An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing.
2. With the proceeds of bonds.
3. Under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average

useful life of the energy or water conservation or usage measures.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the District under the contract. If the term of an energy savings performance contract exceeds one year, the District's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the District, divided by the number of years in the contract term.

CONTRACT
PROCUREMENT

An energy savings performance contract for energy or water conservation measures shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

COST SAVINGS
REVIEW

Before entering an energy savings performance contract, the Board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract.

Education Code 44.901

ENERGY USAGE
REPORT

The District shall record in an electronic repository the District's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The District shall report the recorded information on a publicly accessible Internet Web site with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2264.001*

LIGHT BULBS

The District shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

CL
(LEGAL)

1. Uses the fewest watts for the necessary luminous flux or light output;
2. Is compatible with the light fixture; and
3. Is the most cost-effective, considering the factors described above.

Education Code 44.903

[See CS for energy conservation measures related to outdoor lighting fixtures]

RECYCLING
PROGRAM

In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ), the District shall establish a program for the separation and collection of all recyclable materials generated by the District's operations, including at a minimum, aluminum, steel containers, aseptic packaging, polycoated paper-board cartons, high-grade office paper, and corrugated cardboard. "Recyclable materials" includes materials in the District's possession that have been abandoned or disposed of by the District's officers or employees or by any other person.

The District shall also:

1. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials.
2. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled.
3. Establish educational and incentive programs to encourage maximum employee participation.

The District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the TCEQ that compliance would work a hardship on the District.

Health and Safety Code 361.425

CERTIFICATE OF
MOLD REMEDIATION

When the District sells property, the District shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*

TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

CNB
(LEGAL)

AUTHORIZATION TO
PURCHASE OR LEASE
VEHICLES

The District may purchase school motor vehicles through the comptroller or through competitive bidding. *Education Code 34.001(a)* [See CH]

Each contract proposed to be made by the District for the purchase or lease of one or more school buses must be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)*

When a contract for the purchase of school buses is valued at \$20,000 or more, the contract must be made either through competitive bidding or by purchasing the buses through the comptroller. *Atty. Gen. Op. LO-98-063 (1998)*

PAYMENT

If the Board is unable to pay immediately for a vehicle, it may, subject to the provisions of law, issue time warrants in amounts sufficient to make such payments. *Education Code 34.005*

The Board may issue bonds to purchase new school buses. *Education Code 45.001* [See CCA]

SAFETY
STANDARDS

The District shall meet or exceed the safety standards for school buses established by the Department of Public Safety, with the advice of TEA. If the District fails or refuses to meet these standards, it shall be ineligible to receive its transportation allotment until the first anniversary of the date the District begins compliance. *Education Code 34.002; Trans. Code 547.102; 37 TAC 14.51, 14.52*

NEW VAN
PURCHASES OR
LEASES

A school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multi-function school activity buses under federal law. This provision does not apply in some limited circumstances, including the purchase or lease of a 15-passenger van under a contract executed before August 10, 2005, the date of enactment of this provision. *49 U.S.C. 30112*

MAINTENANCE

School buses operated by the District shall be maintained and inspected as required by the Transportation Code. *Trans. Code 548*

CONTRACTS FOR
USE, ACQUISITION,
OR LEASE OF
SCHOOL BUS

The Board may contract with any person for use, acquisition, lease, or lease with option or options to purchase school buses, if the Board determines such a contract to be economically advantageous to the District. Such a contract may have any lawful term of not less than two or more than ten years. Competitive bidding requirements apply to each contract for the purchase or lease of a school bus, including a lease with an option to purchase, when the contract is valued at \$20,000 or more. A school bus that is leased

TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

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or leased with an option to purchase must meet or exceed safety standards set out in Education Code 34.002. *Education Code 34.009, 44.031(l)* [See CH]

REGISTRATION District-owned vehicles used exclusively for the District are exempt from the state registration fee; however, they shall be registered in accordance with general statutes relating to motor vehicle registration. *Trans. Code 502.202*

IDENTIFICATION Exempt license plates shall not be issued to vehicles unless the applicant for registration certifies in writing that the name of the District is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size. The letters or emblem must be of a color sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet. *Trans. Code 502.2015*

SEAT BELTS
POLICY The 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. The District may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

FUNDING The 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 the District's school buses. The Board may accept or decline the offer after adequate consideration.

The 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

SALE OF BUSES If the District so requests, the comptroller shall dispose of a school bus, but the District is not required to dispose of a bus through the comptroller. *Education Code 34.006*

SCHOOL BUS
ADVERTISING The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety-warning equipment. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies. *Trans. Code 547.701(d)*

ADVERTISING
RULES The District may allow advertisements on school buses in accordance with rules adopted by the Texas Department of Public Safety

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(DPS) at 37 TAC 14.61–14.67. The rules apply to all school buses used to transport preprimary, primary, and secondary public school students. *37 TAC 14.62*

'ADVERTISEMENT'

For purposes of this policy, "advertisement" means any communication brought to the attention of the public by paid announcement or in return for public recognition in connection with an event or offer or sale of a product or service, except for a single-line listing of a carrier name or manufacturer logo approved by the Texas Department of Public Safety. *37 TAC 14.61(1)*

MATERIAL AND
LOCATION

Advertisements must be of a material and in a location specified in the rules. *37 TAC 14.63–14.65*

NOTICES

ANNUAL NOTICE

Each September, districts involved in an advertising program shall provide to the School Bus Transportation Safety Unit at DPS written notification of the number of school buses operated by or for the District that display exterior advertising or another paid announcement. *37 TAC 14.67(a)(1), (b)*

NOTICE OF
ACCIDENTS

The District shall also 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 14.67(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 14.67(c)

DELIVERY OF
NOTICE

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to the School Bus Transportation Safety Unit, Texas Department of Public Safety, Box 4087, Austin, TX 78773-0252. *37 TAC 14.67(d)*

ACCIDENT REPORTS

The District shall report annually to TEA the number of accidents in which the District's buses are involved. The agency by rule shall determine the information to be reported, including:

1. The type of bus involved in the accident;

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2. Whether the bus was equipped with seat belts;
3. The number of students and adults involved in the accident;
4. The number and types of injuries sustained by bus passengers in the accident; and
5. Whether the injured passengers were wearing seat belts at the time of the accident.

Education Code 34.015(b)

NONSCHOOL USE

The Board may contract with nonschool organizations for use of school buses. *Education Code 34.010(a)*

The Board may provide services for the maintenance and operation of buses used by nonschool organizations in accordance with the contracts for such use. *Education Code 34.010*

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COVERAGE
REQUIREMENTS

UNIFORM
PROGRAM
(TRS-ACTIVE
CARE)

Unless an exemption applies, a district with 500 or fewer employees is required to participate in the uniform group coverage program established under Insurance Code 1579 (TRS-Active Care). A district with more than 500 employees may elect to participate in the program. *Insurance Code 1579.151–.152; Education Code 22.004(a)*

The Teacher Retirement System (TRS) shall implement and administer the uniform group coverage program. TRS shall establish plans of group coverages for employees participating in the program and their dependents. *Insurance Code 1579.051, 1579.101*

EMPLOYEE
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.

A part-time employee 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.

A participating employee may select coverage in any coverage plan offered by TRS. If the combined state and District contributions [see COST OF COVERAGE, below] exceed the cost of a coverage plan selected by the employee, the employee may use the excess contributions to obtain coverage under a higher tier coverage plan, or to pay all or part of the cost of coverage for the employee's dependents. A married couple, both of whom are eligible for coverage under the program, may pool the amount of contributions to which the couple are entitled under the program to obtain coverage for themselves and dependent coverage.

Insurance Code 1579, Subch. E

OPTIONAL
COVERAGES

Districts participating in the uniform group coverage program may enter contracts to provide optional insurance coverages for District employees. *Education Code 22.004(j)*

OTHER PROGRAMS

Districts that do not participate in the uniform group coverage program shall make available to their employees group health coverage provided by a risk pool established by one or more districts under Local Government Code Chapter 172, or under a policy of group 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.

FINANCIAL
STATEMENT

The District may not contract with an insurer, company, or health maintenance organization to issue a policy or contract for group health insurance, or with any person to assist the District in obtaining or managing the policy or contract unless the insurer, company,

organization, or person provides the District with an audited financial statement.

Education Code 22.004(b), (c)

SMALL
EMPLOYER
MARKET
ELECTION

A district that does not participate in the uniform group coverage program may elect to participate in the small employer market without regard to the number of eligible employees in the District. If the District makes this election, it will be treated as a small employer for the purposes of Article 1501 of the Texas Insurance Code.

A district that is participating in the uniform group coverage program may not renew a health insurance contract obtained in accordance with Article 1501 after the date on which the program of coverages provided under the uniform group coverage program is implemented. This provision does not affect a contract for the provision of optional coverages.

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

Except as otherwise provided above, the Board may establish a self-funded health care plan for District employees and their dependents. In implementing the plan, the Board shall establish a fund to pay all or part of plan-authorized costs for health care incurred by program participants. The fund consists of money contributed by the District and money deducted from the employee's salary for coverage, upon the employee's written authorization.

Education Code 22.005

COMPARABILITY

If the District does not participate in the uniform group coverage plan, the coverage it provides must be comparable to the basic health coverage provided under Insurance Code Chapter 1551 (Texas Employees Group Benefits Act) and must meet the substantive coverage requirements set forth in Education Code 22.004(b).

COMPLIANCE
REPORT

The District shall report its compliance with the comparability requirements to TRS by March 1 of each even-numbered year. The report must be based on the District group health coverage plan in effect during the current plan year and must include:

1. Appropriate documentation of:

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- a. The District's contract for group health coverage, or
 - b. A Board resolution authorizing a self-insurance plan.
2. The schedule of benefits.
 3. The premium rate sheet, including the amount paid by the District and the employee.
 4. The number of employees covered by each health coverage plan offered by the District.
 5. Information concerning the ease of completing the report, as required by TRS.
 6. Any other information considered appropriate by TRS.

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 must be posted on the District's Internet Web site if the District maintains a Web site.

Education Code 22.004(d); 34 TAC 41.91(d)

COST OF COVERAGE
TRS-ACTIVE CARE

The cost of coverage under the uniform group coverage program shall be shared by the state, the District, and the employees, as set forth below.

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 41 and 42 and used by districts as provided by Education Code 42.2514 and 42.260. *Insurance Code 1579, Subch. F*

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 the District's contribution.

The 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

OTHER PROGRAMS

If the District does not participate in the uniform group coverage program, the cost of coverage shall be shared by the employees and the District, using the contributions by the state described at Insurance Code Chapter 1579, Subchapter F. [See STATE CONTRIBUTION, above] *Education Code 22.004(c)*

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DISTRICT CONTRIBUTION	The District shall, for each fiscal year, pay an amount equal to the number of participating employees multiplied by \$1,800.
MINIMUM EFFORT	
MAXIMUM EFFORT	Subject to the minimum effort requirement, a district that paid amounts for the 2000–01 school year for employees' health coverage shall, for each fiscal year, continue to pay at least the same amounts for each participating employee, computed as follows: the District shall divide the amount the District paid during the 2000–01 school year for the prior group health coverage plan by the total number of full-time employees in the 2000–01 school year and multiply the result by the number of full-time employees in the fiscal year for which the computation is made. If, for the 2000–01 school year, the District provided group health coverage to its employees through a self-funded insurance plan, the amount the District paid during that school year for the plan includes only the amount of regular contributions made by the District.
	<i>Insurance Code 1581.052</i>
EXCESS FUNDS	If the amount the District is required to pay for maintenance of effort exceeds \$1,800 per participating employee, the District may use the excess only to provide employee compensation at a rate greater than the rate of compensation that the District paid an employee in the 2000–01 school year, benefits, or both. <i>Insurance Code 1581, Subch. B</i>
HEALTH INSURANCE CONTRIBUTIONS FOR REHIRED RETIREES	Each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the 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, as determined by TRS. [See DEA]
EXCEPTION	The District is not required to contribute these amounts for a retiree who retired from TRS before September 1, 2005. <i>Gov't Code 825.4092; Insurance Code 1575.204</i>
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]
USE	An employee may use the compensation designated for health care supplementation for any employee benefit, including deposit-

ing 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 22.103, 22.106

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 group health coverage through 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. The District may not diminish or eliminate its contribution [see DISTRICT CONTRIBUTION, above] before the last date on which the employee is entitled to participation or enrollment. *Education Code 22.004(k), (l)*

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 DEC]

38 U.S.C. 4317

DURING FMLA
LEAVE

During any period of leave under the Family and Medical Leave Act (FMLA), the District shall allow the employee to 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 CFR 825.209, 825.210, 825.213* [See also DEC]

UPON
TERMINATION OR
OTHER QUALIFYING
EVENT (COBRA)

In accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the District shall offer continuation coverage under any group health insurance plan established after July 1, 1986, to the following qualified beneficiaries for the stated period of time:

1. To the employee for 18 months after a termination (other than for gross misconduct) or reduction in hours. An employee providing notice of being disabled under Title II or XVI of the Social Security Act before the end of the initial 18 months of

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coverage shall be offered up to 29 months of continuation coverage.

2. To dependents of the covered employee for 36 months after the employee becomes eligible for Medicare benefits.
3. To dependents of the covered employee for 36 months after the employee's death or the divorce or legal separation of the employee from a spouse.
4. To a dependent child for 36 months after the child ceases to be a dependent under the terms of the plan.

42 U.S.C. 300bb-1, 300bb-2, 300bb-3

PREMIUM

The District may require premium payments not to exceed 102 percent of the usual cost of the plan for continuation coverage. Individuals entitled to 29 months of continuation coverage may be required to pay premiums not to exceed 150 percent of the usual cost for any month after the 18th month. The qualified beneficiary may choose to pay the premiums in monthly installments. In no event may payment be required before the day that is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage. *42 U.S.C. 300bb-2(3)*

NOTICE

The District shall notify its group health plan administrator within 30 days of an employee's death, termination or reduction of hours, or becoming eligible for Medicare payments.

The qualified beneficiary is responsible for notifying the plan administrator of a divorce or legal separation from a spouse or of a dependent child's ceasing to be a dependent. A qualified beneficiary who is determined to have been disabled at the time of termination is responsible for notifying the plan administrator of that determination within 60 days of the determination and within 30 days after a subsequent determination that he is no longer disabled.

42 U.S.C. 300bb-6

TERMINATION OF
COVERAGE

Coverage of qualified beneficiaries shall end on the earliest of the following dates:

1. The required period of coverage expires.
2. The District ceases to provide any group health plan to any employee.
3. Coverage ceases for failure to pay the premium.
4. The qualified beneficiary becomes covered under any other group plan.

5. The qualified beneficiary becomes entitled to Medicare benefits.

42 U.S.C. 300bb-2(2)

Note: See also DEB for continuation benefits that are available to survivors of District peace officers under certain conditions.

COVERAGE OF
PRE-EXISTING
CONDITIONS

Notwithstanding any other law, group health benefit coverage provided by or offered through the District to its employees under any law other than the uniform group coverage program is subject to the requirements of Sections 1501.102–1501.105, Insurance Code, which limit exclusion for preexisting conditions. This requirement applies to all group health benefit coverage provided by or offered through the District to its employees, including a standard health benefit plan issued under the Insurance Code and health and accident coverage provided through a risk pool established under Chapter 172, Local Government Code. *Education Code 22.004(m)*

TRS-ACTIVE CARE

Coverage provided under the uniform group coverage program may not be made subject to a pre-existing condition limitation during the initial period of eligibility. *Insurance Code 1579.105*

FEDERAL LAW

In addition, a group health plan may not impose a preexisting condition exclusion unless:

1. The exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date;
2. The exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and
3. The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

42 U.S.C. 300gg(a)(1); 45 CFR 146.111(a)

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HEALTH INSURANCE
PORTABILITY AND
ACCOUNTABILITY ACT
(HIPAA)

CERTIFICATE OF
CREDITABLE
COVERAGE

A group health plan shall provide certification:

1. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision. This certification may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision;
2. In the case of an individual covered under COBRA, at the time the individual's COBRA coverage ceases; and
3. On the request on behalf of an individual made not later than 24 months after the date of cessation of coverage.

The certification is a written certification of:

1. The period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and
2. The waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

To the extent that medical care under a plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirements if any issuer offering the coverage provides for certification.

42 U.S.C. 300gg(e); 45 CFR 146.115

OTHER HIPAA
REQUIREMENTS

HIPAA requires plan sponsors to observe certain coverage requirements and restrictions, including:

1. Limitations on preexisting condition exclusion periods;
2. Special enrollment periods for individuals;
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;
4. Standards relating to benefits for mothers and newborns;
5. Parity in the application of certain limits to mental health benefits.

ELECTION TO BE
EXCLUDED

The plan sponsor of a nonfederal governmental group health plan may elect to be exempted from the following provisions of HIPAA.

FORM OF
ELECTION

The election must be in writing and state the name of the plan and the name and address of the plan administrator. The election document must either state that the plan does not include health insurance coverage, or identify which portion of the plan is not

INSURANCE AND ANNUITIES MANAGEMENT
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	<p>funded through insurance. The election must be made in conformity with all the plan sponsor's rules, including any public hearing, if required. The election document must be signed, and must certify that the person signing the election document, including if applicable a third party plan administrator, is legally authorized to do so by the plan sponsor.</p>
TIMING OF ELECTION	<p>The election must be received by the Health Care Financing Administration by the day preceding the beginning date of the plan year. The election applies for a single specified plan year.</p> <p>An election may be extended through subsequent elections.</p>
CONTENTS OF NOTICE	<p>If this election is made, the plan shall provide for notice to enrollees, on an annual basis and at the time of enrollment under the plan. The notice shall be provided to each participant individually.</p> <p><i>42 U.S.C. 300gg-21; 45 CFR 146.180</i></p>
PRIVACY OF HEALTH INFORMATION	<p>To the extent the District is a covered entity under the Administrative Simplification provisions of HIPAA, the District must maintain the privacy of protected health information in accordance with the Privacy Rule, 45 CFR Part 164. <i>42 U.S.C. 1320d et seq.</i></p>
'COVERED ENTITY' DEFINED	<p>The District is a "covered entity" under the Privacy Rule to the extent it is:</p> <ol style="list-style-type: none">1. A health plan;2. A health-care clearinghouse; or3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule. <p><i>45 CFR 160.103</i></p>
'PROTECTED HEALTH INFORMATION' DEFINED	<p>"Protected health information" means individually identifiable health information that is transmitted or maintained in any form or medium, including electronic media and oral communications. "Protected health information" excludes individually identifiable health information in:</p> <ol style="list-style-type: none">1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended.2. Medical treatment records, as described at 20 U.S.C. 1232g(a)(4)(B)(iv), on a student who is at least 18 years of age.3. Employment records held by a covered entity in its role as employer. <p><i>20 U.S.C. 1232g, 45 CFR 160.102, 164.501 [See FL]</i></p>

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SPONSORS OF
GROUP HEALTH
PLANS

Before a group health plan may disclose protected health information to the District that is a plan sponsor, the group health plan must ensure that the plan documents restrict uses and disclosures of such information by the District consistent with the requirements of the Privacy Rule. *45 CFR 164.504(f)*

The group health plan may disclose the following information to a district that is a plan sponsor without amending the plan documents:

1. Summary health information, consistent with the requirements of the Privacy Rule; and
2. Enrollment and disenrollment information relating to an individual participating in the plan.

45 CFR 164.504(f)

'PLAN SPONSOR'
DEFINED

The term "plan sponsor" includes employers who establish or maintain employee benefit plans, alone or jointly with one or more employers. *29 U.S.C. 1002(16)(B)*

SELF-FUNDED
PLANS

A district that is a sponsor of a self-funded group health plan is a covered entity under the Privacy Rule. *45 CFR 160.103*

INSURANCE AND ANNUITIES MANAGEMENT
DEFERRED COMPENSATION AND ANNUITIES

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DEFERRED
COMPENSATION

The District, either alone or by contract with other political subdivisions, may create and administer a deferred compensation plan, the federal income tax treatment of which is governed by Section 457 of the Internal Revenue Code of 1986, and its subsequent amendments, for its employees and may assess a fee on each participating employee for administering the plan.

The organization and implementation of such a deferred compensation plan shall be in accordance with Chapter 609, Subchapter B, Government Code.

Gov't Code Ch. 609

ANNUITIES

The District may enter into a salary reduction agreement with an employee only if the qualified investment product is an eligible qualified investment and is registered with TRS under V.A.T.S. Article 6228-5, Section 8A. *Art. 6228a-5, Sec. 5(a), V.A.T.S.*

DEFINITIONS

"Eligible qualified investment" means a qualified investment product offered by a company that:

1. Is certified to TRS under V.A.T.S. Article 6228-5, Section 5; or
2. Is eligible to certify to TRS under V.A.T.S. Article 6228-5, Section 8.

A "certified company" is a company that meets all TRS certification requirements. Certified companies shall be placed on the TRS list of certified companies as long as the certification has not expired or been rejected or revoked. *34 TAC 53.1(3)*

"Qualified investment product" means an annuity or investment that:

1. Meets the requirements of Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;
2. Complies with applicable federal insurance and securities laws and regulations; and
3. Complies with applicable state insurance and securities laws and rules.

"Salary reduction agreement" means an agreement between the District and an employee to reduce the employee's salary for the purpose of making direct contributions to or purchases of a qualified investment product.

Art. 6228a-5, Sec. 4 (3), (5), (7), V.A.T.S.

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DEFERRED COMPENSATION AND ANNUITIES

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EMPLOYEE
DESIGNATION

An employee is entitled to designate any agent, broker, or company through which a qualified investment product may be purchased or contributions may be made.

PAYROLL
DEDUCTION

To the greatest degree possible, the District shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts.

Art. 6228a-5, Sec. 5(e), (f), V.A.T.S.

PROHIBITIONS ON
DISTRICT

The District may not:

1. Refuse to enter into a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction is an eligible qualified investment and is registered with TRS under V.A.T.S. Article 6228-5, Section 8A, unless:
 - a. The eligible qualified investment product that is the subject of the salary reduction agreement is offered by a company that does not comply with the District's administrative requirements;
 - b. The District imposes the administrative requirements uniformly on all companies that offer eligible qualified investment products; and
 - c. The administrative requirements are necessary to comply with employer responsibilities imposed by:
 - (1) Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;
 - (2) Any other provision of the Internal Revenue Code of 1986 that applies to Section 403(b);
 - (3) Any regulation adopted in relation to a law described by subsection (1) or (2) that is effective after December 31, 2007; or
 - (4) Any change to V.A.T.S. Article 6228-5 that becomes effective after January 1, 2007;
2. Require or coerce an employee's attendance at any meeting at which qualified investment products are marketed;
3. Limit the ability of an employee to initiate, change, or terminate a qualified investment product at any time the employee chooses;

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DEFERRED COMPENSATION AND ANNUITIES

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4. Grant exclusive access to an employee by discriminating against or imposing barriers to any agent, broker, or company that provides qualified investment products;
5. Grant exclusive access to information about an employee's financial information, including information about an employee's qualified investment products, to a company or agent offering qualified investment products unless the employee consents in writing to the access;
6. Accept any benefit from a company or from an agent or affiliate of a company that offers qualified investment products; or
7. Use public funds to recommend a qualified investment product offered by a company or an agent of a company that offers a qualified investment product.

Art. 6228a-5, Sec. 9, V.A.T.S.

APPLICABILITY OF
STATE STANDARDS
AFTER JANUARY 1,
2004

All new facilities and major space renovations approved by the Board after January 1, 2004, shall meet the facility standards established by the Commissioner as set out in Texas Administrative Code Title 19, Chapter 61, Section 61.1036. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1036*

DEFINITIONS

After January 1, 2004, a "major space renovation" means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration or function. *19 TAC 61.1036(a)(8)*

"Educational program" means a written document, developed and provided by the District, that includes the following information:

1. A summary of the District's educational philosophy, mission, and goals; and
2. A description of the general nature of the District's instructional program in accordance with the Texas Administrative Code Title 19, Chapter 74, Section 74.1 (relating to Essential Knowledge and Skills). The written educational program should describe:
 - a. The learning activities to be housed, by instructional space;
 - b. How the subject matter will be taught (methods of instructional delivery);
 - c. The materials and equipment to be used and stored;
 - d. Utilities and infrastructure needs; and
 - e. The characteristics of furniture needed to support instruction.

19 TAC 61.1036(a)(1)

"Educational specifications" means a written document for a proposed new school facility or major space renovation that includes a description of the proposed project, expressing the range of issues and alternatives. School districts that do not have personnel on staff with experience in developing educational specifications shall utilize the services of a design professional or consultant experienced in school planning and design to assist in the development

of the educational specifications. The District shall allow for input from teachers, other school campus staff, and District program staff in developing the educational specifications. The following information should be included in the educational specifications:

1. The instructional programs, grade configuration, and type of facility;
2. The spatial relationships—the desired relationships for the functions housed at the facility:
 - a. Should be developed by the District to support the District's instructional program;
 - b. Should identify functions that should be:
 - (1) Adjacent to, immediately accessible;
 - (2) Nearby, easily accessible; and
 - (3) Removed from or away from; and
 - c. Should relate to classroom/instructional functions, instructional support functions, building circulation, site activities/functions, and site circulation.

19 TAC 61.1036(a)(2)

APPLICABILITY OF
STATE STANDARDS
BEFORE JANUARY 1,
2004

All new facilities and major space renovations approved by the Board before January 1, 2004, shall meet the facility standards established by the Commissioner as set out in Texas Administrative Code Title 19, Chapter 61, Section 61.1033. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1033(a)(5), (b)*

FIRE ESCAPES

The Board shall ensure that each school building that is two or more stories shall have such fire escapes as are required by law. *Health and Safety Code 791.002, 791.035, 791.036*

SECURITY CRITERIA

A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, security criteria developed by the Texas School Safety Center. *Education Code 46.0081*

READILY ACCESSIBLE
PROGRAMS

No qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the District or be subject to

discrimination. *42 U.S.C. 12132; 28 CFR 35.149; 29 U.S.C. 794; 34 CFR 104.21*

The District shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The District is not, however, required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.

Compliance with these requirements may be achieved by:

1. Redesigning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 CFR 104.23 and 28 CFR 35.151.
8. Any other methods that would result in making services, programs, and activities accessible to individuals with disabilities.

Structural changes in existing facilities need not be made when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, the Board shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 CFR 35.150; 34 CFR 104.22

REVIEW OF PLANS

All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of \$50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. The District as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the Department by the architect, interior designer, landscape architect, or engineer.

The District as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least \$50,000 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, modification, or alteration of the building or facility is completed. The inspection must be performed by the Department, an entity with whom the Commission contracts, or a person who holds a certificate of registration to perform inspections.

Gov't Code 469.101, 469.102(c), 469.105

NOTICE	The District shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. <i>34 CFR 104.22(f)</i>
PORTABLE BUILDINGS	Any portable, modular building capable of being relocated that is purchased or leased after September 1, 2007, for use as a school facility, regardless of whether the building is an industrialized building as defined by Occupations Code 1202.003, must be inspected as provided by Occupations Code Subchapter E, Chapter 1202 to ensure compliance with the mandatory building codes or approved designs, plans, and specifications. <i>Education Code 46.008(b)</i>
PLAYGROUNDS	Public funds may not be used to purchase playground equipment or surfacing for the area under and around the equipment if either purchase does not substantially comply with each applicable provision of the Handbook for Public Playground Safety, published by the U.S. Consumer Product Safety Commission.
EXCEPTION	Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 1997, even if they do not comply with the Playground Safety Handbook. <i>Health and Safety Code 756.061</i>
OUTDOOR LIGHTING FIXTURES	An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if the fixture meets the specific energy conservation and light pollution standards in Health and Safety Code Chapter 425.
EXCEPTIONS	The standards for state-funded outdoor lighting fixtures do not apply when: <ol style="list-style-type: none">1. Preempted by federal law, rule, or regulation;

2. Emergency personnel temporarily require additional illumination for emergency procedures;
3. The lighting fixture is used temporarily for nighttime work;
4. Special events or circumstances* require additional illumination;
5. The fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest cannot be addressed by another method.

***Note:** Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

Health and Safety Code 425.002

TESTING OF NATURAL
GAS PIPING

At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, the District shall pressure test the natural gas piping system in each District facility. The testing may be performed on a two-year cycle under which the District pressure tests the natural gas piping system in approximately one-half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the pressure test in each of those facilities shall be conducted and reported not later than July 1 of the year in which the pressure test is performed. *Utilities Code 121.502; 16 TAC 8.230(c)(4)*

RAILROAD
COMMISSION
RULES

The Railroad Commission of Texas has adopted rules to enforce this policy. Each District facility described in Commission rules shall be tested in accordance with the procedures and timetables implemented by Commission rules. *16 TAC 8.230*

STANDARDS AND
PROCEDURE

A test performed under a municipal code in compliance with Railroad Commission rules shall satisfy the pressure testing requirements. *Utilities Code 121.502(d); 16 TAC 8.230(c)(1)*

The pressure test shall determine whether the natural gas piping downstream of a District facility meter holds at least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be

performed by a person qualified in accordance with the testing procedures established by Railroad Commission rules. At the District's request, the Railroad Commission shall assist the District in developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

NOTICE

The District shall provide written notice to the District's natural gas supplier specifying the date and result of each pressure test or other inspection. The supplier shall develop procedures for receiving such written notice from the District. *Utilities Code 121.504(a); 16 TAC 8.230(c)(1)*

TERMINATION OF SERVICE

The supplier shall terminate service to a District facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous natural gas leakage in the facility piping system; or
2. A test or other inspection is not performed as required.

Utilities Code 121.505(a)

The supplier shall develop procedures for terminating service to the District if:

1. The natural gas supplier receives notification of a hazardous natural gas leak in the school facility piping system; or
2. The natural gas supplier does not receive written notification from the District specifying the completion date and results of the testing.

16 TAC 8.230(b)(2)

REPORTING LEAKS

An identified natural gas leakage in a District facility must be reported to the Board. The firm or individual conducting the natural gas piping test shall immediately report any hazardous natural gas leak in a District facility to the Board and to the District's natural gas supplier. *Utilities Code 121.506; 16 TAC 8.230(c)(6)*

LP-GAS SYSTEMS TESTING

At least biennially, the District shall perform pressure tests for leakage on the LP-gas piping system in each District facility before the beginning of the school year. The District may perform the pressure tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the pressure test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

A test performed under a municipal code satisfies the pressure testing requirements.

Natural Resources Code 113.352; 16 TAC 9.41

REQUIREMENTS OF TEST

The District shall perform the pressure test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the National Fire Protection Association 54, National Fuel Gas Code. The pressure test must be conducted in accordance with National Fire Protection Association 54.

The Railroad Commission, upon request, shall assist the District in providing for the certification of a District employee to conduct the test and in developing a procedure for conducting the test.

Natural Resources Code 113.353

Before the introduction of any LP-gas into the LP-gas piping system, the District shall provide verification to its supplier that the piping has been tested.

NOTICE

The District shall provide written notice to the Railroad Commission specifying the date and the result of each pressure test or other inspection of the LP-gas piping system within one week of the date each test is performed.

Natural Resources Code 113.354; 16 TAC 9.41

TERMINATION OF SERVICE

A supplier shall terminate service to a District facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous leakage in the facility LP-gas piping system; or
2. A test at the facility is not performed as required.

Natural Resources Code 113.355

REPORTING LEAKS

An identified LP-gas leakage in a District facility shall be reported to the Board and the LP gas system shall be removed from LP gas service until repairs are made and another test passed. *Natural Resources Code 113.356; 16 TAC 9.41(b)(3)*

INTRASTATE PIPELINE EMERGENCY RESPONSE PLAN

The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

1. On written request from the District, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:

- a. A description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;
 - b. A list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;
 - c. The designated emergency number for the pipeline facility operator;
 - d. Information on the state's excavation one-call system; and
 - e. Information on how to recognize, report, and respond to a product release; and
2. Mail a copy of the requested items by certified mail, return receipt requested, to the Superintendent of the District in which the school building or facility is located.

A pipeline operator or the operator's representative shall appear at a regularly scheduled meeting of the Board to explain the above items if requested by the Board or District.

The Railroad Commission may not require the release of parts of an emergency response plan that include security sensitive information, including maps or data. Security sensitive information shall be made available for review by but not provided to the Board.

Natural Resources Code 117.012(k), (l), (m); 16 TAC 8.315

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BOARD AUTHORITY	<p>The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i></p>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.</p> <p>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.</p> <p>In procuring construction services, the District shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request. If the District fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the Board in an open public meeting is advisory only.</p> <p><i>Education Code 44.0312</i></p>
INJUNCTION	<p>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 subsection is entitled to reasonable attorney's fees as approved by the court. <i>Education Code 44.032(f)</i></p>
IMPERMISSIBLE PRACTICES	<p>A trustee, employee, or agent of the District who knowingly or with criminal negligence violates the purchasing laws is subject to criminal penalties. <i>Education Code 44.032</i> [See CH]</p>
CONTRACTS VALUED AT OR ABOVE \$25,000	<p>All District contracts valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for the District [see also CH]:</p> <ol style="list-style-type: none">1. Competitive bidding. [See CVA]2. Competitive sealed proposals. [See CVB]3. An interlocal contract.4. A design/build contract. [See CVC]5. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager. [See CVD, CVE]6. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility. [See CVF]

7. The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

Education Code 44.031(a)

[For information on contract-related fees, see CH]

SELECTING A CONTRACTING METHOD	When the District is considering awarding a construction contract using a method specified by Education Code 44.031(a), the Board shall, before advertising, determine which purchasing method provides the best value for the District. <i>Education Code 44.035(a)</i>
PUBLIC NOTICE	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 the 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. <i>Education Code 44.031(g)</i>
CONTRACT SELECTION CRITERIA	The District shall base its selection among offerors on criteria authorized in Education Code 44.031(b). [See CH] The District shall publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights given to the criteria. <i>Education Code 44.035(b)</i>
MAKING 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. <i>Education Code 44.035(c)</i>
ATTORNEY FEES	A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to the 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. <i>Gov't Code 2252.904</i>
IMPACT FEES	The 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. <i>Local Gov't Code 395.022</i>

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PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agents. The District may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. *Education Code 44.031(f)*

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, 2254.003(a)* [See PROCURING ARCHITECTURAL, ENGINEERING, AND LAND-SURVEYING SERVICES, below]

An interlocal contract between the District and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

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)*

CRIMINAL HISTORY

Before entering into a contract with the District, a person or business must give notice to the District if the person or an owner or operator of the business has been convicted of a felony. The District may terminate a contract with a person or business if the District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. The District must compensate the person for services performed before the contract terminated. *Education Code 44.034*

RIGHT TO WORK

While engaged in awarding a contract or overseeing procurement or construction for a public work or public improvement, the District:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and

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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

REGISTERED
ARCHITECT

An architect registered in accordance with Occupations Code, Title 6, Chapter 1051, shall prepare architectural plans and specifications for:

1. A new building constructed and owned by the District that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed \$100,000.
2. Any alteration or addition to an existing building owned by the District that is, or will be, used for education, assembly, or office occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed \$50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

The District may comply with this requirement by choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project.

Occupations Code 1051.703; 22 TAC 1.212

REGISTERED
ENGINEER

Electrical or mechanical engineering plans, specifications, and estimates for a District construction project whose contemplated cost at completion is more than \$8,000 and that involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

The District is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed \$20,000. *Occupations Code 1001.053*

PROCURING
ARCHITECTURAL,
ENGINEERING, AND
LAND-SURVEYING
SERVICES

In procuring architectural, engineering, or land-surveying services, the District shall [see PROFESSIONAL SERVICES above]:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and

2. Then attempt to negotiate a contract with that provider 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, the 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 until a contract is entered into.

Gov't Code 2254.004

ACCESSIBILITY

Each facility or part of a facility constructed by, on behalf of, or for the use of the District shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities.

28 CFR 35.151, 34 CFR 104.23

PAYMENT AND
PERFORMANCE
BONDS

When the Board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable to the Board and in a form approved by the Board. *Gov't Code 2253.021(a), (d), (e)*

For a contract in excess of \$100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of the District. *Gov't Code 2253.021(b)*

For a contract in excess of \$25,000, a payment bond shall be executed in the amount of the contract 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. *Gov't Code 2253.021(c)*

FAILURE TO OBTAIN
PAYMENT BOND

If the Board fails to obtain a payment bond covering a contract in excess of \$25,000 from the prime contractor, it is subject to the same liability as a surety would be, and 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 contract were sub-

ject to Subchapter J, Chapter 53, Property Code. *Gov't Code 2253.027*

NO BOND FOR
DESIGN SERVICES
ONLY

A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. *Education Code 44.036(j)* [See CVC for more information on design/build contracts, including bond amounts]

BOND FOR
INSURED LOSS

The Board 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 governmental entity, furnishes or has furnished by a contractor:

1. A performance bond for the benefit of the District, as described above; and
2. A payment bond, as 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.

These bonds 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

The requirement that the District secure a performance or payment bond from an insurance company, above, does not apply 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

OUT-OF-STATE
BIDDERS

The Board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. *Gov't Code 2252.001, 2252.002*

This requirement shall not apply to a contract involving federal funds. The District shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003, 2252.004*

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PREVAILING WAGE ON
PUBLIC WORKS

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of the District shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per diem wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with the District. *Gov't Code 2258.001, 2258.021*

The Board shall determine, as a sum certain, the general prevailing rate of per diem wages in the District for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, the Board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in the District or adopt the prevailing wage rate as determined by the U.S. Department of Labor. The Board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. The Board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, 2258.022*

ENFORCEMENT

The Board, and an agent or officer of the Board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, the Board shall determine, before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051, 2258.052*

RETAINAGE AND
REIMBURSEMENT

The Board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, the Board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages 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 2258.052(d), 2258.056*

PENALTY FOR
NONCOMPLIANCE

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to

all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to the District \$60 for each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates specified in the contract. The Board must specify this penalty in the contract. If the District does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. The Board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

REQUIRED WORKERS'
COMPENSATION
COVERAGE

When the District enters into a building or construction contract on a project, it shall fulfill the following requirements regarding required workers' compensation coverages. A project includes the provision of all services related to a building or construction contract for the District. The District shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
2. As part of the contract, using the language required by 28 TAC 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. This provision 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 contracts 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 contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:

- a. Before the end of the 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 upon request and to any person entitled to a copy by law.
 7. Use the prescribed language 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. [See CV(EXHIBIT) for prescribed language]

Labor Code 406.096; 28 TAC 110.110(a)(7)(8), (c)

EXCEPTION

This coverage requirement does not apply to sole proprietors or partners of a covered business entity or corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self insure. *Labor Code 406.097; 28 TAC 110.110(i)*

If the District uses the job order contracts method as described in this policy, it must comply with the applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA; and
4. MAKING EVALUATIONS PUBLIC after the contract is awarded.

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

The District may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature, but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and priced tasks.

ESTABLISHING UNIT
PRICES

The District may establish contractual unit prices for a job order contract by:

1. Specifying one or more published construction unit price books and the applicable divisions or line items; or
2. Providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

TERM OF CONTRACT

The base term of a job order contract is for the period, and with any renewal option, that the District sets forth in the request for proposals. If the District fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.

ARCHITECT OR
ENGINEER

If job order contracts or orders issued under the contract require engineering or architectural services that are subject to Occupations Code Title 6, Chapters 1001 or 1051, the District shall select or designate an architect or engineer to prepare the construction documents for the facility. If the 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 CV]

ADVERTISING AND
OPENING PROPOSALS

The District shall advertise for [see CV], receive, and publicly open sealed proposals for job order contracts. The District may require

FACILITIES CONSTRUCTION
JOB ORDER CONTRACTS

CVF
(LEGAL)

offerors to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology. *Education Code 44.041(c), (d)*

AWARDING
CONTRACTS

The District may award job order contracts to one or more job order contractors in connection with each solicitation of bids or proposals.

An order for a job or project under the job order contract must be signed by the District's representative and the contractor. The order may be a fixed-price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or may be a unit price order based on the quantities and line items delivered.

BONDS

The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. [See CV for more information on payment and performance bonds]

Education Code 44.041

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 D: PERSONNEL

DA	EMPLOYMENT OBJECTIVES
DAA	Equal Employment Opportunity
DAB	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
DBA	Credentials and Records
DBAA	Criminal History and Credit Reports
DBB	Medical Examinations and Communicable Diseases
DBD	Conflict of Interest
DBE	Nepotism
DC	EMPLOYMENT PRACTICES
DCA	Probationary Contracts
DCB	Term Contracts
DCC	Continuing Contracts
DCD	At-Will Employment
DCE	Other Types of Contracts
DE	COMPENSATION AND BENEFITS
DEA	Salaries and Wages
DEAA	Incentives and Stipends
DEB	Fringe Benefits
DEC	Leaves and Absences
DED	Vacations and Holidays
DEE	Expense Reimbursement
DEG	Retirement
DF	TERMINATION OF EMPLOYMENT
DFA	Probationary Contracts
DFAA	Suspension/Termination During Contract
DFAB	Termination at End of Year
DFAC	Return To Probationary Status
DFB	Term Contracts
DFBA	Suspension/Termination During Contract
DFBB	Nonrenewal
DFC	Continuing Contracts
DFCA	Suspension/Termination
DFD	Hearings Before Hearing Examiner
DFE	Resignation
DFF	Reduction in Force

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 D: PERSONNEL

DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Intellectual Property Rights
DH	EMPLOYEE STANDARDS OF CONDUCT
DHA	Gifts and Solicitations
DHE	Searches and Alcohol/Drug Testing
DI	EMPLOYEE WELFARE
DIA	Freedom from Harassment
DJ	EMPLOYEE RECOGNITION AND AWARDS
DK	ASSIGNMENT AND SCHEDULES
DL	WORK LOAD
DLA	Staff Meetings
DLB	Required Plans and Reports
DM	PROFESSIONAL DEVELOPMENT
DMA	Required Staff Development
DMB	Career Advancement
DMC	Continuing Professional Education
DMD	Professional Meetings and Visitations
DME	Research and Publication
DN	PERFORMANCE APPRAISAL
DNA	Evaluation of Teachers
DNB	Evaluation of Other Professional Employees
DP	PERSONNEL POSITIONS
DPB	Substitute, Temporary, and Part-Time Positions

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

DBD
(LOCAL)

DISCLOSURE — GENERAL STANDARD	An employee shall disclose to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the District.
SPECIFIC DISCLOSURES SUBSTANTIAL INTEREST	<p>The Superintendent shall file an affidavit with the Board President disclosing a substantial interest, as defined by Local Government Code 171.002, in any business or real property that the Superintendent or any of his or her relatives in the first degree may have.</p> <p>Any other employee who is in a position to affect a financial decision involving any business entity or real property in which the employee has a substantial interest, as defined by Local Government Code 171.002, shall file an affidavit with the Superintendent; however, the employee shall not be required to file an affidavit for the substantial interest of a relative.</p>
INTEREST IN PROPERTY	The Superintendent shall be required to file an affidavit disclosing interest in property in accordance with Government Code 553.002.
CONFLICTS DISCLOSURE STATEMENT	No employee other than the Superintendent shall be required to file the conflicts disclosure statement, as promulgated by the Texas Ethics Commission and as specified by Local Government Code 176.003–.004.
ANNUAL FINANCIAL MANAGEMENT REPORT	<p>The Superintendent, as the executive officer of the District, shall provide to the District in a timely manner information necessary for the District's annual financial management report.</p> <p>[See BBFA]</p>
GIFTS	An employee shall not accept or solicit any gift, favor, service, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities. [See CAA]
ENDORSEMENTS	An employee shall not recommend, endorse, or require students to purchase any product, material, or service in which the employee has a financial interest or that is sold by a company that employs or retains the District employee during nonschool hours. No employee shall require students to purchase a specific brand of school supplies if other brands are equal and suitable for the intended instructional purpose.
SALES	An employee shall not use his or her position with the District to attempt to sell products or services.
NONSCHOOL EMPLOYMENT	An employee shall disclose in writing to his or her immediate supervisor any outside employment that in any way creates a poten-

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

DBD
(LOCAL)

tial conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the District.

PRIVATE TUTORING An employee shall disclose in writing to his or her immediate supervisor any private tutoring of District students for pay.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

DBE
(LEGAL)

DEFINITION In this policy, the term “appoint” includes appointing, confirming the appointment of, and voting to appoint or confirm the appointment of a person.

NEPOTISM PROHIBITED Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

1. The person is related to the public official by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree [see below]; or
2. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

Gov't Code 573.002, 573.041; Atty. Gen. Op. JC-184 (2000)

INDEPENDENT CONTRACTOR The nepotism law governs the hiring of an individual, whether the employee is hired as an individual or an independent contractor. *Atty. Gen. Op. DM-76 (1992)*

SUPERINTENDENT COUNTIES WITH POPULATION 35,000 OR MORE In a district located wholly in, or whose largest part is located in, a county with a population of 35,000 or more, if, under the employment policy [see DC], the Board delegates to the Superintendent the final authority to select District personnel:

1. The Superintendent is a public official for purposes of the nepotism prohibitions only with respect to a decision made under that delegation of authority; and
2. Each member of the Board remains subject to the nepotism prohibitions with respect to all District employees.

For purposes of this provision, a person hired by the District before September 1, 2007, is considered to have been in continuous employment [see CONTINUOUS EMPLOYMENT, below] and is not prohibited from continuing employment with the District subject to the abstention requirements.

Education Code 11.1513(f)–(h)

COUNTIES WITH POPULATION LESS THAN 35,000 In a district located wholly in, or whose largest part is located in, a county with a population of less than 35,000, to the extent the Board has delegated final hiring authority to the Superintendent to select personnel [see DC], the Superintendent is a “public official” for purposes of the nepotism laws. *Atty. Gen. Op. GA-123 (2003)* [See BBFB]

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

DBE
(LEGAL)

COMPENSATION OF
PROHIBITED
EMPLOYEE

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the official knows the person is ineligible. *Gov't Code 573.083*

CONSANGUINITY

Two persons are related to each other by consanguinity (blood) if one is a descendant of the other or if they share a common ancestor. An adopted child is considered to be a child of the adoptive parents for this purpose. *Gov't Code 573.022*

An individual's relatives within the third degree by consanguinity are the individual's:

1. Parent or child (first degree);
2. Brother, sister, grandparent, or grandchild (second degree); and
3. Great-grandparent, great-grandchild, aunt or uncle (who is a sibling of a parent of the person), nephew or niece (who is a child of a brother or sister of the person) (third degree).

Gov't Code 573.023 [See DBE(EXHIBIT)]

HALF-BLOOD
RELATIVES

There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall within the same degree as those of the full blood. *Atty. Gen. Op. LO-90-30 (1990)*

AFFINITY

Two persons are related to each other by affinity (marriage) if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives. This provision applies to a Board member or officer of the District only until the youngest child of the marriage reaches the age of 21 years.

Gov't Code 573.024

A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity.

A person's relatives within the second degree by affinity are:

1. The person's spouse;

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

DBE
(LEGAL)

2. Anyone related by consanguinity to the person's spouse within the first or second degree; and
3. The spouse of anyone related to the person by consanguinity within the first or second degree.

Gov't Code 573.025

EFFECT OF TRUSTEE
RESIGNATION

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a Trustee's resignation is filled by a successor, the Trustee continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)*

EXCEPTIONS
CONTINUOUS
EMPLOYMENT
(‘GRANDFATHER
CLAUSE’)

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

1. Thirty days, if the public official is appointed; or
2. Six months, if the public official is elected.

Gov't Code 573.062(a)

RETIREEES

A teacher who has retired from a full-time, certified teacher position has broken his or her employment with the District and does not qualify for the continuous-employment exception to the nepotism laws. *Atty. Gen. Op. JC-442 (2001)*

For purposes of calculating the appropriate date for the applicability of the continuous-employment exception, a superintendent with final authority to select personnel is an appointed public official. *Atty. Gen. Op. GA-177 (2004)*

ABSTENTION

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees. *Gov't Code 573.062(b)*

A “change in status” includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. *Atty. Gen. Op. JC-193 (2000)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

DBE
(LEGAL)

For an action to be “taken with respect to a bona fide category of employees,” the officeholder’s action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. *Atty. Gen. Op. DM-46 (1991)*

SUBSTITUTE
TEACHER

The nepotism prohibitions do not apply to appointment or employment of a substitute teacher. *Gov’t Code 573.061*

BUS DRIVER
COUNTIES WITH
POPULATION
LESS THAN
35,000

In a district located wholly in, or whose largest part is located in, a county with a population of less than 35,000, the nepotism prohibitions do not apply to an appointment or employment of a bus driver. *Gov’t Code 573.061(4)*

TRADING

A public official may not appoint a person to a position in which the person’s services are under the public official’s direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

1. The person is related to another public official within the prohibited degree; and
2. The appointment would be carried out in whole or in partial consideration for the other public official’s appointing a person who is related to the first public official within a prohibited degree.

Gov’t Code 573.044

FEDERAL FUNDS

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. *Atty. Gen. L.A. No. 80 (1974)*

PENALTIES

An individual who violates the nepotism prohibitions shall be removed from his or her position. *Gov’t Code 573.081, 573.082.*

An individual who violates Government Code 573.041 [see NEPOTISM PROHIBITED], 573.062(b) [see CONTINUOUS EMPLOYMENT and ABSTENTION, above], or 573.083 [see COMPENSATION OF PROHIBITED EMPLOYEE] commits an offense involving official misconduct. *Gov’t Code 573.084*

EMPLOYEE STANDARDS OF CONDUCT

DH
(LEGAL)

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(8); 19 TAC 247.1, 247.2

REPORT TO SBEC OF EDUCATOR MISCONDUCT The Superintendent shall promptly notify SBEC in writing by filing a report with SBEC not later than the seventh day after the Superintendent first learns about a criminal record or an alleged incident of misconduct, as described at DF, involving a certified educator.

The Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code, Chapter 552 [see GBAA].

Education Code 21.006; 19 TAC 249.14

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]

TOBACCO USE PROHIBITED The Board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property.

ENFORCEMENT The Board shall ensure that District personnel enforce the policies on school property.

Education Code 38.006(1)(3) [See also FNCD and GKA]

DRUG AND ALCOHOL ABUSE PROGRAM The 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)*

A district that receives a federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees of the requirements of the federal Drug-Free Workplace Act (DFWA) and requiring that each employee be given a copy of the statement [see DI(EXHIBIT)];

EMPLOYEE STANDARDS OF CONDUCT

DH
(LEGAL)

2. Establishing a drug-free awareness program for employees pursuant to the DFWA;
3. Notifying the granting agency within ten days after receiving notice that an employee has been convicted under a criminal drug statute;
4. Imposing a sanction on an employee who is convicted of such a violation; and
5. Making a good faith effort to continue to maintain a drug-free workplace.

41 U.S.C. 702(a)(1); 49 CFR Part 32

A district that has 15 or more employees shall adopt a policy for elimination of drug abuse and must provide their employees with a copy of the policy on or before the first day of employment. Districts that comply with the DFWA must amend their policies to include alcoholic beverages. *28 TAC 169.1, 169.2*

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

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LEGAL)

SEARCHES—
GENERAL RULE

Citizens, including District employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Amendment IV; Tex. Const. Art. I, Sec. 9*

The District may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

O'Connor v. Ortega, 480 U.S. 709 (1987); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

In addition, the District may search an employee's workplace for noninvestigatory, work-related purposes, if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. *O'Connor v. Ortega*, 480 U.S. 709 (1987)

DRUG / ALCOHOL
TESTING

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989)

RANDOM DRUG
TESTING

The District may conduct drug tests, without a warrant and without individualized suspicion, when the test serves special governmental needs that outweigh the individual's privacy expectation. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989); *National Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989)

SAFETY-
SENSITIVE
POSITIONS

Random alcohol and drug testing of employees in "safety-sensitive" positions may be permissible when the intrusiveness of the search is minimal and the Board is able to demonstrate that the drug-testing program furthers its interest in ensuring the physical safety of students. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment including a large number of children. *Aubrey v. Sch. Bd. of LaFayette Parish*, 148 F.3d 559 (5th Cir. 1998)

Note: The following testing requirements apply to every employee of the District who operates a commercial motor vehicle and is subject to commercial driver's license requirements in accordance with federal regulations.

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LEGAL)

TESTING OF DRIVERS	<p>The District shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates law or federal regulation. <i>49 U.S.C. 31.306; 49 CFR Part 382</i></p>
COMMERCIAL MOTOR VEHICLE DEFINED	<p>A commercial motor vehicle is defined as a motor vehicle used to transport passengers or property that:</p> <ol style="list-style-type: none">1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or2. Has a gross vehicle weight rating of 26,001 or more pounds; or3. Is designed to transport 16 or more passengers, including the driver. <p><i>49 CFR 382.107</i></p>
TESTING PROCEDURES	<p>The District shall ensure that all alcohol or controlled substances testing conducted under 49 CFR Part 382 complies with the procedures set forth in 49 CFR Part 40. <i>49 CFR 382.105</i></p>
TESTS REQUIRED	<p>Required testing includes pre-employment, postaccident, random, reasonable suspicion, return-to-duty, and follow-up testing. No driver shall refuse to submit to a postaccident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a return-to-duty or follow-up alcohol or controlled substances test. The District shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. <i>49 CFR 382.211, 382.309</i></p>
EDUCATIONAL MATERIALS	<p>The District shall provide educational materials that explain the federal requirements and the District's policies and procedures with respect to meeting these requirements and shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Written notice to representatives of employee organizations of the availability of this information shall also be provided. The materials shall include detailed discussion of at least the items listed at 49 CFR 382.601. <i>49 CFR 382.601</i></p>
REPORTS	<p>A district required by federal safety regulations to conduct alcohol and drug testing of an employee who holds a commercial driver's license shall report the following information to the Department of Public Safety:</p>

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LEGAL)

1. A valid positive result on an alcohol or drug test and whether the specimen producing the result was a dilute specimen.

“Valid positive result” means an alcohol concentration of 0.04 or greater on an alcohol confirmation test, or a result at or above the cutoff concentration levels listed in 49 CFR 40.87 on a confirmation drug test.

“Dilute specimen” means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

2. A refusal to provide a specimen for an alcohol or drug test.
3. An adulterated specimen or substituted specimen, as defined at 49 CFR 40.3, on an alcohol or drug test.

For purposes of this requirement, the term “employee” includes applicants for employment subject to preemployment testing.

Trans. Code 644.251–644.252; 29 CFR 40.3

ASSIGNMENT AND SCHEDULES

DK
(LEGAL)

ASSIGNMENT

The District may not employ a person as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor unless the person holds an appropriate certificate or permit. In addition, a public school employee must have the appropriate credentials, as set forth by the State Board for Educator Certification (SBEC), for his or her current assignment, unless the appropriate permit has been issued. *Education Code 21.003; 19 TAC 230.601* [See DBA]

EMERGENCY PERMITS

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.

TEMPORARY VACANCIES

The 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. The District must, however, comply with the parent notification requirements below.

19 TAC 230.501(b), (g)

CURRENT EMPLOYEES

A degreed, certified teacher employed in the previous year or semester in an assignment for which he or she was fully certified may not be assigned to a position that requires activating an emergency permit unless:

1. The teacher has given written consent to the activation of the permit; or
2. Because of fluctuations in enrollment or changes in course offerings, the teacher's previous assignment no longer exists and no alternative assignment for which the teacher is fully certified is available on that campus. If a permit is activated for a teacher under these circumstances, the teacher shall be offered the opportunity to return to his or her previous assignment or an alternative assignment for which the teacher is fully certified on that campus as soon as such an assignment is available. If a teacher accepts the assignment, the actual transfer of duties shall occur not later than the beginning of the next academic year.

If an emergency permit is activated for a temporary staffing condition within 30 days of the opening of the school year or later during the contract year, the teacher is exempt from the requirement to complete additional coursework or examination requirements for certification for the remainder of the contract year for which the permit is activated. This exemption is not renewable, and a

ASSIGNMENT AND SCHEDULES

DK
(LEGAL)

teacher continuing on an emergency permit for a second year must meet the full requirements of an 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 permit. However, a teacher's refusal to consent shall not impair the District's right to implement a necessary reduction in force or other personnel actions in accordance with local District policy.

19 TAC 230.501(c)

PRINCIPAL'S
APPROVAL

The principal of a campus shall approve all teacher and staff appointments for the campus from a pool of applicants selected by the District or of applicants who meet the hiring requirements established by the District, based on criteria developed by the principal after informal consultation with the faculty. The Superintendent or designee has final placement authority for a teacher transferred because of enrollment shifts or program changes. *Education Code 11.202; Atty. Gen. Op. DM-27 (1991)*

TRANSFERS

The 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)*

Note: In accordance with Education Code 21.057, the following notice requirements do not apply if a school is required by the No Child Left Behind Act of 2001 to provide notice to a parent or guardian regarding a teacher who is not highly qualified, provided the school gives notice as required by that Act. [See DBA]

PARENT
NOTIFICATION

If the 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.

The 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. The 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. The District shall retain a copy of the notice and make information relating to teacher certification available to the public on request.

ASSIGNMENT AND SCHEDULES

DK
(LEGAL)

INAPPROPRIATELY
CERTIFIED OR
UNCERTIFIED
TEACHER

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 SBEC rules;
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.

Education Code 21.057; 19 TAC 230.601

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education [see STATE GRADUATION REQUIREMENTS, below] and has performed satisfactorily on the exit-level assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c); 19 TAC 101.4001(a)

POSTHUMOUS
DIPLOMA

Beginning with students enrolled in grade 12 during the 2005–06 school year, and on request of the student’s parent, the District shall issue a high school diploma posthumously to a student who died while enrolled in the District at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. “School year” includes any summer session following the spring semester.

EXCEPTION

The 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

DIPLOMA /
TRANSCRIPT /
CERTIFICATE OF
COURSEWORK
COMPLETION

Graduates of each high school are awarded the same type of diploma. The academic achievement record (transcript), rather than the diploma, records individual accomplishments, achievements, and courses completed and displays appropriate graduation seals. *19 TAC 74.41(a), 74.51(a), 74.61(a)* [See EI for provisions regarding certificate of coursework completion]

SPECIAL
EDUCATION
STUDENTS

A student receiving special education services who successfully completes the requirements of his or her IEP shall receive a high school diploma. *19 TAC 101.7(c)*

PERSONAL
GRADUATION
PLAN (PGP)

A principal shall designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in a junior high, middle, or high 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 nine, as determined by the 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.

A student's IEP developed under Education Code 29.005 [see EHBAB] may be used as the student's PGP.

In addition, the District is encouraged to establish for each student entering grade nine a PGP that identifies a course of study that:

1. Promotes college and workforce readiness;
2. Promotes career placement and advancement; and
3. Facilitates the student's transition from secondary to postsecondary education.

Education Code 28.0212

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 the Board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), 26.003(b)* [See FMH, FNG]

STATE GRADUATION
REQUIREMENTS

All credit for graduation must be earned no later than grade 12. *19 TAC 74.41(b), 74.51(b), 74.61(b)*

Note: For current state graduation requirements, see <http://www.tea.state.tx.us/rules/tac/chapter074/index.html>.

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

NINTH GRADERS IN 2001–02 THROUGH 2003–04	A student entering grade 9 in the 2001–02, 2002–03, or 2003–04 school year must complete the requirements of the Minimum High School Program, the Recommended High School Program, or the Advanced/Distinguished Achievement High School Program. <i>19 TAC 74.41(c), 74.42–.44</i>
NINTH GRADERS IN 2004–05 AND THEREAFTER	The District shall ensure that each student entering the ninth grade in the 2004–05 school year and thereafter enrolls in the courses necessary to complete the Recommended or 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 that the student should be permitted to take courses under the Minimum High School Program. <i>Education Code 28.025(b); 19 TAC 74.51(d), 74.52–.54, 74.61(c)</i>
MINIMUM HIGH SCHOOL PROGRAM	A student must earn at least 22 credits to complete the Minimum High School Program. A student must demonstrate proficiency in the program requirements listed at 19 TAC 74.11. <i>19 TAC 74.42, 74.52</i>
RECOMMENDED HIGH SCHOOL PROGRAM	A student entering grade 9 in the 2007–08 school year or thereafter 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 TAC 74.63. <i>19 TAC 74.63</i>
ADVANCED / DISTINGUISHED ACHIEVEMENT HIGH SCHOOL PROGRAM	A student entering grade 9 in the 2007–08 school year or thereafter 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 TAC 74.64. <i>19 TAC 74.64</i>
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. <i>19 TAC 74.43(d), 74.44(e), 74.53(d), 74.54(e)</i>
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. <i>19 TAC 74.41(g), 74.51(h)</i>
READING	The District may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the District: <ol style="list-style-type: none">1. Adopts policies to identify students in need of additional reading instruction;

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

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 74.41(d), 74.51(e), 74.61(e)

PHYSICAL
EDUCATION
SUBSTITUTIONS

The Board may allow a student to substitute certain physical activities for the one and one-half required credits of physical education, including the one-half credit of Foundations of Personal Fitness. The substitutions must be based on the physical activity involved in drill team, marching band, and cheerleading during the fall semester; Junior Reserve Officer Training Corps (JROTC); athletics; Dance I-IV; and two- or three-credit career and technology work-based training courses. *19 TAC 74.11(d)(7)(A)*

PRIVATE OR
COMMERCIALY
SPONSORED
PHYSICAL ACTIVITY
PROGRAMS

In accordance with local District policy, the Board may award up to 2 credits for physical education for appropriate private or commercially sponsored physical activity programs conducted either on or off campus. The District must apply to the Commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. *19 TAC 74.52(b)(7)(C), 74.53(b)(7)(C), 74.54(b)(7)(C), 74.63(b)(7), 74.64(b)(7)*

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 TAC 74.26. *19 TAC 74.11(f), 74.51(f), 74.61(f)* [See EEJA, EEJB, EEJC, EHDE, and EI]

GRADUATION OF
SPECIAL EDUCATION
STUDENTS

A student receiving special education services may graduate and be awarded a high school diploma if the student has satisfactorily completed the state's or District's (whichever is greater) minimum curriculum and credit requirements for graduation applicable to students in general education and:

COMPLETION OF
GENERAL
EDUCATION
REQUIREMENTS

1. Performed satisfactorily on the exit-level assessment instrument; or
2. Been exempted from the exit-level assessment instrument under Education Code 39.027(a)(2)(B).

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

COMPLETION OF
IEP

A student receiving special education services may also graduate and receive a regular high school diploma when the student's admission, review, and dismissal (ARD) committee has determined that the student has successfully completed:

1. The student's IEP and met one of the conditions listed at 19 TAC 89.1070(c)(1) regarding employability, self-help skills, or access to continued services;
2. The state's or District's (whichever is greater) minimum credit requirements for students without disabilities; and
3. The state's or District's minimum curriculum requirements to the extent possible with modifications/substitutions only when it is determined necessary by the ARD committee for the student to receive an appropriate education.

EVALUATION

The student shall be evaluated before graduation as required by 34 CFR 300.534(c) and the ARD committee shall consider the evaluation, the views of the parent and/or student as appropriate, and, when appropriate, seek in writing and consider written recommendations from adult service agencies.

Students who participate in graduation ceremonies but who are not graduating and who will remain in school to complete their education do not have to be evaluated.

In addition, the ARD committee shall 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.

AGING OUT

A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee's determination that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

19 TAC 89.1070

TESTING PROGRAMS

EK
(LEGAL)

LOCAL ACHIEVEMENT
TESTING

In addition to the state-administered assessment instruments, the 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 the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to the District for verification. The District shall have 90 days to verify the accuracy of test data and report the results to the Board.

The company or organization shall provide test results in electronic form to the District and to TEA. If the District develops its own assessment instrument, it must report the results in electronic form to TEA.

The District shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101, Subchapter C. [See EKB] The District may not use the same form of an assessment instrument for more than three years.

Education Code 39.026, 39.032; 19 TAC 101.101

In any subject area for which a state assessment is administered, the District may not administer District-required assessments to any student on more than 10 percent 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*

COLLEGE
PREPARATION
ASSESSMENTS

The following provisions apply only if the legislature appropriates funds for these purposes.

Each school year, and at state cost, the District shall 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.

TESTING PROGRAMS

EK
(LEGAL)

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes. A high school student is not prohibited from taking a test more than once, at the student's own expense.

TEA shall:

1. Select and approve vendors of the specific assessment instruments administered under this section; and
2. Pay all fees associated with the administration of the assessment instrument, and the Commissioner shall reduce the total amount of state funds allocated to the District from any source in the same manner described for a reduction in allotments under Education Code 42.253.

Education Code 39.0261

HOME-SCHOOLED
STUDENTS

The following provisions apply to a home-schooled student entitled under Education Code 25.001 to attend school in the District.

The District shall permit a home-schooled student to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the District.

"Home-schooled 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

The District shall require a home-schooled student to pay the same fee to participate in such a test that a student enrolled in the District is required to pay.

NOTICE

The District shall post on an Internet Web site 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 home-schooled students eligible to attend school in the District and describe the procedures for a home-schooled student to register for the test.

A district that does not maintain an Internet Web site 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

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

STATE ASSESSMENT
OF ACADEMIC SKILLS

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced tests, as required by Education Code 39.023(a), (b), (c), (l), and 39.027(e) [see ALL STUDENTS, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5(a)*

To be eligible to receive a high school diploma, a nonexempt student must demonstrate satisfactory performance on the exit-level test [see EXIT-LEVEL TESTING, below]. *Education Code 39.025(b); 19 TAC 101.7(a)*

ADMINISTRATION

The District shall follow the test administration procedures established by TEA in the applicable test administration materials. The Superintendent shall be responsible for:

1. Administering tests;
2. Maintaining the integrity of the test administration process; and
3. Ensuring that every test administrator receives at least annual training in these procedures as provided by TEA through the education service centers.

19 TAC 101.25, 101.27

SCHEDULE

The Commissioner shall specify the schedule for testing. 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 the 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 the 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

NOTICE TO PARENTS
AND STUDENTS

The Superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

GRADE
ADVANCEMENT
TESTING

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.

GRADUATION
TESTING

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 101.13

ALL STUDENTS

All students, except students who are exempt, shall be assessed in:

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grades 8 through 11 with the aid of technology on any assessment instruments that include algebra;

2. Reading, annually in grades 3–9;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. English language arts in grade 10;
5. Social studies in grades 8 and 10; and
6. Science in grades 5, 8, and 10.

Education Code 39.023(a)

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 the 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.

For a student receiving special education services, the admission, review, and dismissal (ARD) committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP).

19 TAC 101.29; Education Code 39.023(n)

EXIT-LEVEL TESTING A student may not receive a high school diploma until the student has performed satisfactorily on the secondary TAKS exit-level assessment for English language arts, mathematics, social studies, and science. A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level testing requirement. *Education Code 39.025(a); 19 TAC 101.5(e)*

IMPLEMENTATION SCHEDULE A student shall not be required to demonstrate performance on exit-level tests at a standard higher than the one in effect when the student was first eligible to take the test.

Students who were enrolled in grade 8 or a lower grade on January 1, 2001, must fulfill testing requirements for graduation with the exit-level Texas Assessment of Knowledge and Skills (TAKS) tests.

19 TAC 101.7(a), 101.3003

ALTERNATIVE ASSESSMENTS An eligible student who has met the passing standard on a state-approved alternative assessment instrument, as set forth at 19 TAC 101.4001, in a particular area has satisfied the exit-level testing requirement in that subject area.

A student is eligible to substitute an alternative exit-level assessment for a TAKS exit-level assessment if the student, after January 1 of the year in which the student would otherwise be eligible to graduate:

1. Enrolls in a public school in Texas for the first time; or
2. Enrolls in a public school in Texas after an absence of at least four years from any public school in the state. A student meets this requirement if the student has not been enrolled for one or more days in a public school in Texas in the four years preceding the date on which the student enrolls.

VERIFICATION OF
ELIGIBILITY

An eligible student is responsible for providing the District an official copy of the student's scores from the alternative assessment.

Each district shall be responsible for verifying a student's eligibility for the alternative exit-level assessment. Upon receipt of official results of an approved alternative exit-level assessment, the District must:

1. Verify the student's score on the alternative 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 101.4001, 101.4003, 101.4005

RETAKES

An eligible student or out-of-school individual who has not met graduation requirements may retest on a schedule determined by the Commissioner. A student who has been denied a diploma because the student failed to meet standards of performance on any sections of the instrument may retake the sections each time the instrument is administered. *Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)*

SPECIAL EDUCATION

A student may be exempted from the administration of state assessments, including exit-level exams, if the student is eligible for special education services and:

1. The student's IEP does not include instruction in the essential knowledge and skills at any grade level; or
2. The assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's ARD committee.

Education Code 39.027(a)(1), (2)

Each exempt student shall take an appropriate locally selected assessment, as determined by the student's ARD committee, in accordance with procedures developed by TEA. Student performance results on these alternate assessments must be reported to TEA. *19 TAC 101.5(c)*

LIMITED ENGLISH
PROFICIENCY (LEP)
STUDENTS

In grades 3–12, an LEP student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with Commissioner's rules at 19 TAC Chapter 101, subchapter AA. *19 TAC 101.5(d)*

LANGUAGE
PROFICIENCY
ASSESSMENT
COMMITTEE (LPAC)

The language proficiency assessment committee (LPAC) [see EHBE] shall select the appropriate assessment option for each LEP student. Assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA. The LPAC must document the reason for any postponement or exemption in the student's permanent record file. The District shall make a reasonable effort to determine a student's previous testing history. *19 TAC 101.1003*

ENGLISH
LANGUAGE
PROFICIENCY
TESTS

In kindergarten through grade 12, LEP students shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill the state requirements for the assessment and federal requirements under the No Child Left Behind Act. *19 TAC 101.1001*

EXEMPTIONS

An LEP student may be exempted from the administration of the state assessment:

1. For up to one year if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an LEP student; or
2. For an additional two years if the student received the one year exemption and is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available.

"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. [See IMMIGRANT STUDENTS, below]

Education Code 39.027(a)(3), (4), (g)

An LEP student who is exempt from the administration of an assessment who achieves reading proficiency in English as determined by the assessment system shall be administered the appropriate assessment. *Education Code 39.027(e)*

LEP STUDENTS AT
THE EXIT LEVEL

LEP students are not eligible for an exemption from the exit-level assessment on the basis of limited English proficiency. However, LEP students who are recent immigrants may postpone one time the initial administration of the exit-level test. "Recent immigrant" means an immigrant who first enrolls in U.S. schools no more than 12 months before the administration of the test from which the postponement is sought. *19 TAC 101.1005*

LEP STUDENTS AT
OTHER GRADES
TESTING IN
SPANISH

Each LEP student whose primary language is Spanish, other than a student eligible for special education services, may be assessed using assessment instruments in Spanish. In grades 3–6, the LPAC shall determine whether an LEP student is administered the state assessment in English or in Spanish. An LEP student may be administered a Spanish version of the assessment for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.

The District may administer the assessment in Spanish to a student who is not identified as LEP but who participates in a two-way bilingual program if the LPAC determines the assessment in Spanish is the most appropriate measure of the student's academic progress. The student may not be administered the Spanish-version assessment for longer than three years.

Education Code 39.023(l), (m); 19 TAC 101.1007

IMMIGRANT
STUDENTS

Certain immigrant LEP students who have had inadequate schooling outside the U.S. may be eligible for an exemption from the assessment during a period not to exceed their first three school years of enrollment in U.S. schools. "Immigrant" is defined as a student who has resided outside the 50 United States for at least two consecutive years.

1. During the first school year of enrollment, the immigrant student may be granted an exemption if the LPAC determines that the student has not had the schooling outside the U.S. necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed.
2. An immigrant LEP student who achieves a rating of advanced high on the state-administered reading proficiency tests in

English during the student's first school year of enrollment in U.S. schools is not eligible for an exemption in the second or third school year of enrollment in U.S. schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in U.S. schools is not eligible for an exemption in the third school year of enrollment in U.S. schools.

3. During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a primary language assessment is not available may be granted an LEP exemption if the LPAC determines 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.
4. During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a Spanish-version assessment is available is not eligible for an LEP exemption and must take the assessment in either English or Spanish unless:
 - a. The student is in an English as a second language program that does not call for instruction in Spanish and the LPAC determines that the student lacks the language proficiency in English and the academic instruction and/or literacy in Spanish for the assessment in either English or Spanish to measure the student's academic progress in a valid, reliable manner; or
 - b. The student is in a bilingual education program and the LPAC has documentation, including signed verification by the parent or guardian whenever possible, that there was an extensive period of time outside the U.S. in which the student did not attend school and that this absence of schooling resulted in such limited academic achievement and/or literacy that assessment in either English or Spanish is inappropriate as a measure for school accountability. The term "extensive period of time outside the U.S.," as used in this paragraph, shall be defined in the test administration materials.

Students exempted under the above provisions shall be administered assessments in subjects and grades required by federal law and regulations as delineated in the test administration materials. Exempt students assessed only for federal accountability purposes shall not be subject to the grade advancement requirements under the Student Success Initiative [see EIE].

An LEP student whose parent or guardian has declined bilingual education/ESL services is not eligible for an exemption. The student shall take the assessments in English and the English Language Proficiency Assessments.

19 TAC 101.1007

LEP STUDENTS
IN SPECIAL
EDUCATION

Decisions regarding the selection of assessments for LEP students who receive special education services shall be made by the ARD committee, which includes a member of the LPAC to ensure that issues related to the student's language proficiency are duly considered. *19 TAC 1001.1009(a)*

An LEP student who receives special education services may be exempted from the English language proficiency assessments only if the ARD committee determines that these assessments cannot provide a meaningful measure of the student's annual growth in English language proficiency for reasons associated with the student's disability. *19 TAC 101.1009(c)*

The provisions at LEP STUDENTS AT OTHER GRADES apply to the assessment and the state-developed alternative assessment. *19 TAC 101.1009(d)*

An LEP student who receives special education services and whose parent or guardian has declined bilingual services is not eligible for an exemption on the basis of limited English proficiency. *19 TAC 101.1009(e)*

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 the 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

The Superintendent shall accurately report all test results with appropriate interpretations to the Board according to the schedule in the applicable test administration materials.

TO PARENTS AND
STUDENTS

The District shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY. 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. [See BQ series, FD, and FL]

19 TAC 101.81; No Child Left Behind Act, 20 U.S.C. 6311(h)(6)

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. <i>Education Code 26.005, 26.006(a)(2)</i>
SECURITY	The statewide assessment program is a secure testing program. Procedures for maintaining security shall be specified in the appropriate test administration materials. Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials. <i>19 TAC 101.61</i>
CONFIDENTIALITY	The contents of each test booklet and answer document are confidential in accordance with state and federal law. Individual student performance results are confidential and may be released only in accordance with the Family Education Rights and Privacy Act of 1974. <i>Education Code 39.030(b); 19 TAC 101.63</i> [See FL and GBA]
PENALTIES	<p>Violation of security or confidential integrity of any test shall be prohibited. A person who engages in prohibited conduct may be subject to sanction of credentials.</p> <p>Procedures for maintaining the security and confidential integrity of a test shall be specified in the appropriate test administration materials. Conduct that violates the security and confidential integrity of a test is defined as any departure from the test administration procedures established by the Commissioner. Conduct of this nature may include the following acts and omissions:</p> <ol style="list-style-type: none">1. Duplicating secure examination materials;2. Disclosing the contents of any portion of a secure test;3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;4. Changing or altering a response or answer of an examinee to a secure test item or prompt;5. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;6. Encouraging or assisting an individual to engage in the conduct described in 1–5 above; or7. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in 1–6 above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidential integrity, and any person who fails to report such a violation are subject to the following penalties:

1. Placement of restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;
2. Issuance of an inscribed or non-inscribed reprimand;
3. Suspension of a Texas teacher certificate for a set term; or
4. Revocation or cancellation of a Texas teacher certificate without opportunity for reapplication for a set term or permanently.

Any irregularities in test security or confidential integrity may also result in the invalidation of student results.

The Superintendent and campus principal shall develop procedures to ensure the security and confidential integrity of the tests and shall be responsible for notifying TEA in writing of conduct that violates the security or confidential integrity of a test. Failure to report can subject the person responsible to the applicable penalties specified above.

19 TAC 101.65

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GENERAL RULE

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 eighteenth birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. Students enrolled in prekindergarten or kindergarten shall attend school.

STUDENTS 18 AND OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's eighteenth birthday shall attend school each school day for the entire period the program of instruction is offered. The 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. 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.

The Board may adopt a policy requiring the student to attend school until the end of the school year. If the Board adopts such a policy, Education Code 25.094 [see STUDENT LIABILITY, below] applies to the student, but Education Code 25.093 and 25.095 do not apply to the student's parent.

ACCELERATED /
COMPENSATORY
PROGRAMS

A student must also attend:

1. An extended-year program for which the student is eligible that is provided by the 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 each course in which the student was enrolled at the time of removal. [See FO]

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- 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. [See FOCA]

Education Code 25.085

EXEMPTIONS

Students who meet one or more of the following conditions shall be exempt from compulsory attendance requirements:

EQUIVALENCY
DIPLOMA

1. The student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

PRIVATE OR HOME
SCHOOL

2. 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

3. The student is eligible to participate in the District's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

MEDICAL
CONDITION

4. The student has a temporary and remediable physical or mental condition that renders attendance infeasible and the student has a certificate from a qualified physician that specifies the condition, indicates the prescribed treatment, and covers the anticipated time of absence needed for receiving and recuperating from remedial treatment.

EXPULSION — NO
JJAEP

5. The student has been 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

6. The student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and:
 - a. Has the permission of the student's parent or guardian to attend the course;
 - b. Is required by court order to attend the course;

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	<ul style="list-style-type: none">c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; ord. Is homeless as defined by 42 U.S.C. 11302.
HIGH SCHOOL REPLACEMENT PROGRAMS	7. The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.
16-YEAR-OLD IN GED PROGRAM OR JOB CORPS	8. The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if: <ul style="list-style-type: none">a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; orb. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.
OTHER EXEMPTION	9. The student is specifically exempted under another law. <i>Education Code 25.086</i>
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. <i>Education Code 25.087</i>
TEMPORARY ABSENCES	
SPECIAL EDUCATION MATTERS	Students may be excused for special education assessment procedures and for special education-related services. <i>19 TAC 129.21(l)</i>
COURT PROCEEDINGS	A student who has been referred to a juvenile court for delinquent conduct or conduct indicating a need for supervision shall receive an excused absence for any missed class when: <ul style="list-style-type: none">1. The assigned juvenile judge or probation officer has detained the student or required the student to participate in activities related to the student's referral;2. Detention or participation in such activities resulted in absence from class;3. The probation officer communicates the cause of the absence in writing to District personnel; and4. The student successfully completes all missed assignments. <i>19 TAC 129.22(a)</i>

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HUMAN SERVICES
ACTIVITIES

A student who has been referred to the Texas Department of Human Services or a county or local welfare unit on the basis that he or she has been abused or is neglected shall be excused when:

1. The assigned caseworker has required the student to participate in activities related to the student's referral;
2. Participation in such activities resulted in an absence from class;
3. The caseworker communicates the cause of the absence in writing to District personnel; and
4. The student successfully completes all missed assignments.

19 TAC 129.22(b)

RELIGIOUS, COURT-
RELATED, AND
MEDICAL
ABSENCES

The District shall excuse a student from attending school for the following purposes, including travel for those purposes:

1. Observing religious holy days. Excused days for travel shall be limited to not more than one day for travel to and one day for travel from the site where the student will observe the religious holy days.
2. Attending a required court appearance.
3. Temporary absence resulting from an appointment with a health-care professional if that student commences classes or returns to school on the same day of the appointment.

Education Code 25.087; 19 TAC 129.21(k) [See FEB]

MAKE-UP WORK

The student shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence. *Education Code 25.087*

In the case of a student who has missed class due to court proceedings or human services activities, it is the responsibility of the liaison for court-related children [see FFC(LEGAL)] to assist students and teachers to ensure that students are provided the opportunity to complete all missed assignments. *19 TAC 129.22(c)*

TAPS AT MILITARY
FUNERAL

In addition, the 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.

If the District excuses the absence, the student may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily atten-

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dance of students in the District. The student shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

Education Code 25.087(c)

NOTICES TO PARENTS
WARNING NOTICE

The 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 or on three or more days or parts of days within a four-week period, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to prosecution under Education Code 25.094 or to referral to a juvenile court in a county with a population less than 100,000.

NOTICE OF
ABSENCES

The 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 parent is subject to prosecution under Education Code 25.093; 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 to prosecution 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 Education Code 25.094.

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.

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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 the District to determine whether to excuse the absence for another purpose.

Education Code 25.093

STUDENT LIABILITY

A student who 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 or on three or more days or parts of days within a four-week period may be prosecuted for nonattendance in:

1. The constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of two million or more;
2. The justice court of any precinct in the county in which the student resides;
3. The justice court of any precinct in the county in which the school is located;
4. The municipal court in the municipality in which the child resides; or
5. The municipal court in the municipality in which the school is located.

Education Code 25.094(a), (b)

CONDUCT IN
NEED OF
SUPERVISION

Conduct indicating a need for supervision includes the absence of a child on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school. *Family Code 51.03(b)(2)*

AFFIRMATIVE
DEFENSE —
STUDENT

It is an affirmative defense to prosecution for nonattendance or to an allegation of conduct in need of supervision that one or more of the absences required to be proven were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense.

A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

Education Code 25.094(f), (g); Family Code 51.03(d)

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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, the District shall within ten school days of the student's tenth absence:

1. File a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Education Code 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000; or
2. Refer the student to a juvenile court for conduct indicating a need for supervision under Family Code 51.03(b)(2).

A court shall dismiss a complaint or referral by the District that does not comply with these requirements.

The District may take the actions listed above 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 specified above.

Education Code 25.0951

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ATTENDANCE
OFFICER

The 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 the 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 the 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:
 - a. Referring a student to a juvenile court or filing a complaint against a student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); 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;
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; and
7. If the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody

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and the district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

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:
 - a. Referring a student to a juvenile court or filing a complaint against a student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); and
 - 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;
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; and
7. To take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

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.

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Education Code 25.091

JUVENILE CASE
MANAGER

On approval of the Board, the District may employ or agree in accordance with Government Code Chapter 791 to jointly employ a case manager to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers. The District may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. *Code of Criminal Procedure 45.056*

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

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PHYSICAL FITNESS ASSESSMENT	<p>Annually, the District shall assess the physical fitness of students in grades 3 through 12, using an assessment instrument adopted by the Commissioner.</p> <p>The District is not required to assess a student for whom, as a result of disability or other condition identified by Commissioner rule, the assessment instrument is inappropriate</p>
REPORT	<p>The District shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by Commissioner rule, to TEA. The summary results may not contain the names of individual students or teachers.</p>
CONFIDENTIALITY	<p>The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.</p> <p>The District may accept donations made to facilitate implementation of this subchapter.</p> <p><i>Education Code Ch. 38, Subch. C</i></p>
VISION AND HEARING SCREENING	<p>As soon as possible after admission and within a period set by rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (TDSHS). <i>Health and Safety Code 36.005(a)</i></p>
DISTRICT RESPONSIBILITY	<p>The Superintendent shall ensure that each student admitted to the District complies with the screening requirements set by TDSHS or submits an affidavit of exemption (see below). <i>Health and Safety Code 36.005(c)</i></p>
SCREENING SCHEDULE ROUTINE SCREENING	<p>All students enrolled in the District shall be screened for vision and hearing problems in prekindergarten; kindergarten; and first, third, fifth, and seventh grades before May 31 of each year. Upon written request approved by TDSHS, the screening of vision and hearing may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. <i>25 TAC 37.23(d), (f)</i></p>
SCREENING ON ENROLLMENT	<p>Students four years of age and older, who are enrolled in the District for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested by December 31 of that year. <i>25 TAC 37.23(e)(1)</i></p>

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

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OUTSIDE SCREENING	Except for students enrolled in kindergarten or first grade, the District shall exempt a student from screening if the student's parent or legal guardian submits proof that the student's vision and/or hearing has been screened within the prior reporting year. Proof of vision and hearing screening upon initial enrollment must be submitted to the District by the dates for screening upon enrollment. Proof for all other students must be submitted by May 31. <i>25 TAC 37.23(e)(3), 37.26(a), (b)</i>
PROVISIONAL ADMISSION	A parent, guardian, managing conservator, or person having legal responsibility for the student's support may execute an affidavit stating that a person other than the screener used by the District shall conduct the screening as soon as is feasible. The student may be admitted on a provisional basis, or the student may be denied admission, until the screening results are provided to the District. <i>25 TAC 37.23(g)</i>
EXEMPTION—RELIGIOUS BELIEFS	The District shall not require a student to be screened if the parent, guardian, managing conservator, or person having legal responsibility for the student's support submits to the District, on or before the date vision or hearing screening is scheduled, an affidavit in lieu of the record of screening stating that the vision or hearing screening conflicts with the tenets or practices of a church or religious denomination of which the affiant is an adherent or member. <i>Health and Safety Code 36.005(b); 25 TAC 37.23(h)</i>
RECORDS	The District shall maintain the screening records required by statute and regulation. <i>Health and Safety Code 36.006; 25 TAC 37.24</i>
TRANSFER OF RECORDS	A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. The District shall honor an original or true copy of the proofs of screening upon the transfer of a student from another Texas district. When a district's official record for a student contains entries of vision or hearing examinations or screening test results, the original or true and correct copy of the record may be transferred between districts. <i>Health and Safety Code 36.006(c); 25 TAC 37.28</i>
REPORTS	On or before June 30 of each year, the District shall submit to TDSHS a report on the screening status of its aggregate population screened during the reporting year. The results of required professional examinations or screening tests shall be reported as specified on forms approved by TDSHS. <i>Health and Safety Code 36.006; 25 TAC 37.26(c)(1)</i>
RISK ASSESSMENT FOR TYPE 2 DIABETES	As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:

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1. Identify students with acanthosis nigricans; and
2. Further assess students identified under paragraph 1 to determine the students':
 - a. Body mass index; and
 - b. Blood pressure.

The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.

Health and Safety Code 95.002(d), 95.003(a)

DISTRICT
RESPONSIBILITY

The Superintendent shall ensure that each student admitted to the District complies with the risk assessment requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c)*

APPLICABILITY

Students who attend public schools located in TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. *Health and Safety Code 95.002(b)*

OUTSIDE
SCREENING

The student or minor student's parent, managing conservator, or guardian may elect to substitute a professional examination for the risk assessment. *Health and Safety Code 95.003(a)*

EXEMPTION—
RELIGIOUS BELIEFS

A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit, on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. *Health and Safety Code 95.003(b)*

RECORDS

The Superintendent shall maintain the risk assessment records required by the statute and regulations and enter the risk assessment information for each individual on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for inspection by the Office or the local health department. *Health and Safety Code 95.004(a)*

TRANSFER OF
RECORDS

A student's risk assessment records may be transferred among schools without the consent of the individual, or, if the student is a minor, the student's parent, managing conservator, or guardian. *Health and Safety Code 95.004(c)*

ANNUAL REPORT

Each district shall submit to the Office an annual report on the risk assessment status of the students in attendance during the report-

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	ing year and shall include in the report any other required information. <i>Health and Safety Code 95.004(e)</i>
SPINAL SCREENING	Each student required by rule of the TDSHS to be screened shall undergo approved screening for abnormal spinal curvature. <i>Health and Safety Code 37.002(a)</i>
DISTRICT RESPONSIBILITY	The Superintendent shall ensure that each student admitted to the District complies with the screening requirements or submits an affidavit of exemption (see below). <i>Health and Safety Code 37.002(c), 25 TAC 37.148(m)</i>
SCREENING SCHEDULE ROUTINE SCREENING	Students in grades six and nine shall be screened for abnormal spinal curvature before the end of the school year. The screening requirement for students entering grades six or nine may be met if the student has been screened for spinal deformities during the previous year. Districts may implement a program that includes screening in grades five and eight in lieu of grades six and nine. <i>25 TAC 37.148(a), (b)</i>
SCREENING ON ENROLLMENT	New students enrolling in grades scheduled for screening (i.e., grades six and nine or five and eight), who have no record of having received their scheduled screening(s) shall be screened the year they enroll. Districts shall consider offering a student enrolling in grades ten, eleven, or twelve the opportunity for spinal screening if the student has no record of having been screened previously. <i>25 TAC 37.148(c)</i>
EXEMPTION—RELIGIOUS BELIEFS	A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. The minor student's parent, managing conservator, or guardian must submit an affidavit stating the objections to screening. This affidavit shall be submitted on or before the day of the screening procedure each year the screening is performed. <i>Health and Safety Code 37.002(b); 25 TAC 37.148(d)</i>
ANNUAL REPORT	Each district shall submit to TDSHS an annual report of spinal screening performed during the school year no later than June 30 of the reporting year. The report shall be submitted as specified on a form issued by TDSHS. <i>25 TAC 37.148(n)</i>
TRANSFER OF RECORDS	A student's health record shall be acceptable as proof of screening if such record contains entries of screening results. In such case, the original or a true and correct copy of that record may be transferred between schools and shall be honored upon transfer of a student from another district in Texas or within the United States. <i>25 TAC 37.148(o)</i>

STUDENT ACTIVITIES

FM
(LEGAL)

APPLICABILITY OF UIL
RULES AND DISTRICT
POLICIES

A student enrolled in the 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 the Board. *Education Code 33.081(b)* [See FO regarding additional standards of conduct for extracurricular activities]

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)

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*

SUSPENSION FROM
EXTRACURRICULAR
ACTIVITIES

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by the 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 ADVANCED 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)

STUDENT ACTIVITIES

FM
(LEGAL)

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. <i>19 TAC 76.1001(b)</i>
ADVANCED COURSES	The suspension and reinstatement provisions of Education Code 38.001(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. <i>Education Code 33.081(d-1)</i>
STUDENTS WITH DISABILITIES	<p>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.</p> <p>For the purposes of this provision, "student with a disability" means a student who is eligible for the District's special education program under Education Code 29.003(b).</p> <p><i>Education Code 33.081(e)</i></p>
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. <i>Education Code 33.081(f)</i>
REINSTATEMENT	Until the suspension is removed or the school year ends, the 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 ADVANCED 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. <i>Education Code 33.081(d)</i>
ATTENDANCE AND PARTICIPATION	<p>The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.</p> <p>The Board 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 organi-</p>

zation 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 State Board of Education.

Education Code 33.081(a), 33.0811

STATE BOARD OF
EDUCATION 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 the 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 Texas Administration Code Title 19, section 76.1001. If the 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, the 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 public performances (except as described below), 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.

EXCEPTION —
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. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

19 TAC 76.1001(a)

STUDENT ACTIVITIES

FM
(LEGAL)

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, the 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 school 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. The 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. The 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 non-traditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extra-

STUDENT ACTIVITIES

FM
(LEGAL)

curricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(e); Education Code 33.081(a)

RECORD OF
ABSENCES

The District shall maintain an accurate record of extracurricular absences for each student in the District each school year. *19 TAC 76.1001(c)*

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 (regarding child abuse investigations). *Education Code 26.008(a)*

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. The 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)*

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 the 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

STUDENT ACTIVITIES
COMMENCEMENT

FMH
(LEGAL)

INVOCATIONS/
BENEDICTIONS

School officials shall not direct the performance of a formal religious exercise at promotional and graduation ceremonies. Lee v. Weisman, 505 U.S. 577 (1992) (addressing prayer by clergy at graduation)

The Board may permit the graduating senior class(es), with the advice and counsel of the senior class sponsor, to select student volunteers to deliver nonsectarian, nonproselytizing invocations and benedictions for the purpose of solemnizing their graduation ceremonies. Jones v. Clear Creek Indep. Sch. Dist., 977 F.2d 963 (5th Cir. 1992), cert. denied, 508 U.S. 967 (1993) [See FNA(LEGAL) regarding EXPRESSION OF RELIGIOUS VIEWPOINTS]

Note: Although not expressly overruled, the precedential value of Jones v. Clear Creek Indep. Sch. Dist. has been called into question by the United States Supreme Court's decision in Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290 (2000). [See FNA(LEGAL) at PRAYER AT SCHOOL ACTIVITIES]

EARLY GRADUATES

A parent is entitled to have a child who graduates earlier than the child would normally graduate participate in graduation ceremonies at the time the child graduates, if the child completes each course required for graduation. Education Code 26.003(a)(3)(C), (4) [See EIF]

SPECIAL EDUCATION
STUDENTS

The District shall issue a certificate of attendance to a student who receives special education services and who has completed four years of high school but has not completed the student's individualized education program. The District shall allow a student who receives a certificate of attendance to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this provision. This provision does not preclude a student from receiving a diploma if the student successfully completes an IEP. Education Code 28.025(f)

STUDENT RIGHTS AND RESPONSIBILITIES

FN
(LOCAL)

Each student is expected to respect the rights and privileges of other students, teachers, and District staff. All teachers, administrators, and other District personnel are expected to respect the rights and privileges of students. [See DH series]

STUDENT HANDBOOK The Superintendent or designee shall develop student handbooks with information on curriculum, grading, extracurricular activities, and other such topics that students and parents are likely to need during the school year. The Superintendent or designee shall ensure that no student handbook information is in conflict with policy or the Student Code of Conduct. In case of conflict between a Board policy or the Student Code of Conduct and provisions of student handbooks, policy and/or the Student Code of Conduct shall prevail.

NO BOARD ACTION Student handbooks are subject to Board review but shall not be adopted by the Board.

DISTRIBUTION Student handbooks shall be made available on the District's Web site at the beginning of the school year; hard copy shall be provided upon request. Amendments to the handbook shall be communicated promptly to students and parents.

[For provisions on the Student Code of Conduct, see FO]

STUDENT EXPRESSION
DISTRIBUTION OF NONSCHOOL LITERATURE

FNAA
(LOCAL)

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the District or by a District-affiliated school-support organization shall not be sold, circulated, distributed, or posted on any District premises by any District student, except in accordance with this policy.

The District shall not be responsible for, nor shall the District endorse, the contents of any nonschool literature distributed by students.

For purposes of this policy, "distribution" means the circulation of more than ten copies of material from a source other than the District.

Materials distributed under the supervision of instructional personnel as a part of instruction or other authorized classroom activities shall not be considered nonschool literature and shall not be governed by this policy.

[For distribution of nonschool literature by nonstudents, see GKDA]

LIMITATIONS ON
CONTENT

Nonschool literature shall not be distributed by students on District property if:

1. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
2. The materials endorse actions endangering the health or safety of students.
3. The materials promote illegal use of drugs, alcohol, or other controlled substances.
4. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
5. The materials contain defamatory statements about public figures or others.
6. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
7. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence, and the materials would materially and substantially interfere with school activities or the rights of others.
8. There is reasonable cause to believe that distribution of the nonschool literature would result in material and substantial interference with school activities or the rights of others.

STUDENT EXPRESSION
DISTRIBUTION OF NONSCHOOL LITERATURE

FNA
(LOCAL)

PRIOR REVIEW

All nonschool literature intended for distribution by students on school campuses or other District premises under this policy shall be submitted to the Superintendent or designee for prior review in accordance with the following:

1. Materials shall include the name of the person or organization sponsoring the distribution.
2. Using the standards found in this policy at LIMITATIONS ON CONTENT, the Superintendent or designee shall approve or reject submitted materials within two school days of the time the materials were received.

EXCEPTIONS TO
PRIOR REVIEW

Prior review shall not be required for distribution of nonschool literature by District students only in the following circumstances:

1. Distribution of materials by a student to other attendees during a meeting of a noncurriculum-related student group authorized to meet at school during noninstructional time in accordance with FNAB(LOCAL); or
2. Distribution of nonschool materials in circumstances for which exceptions to prior review are authorized at GKDA(LOCAL).

Even when prior review is not required, all other provisions of this policy shall apply.

TIME, PLACE, AND
MANNER
RESTRICTIONS

Each campus principal shall designate times, locations, and means by which nonschool literature that is appropriate for distribution, as provided in this policy, may be made available or distributed by students to students or others at the principal's campus.

The Superintendent or designee shall designate times, locations, and means for distribution of nonschool literature by students at District facilities other than school campuses, in accordance with this policy.

VIOLATIONS OF
POLICY

Failure to comply with this policy regarding distribution of non-school literature shall result in appropriate administrative action, including but not limited to confiscation of nonconforming materials, suspension of a noncurriculum-related student group's use of District facilities, and/or other disciplinary action in accordance with the Student Code of Conduct.

APPEALS

Decisions made by the administration in accordance with this policy may be appealed in accordance with FNG(LOCAL).

STUDENT CONDUCT
WEAPONS

FNCG
(LEGAL)

POSSESSION OF
WEAPONS

A student shall not possess, use, or exhibit any firearm, illegal knife, club, or prohibited weapon at school or any school-related activity. *Education Code 37.007(a)(1)* [See also FOD]

EXPULSION
OFFENSE

CRIMINAL OFFENSE

A student shall not intentionally, knowingly, or recklessly possess or go with a firearm, illegal knife, club, or prohibited weapon on the physical premises of a school, any grounds or building on which an activity sponsored by a school is being conducted, or a passenger transportation vehicle of a school, unless pursuant to written regulations or written authorization of the District.

An offense under this provision is a third degree felony. It is not a defense to prosecution that the actor possessed a handgun and was licensed to carry a concealed handgun under Government Code Chapter 411, Subchapter H.

Penal Code 46.03(a)(1), (f), (g)

FIREARMS

EXPULSION
OFFENSE

A student 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 student intentionally exhibits, uses, or threatens to exhibit or use a firearm:

1. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by the District; or
2. On a school bus being used to transport children to or from school-sponsored activities.

Education Code 37.125

In accordance with the Gun-Free Schools Act, the District shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any District school. *20 U.S.C. 7151; Education Code 37.007(e)* [See FOD]

DEFINITIONS

FIREARM

For purposes of state law, "firearm" shall mean 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)*

ILLEGAL KNIFE

"Illegal knife" is, as defined by law, a knife with a blade over 5-1/2 inches; hand instrument designed to cut or stab another by being thrown; dagger, including a dirk, stiletto, and poniard; bowie knife; sword; or spear, or is as defined by local policy. *Penal Code 46.01(6); Education Code 37.007(a)(1)(B)*

CLUB

A "club" is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a

STUDENT CONDUCT
WEAPONS

FNCG
(LEGAL)

person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

OTHER PROHIBITED
WEAPONS

A prohibited weapon is:

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 substantial 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. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*
5. A switchblade knife (any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device on the handle, or opens or releases from the handle or shaft by the force of gravity or centrifugal force). *Penal Code 46.01(11)*
6. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*
7. 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)*
8. 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)*

9. 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)*

Penal Code 46.05(a)

PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

FOCA
(LEGAL)

DISCIPLINARY
ALTERNATIVE
EDUCATION
PROGRAM (DAEP)

The District shall provide a disciplinary alternative education program (DAEP) that meets the following criteria:

1. Is provided in a setting other than the student's regular classroom.
2. Is located on or off a regular school campus.
3. Provides for the students who are assigned to the DAEP to be separated from students who are not assigned to the program.
4. Focuses on English language arts, mathematics, science, history, and self-discipline.
5. Provides for students' educational and behavioral needs.
6. Provides supervision and counseling.
7. Employs only teachers who meet all certification requirements under Education Code Chapter 21, Subchapter B.
8. Provides not less than the minimum amount of instructional time per day required by Education Code 25.082(a) [see EC].

The DAEP may provide for a student's transfer to a different campus, a school-community guidance center, or a community-based alternative school.

Education Code 37.008(a), (b)

ELEMENTARY
SCHOOL STUDENTS

An elementary school student may not be placed in a DAEP with any other student who is not an elementary school student. *Education Code 37.006(f)*

ACADEMIC MISSION

The academic mission of DAEPs shall be to enable students to perform at grade level. *Education Code 37.008(m)*

OPPORTUNITY TO
COMPLETE
COURSEWORK

The District shall offer a student removed to a DAEP an opportunity to complete coursework, before the beginning of the next school year, through any method available, including a correspondence course, distance learning, or summer school. The District may not charge the student for a course provided under this subsection. Except for this requirement, the District is not required to provide in the DAEP a course necessary to fulfill a student's high school graduation requirements. *Education Code 37.008(l)*

ASSESSMENT OF
ACADEMIC GROWTH

The District shall administer to a student placed in a DAEP program for a period of 90 school days or longer an assessment instrument approved by the Commissioner for that purpose. The instrument shall be administered:

PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

FOCA
(LEGAL)

1. Initially on placement of the student in the program; and
2. Subsequently on the date of the student's departure from the program, or as near that date as possible.

The assessment must be designed to assess at least a student's basic skills in reading and mathematics and is in addition to the assessment instruments required to be administered under Education Code Chapter 39. [See EKB]

Education Code 37.0082

DRUG AND ALCOHOL
TREATMENT

A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Education Code 37.006 and 37.007. A DAEP that provides chemical dependency treatment services must be licensed under Health and Safety Code Chapter 464. *Education Code 37.008(k)*

OFF-CAMPUS
PROGRAM

An off-campus DAEP is not subject to a requirement imposed by the Education Code, other than a limitation on liability, a reporting requirement, or a requirement imposed by Education Code Chapter 37 or Chapter 39. *Education Code 37.008(c)*

FUNDING

A student removed to a DAEP is counted in calculating the District's average daily attendance for the student's time in actual attendance in the program. *Education Code 37.008(f)*

ALLOCATIONS TO
DAEPS

The District shall allocate to a DAEP the same expenditure per student attending the DAEP as would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program. *Education Code 37.008(g)* [See also EHBC]

JOINTLY CREATED
PROGRAMS

The District may provide a DAEP jointly with one or more other districts. *Education Code 37.008(d)*

COOPERATION AND
ASSISTANCE

The District shall cooperate with government agencies and community organizations that provide services in the District to students placed in a DAEP. *Education Code 37.008(e)*

SERVICE CENTERS

If the District requests, a regional education service center may provide the District with information on developing a DAEP that takes into consideration the District's wealth, size, and existing facilities in determining the program best suited to the District. *Education Code 37.008(i)*

ANNUAL EVALUATION

TEA shall provide an annual evaluation for each district to be considered in complying with Education Code 11.252 [see BQ and BQA]. Performance data shall be disaggregated with respect to race, ethnicity, and socioeconomic status. Information reported

shall conform to limitations consistent with requirements under the Federal Educational Rights and Privacy Act of 1974 [see FL]. The Commissioner may consider the results of this evaluation as a component of monitoring and/or a special accreditation investigation.

The performance of the District's DAEP shall be evaluated on the basis of specific indicators in relation to appropriate performance benchmarks. This evaluation shall be based on the following indicators, with consideration given to the length of student assignment:

1. Student performance on state assessment instruments, including appropriate Texas Learning Index measures;
2. Other indicators of student performance in the annual evaluation, which may include course completion rates, dropout rates, completion rates, and attendance rates; and
3. Repeated disciplinary actions resulting in placement in a DAEP.

In addition, the District's DAEP and overall discipline management in preventing referrals shall be evaluated annually on the basis of identification and placement practices. Placement indicators are evaluated against appropriate standards and include the following:

1. Percentage of the District's students placed in a DAEP, considering all discretionary placements under Education Code 37.001, 37.002, 37.006, and 37.007, and, separately, those mandatory placements under Education Code 37.006 and 37.007;
2. Percentage of the District's minority and economically disadvantaged students placed in a DAEP, considering all discretionary placements under Education Code 37.001, 37.002, 37.006, and 37.007, and, separately, those mandatory placements under Education Code 37.006 and 37.007; and
3. Percentage of the District's students with disabilities placed in a DAEP, considering all discretionary placements under Education Code 37.001, 37.002, 37.006, and 37.007, and, separately, those mandatory placements under Education Code 37.006 and 37.007.

19 TAC 97.1021

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

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 the District for the purpose of completing the requirements for a diploma is not eligible for placement in a 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, the 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. Uses, possesses, or exhibits a firearm, an illegal knife, a club, or a prohibited weapon, as those terms are defined in the Penal Code, or any knife prohibited by local policy [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 children, 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)

RETALIATION

The 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 the 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)*

FIREARM

In accordance with the Gun-Free Schools Act, the District shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any District school. The Superintendent may modify the term of expulsion for a student or assess another comparable penalty that results in the student's exclusion from the regular school program, on a case-by-case basis. The 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. The 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. 7151; Education Code 37.007(e)* [See also GRA]

For the purposes of this provision, "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 having 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

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:

ALCOHOL OR
DRUGS

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

- 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.
- VOLATILE CHEMICALS 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.
- ASSAULT ON AN EMPLOYEE OR VOLUNTEER 3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a District employee, or a volunteer as defined by Education Code 22.053. [See FOC(EXHIBIT)]
- DEADLY CONDUCT 4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.
- Education Code 37.007(b)*
- 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 FIREARM, above].
- Education Code 37.007(b)*
- 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 the 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 con-

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

duct 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)

CRIMINAL MISCHIEF

The 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, the District shall refer the student to the authorized officer of the juvenile court.
Education Code 37.007(f)

PERSISTENT
MISBEHAVIOR IN
DAEP

A student who continues to engage in serious or persistent misbehavior that violates the District's Student Code of Conduct while placed in a DAEP may be removed from class and expelled.

If the student is expelled, the 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), 37.010(b)

PROPERTY OR
ACTIVITIES OF
ANOTHER DISTRICT

The 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, the 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. *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.

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

HEARING	<p>The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.</p> <p>[See also <i>Brewer v. Austin Indep. Sch. Dist.</i>, 779 F.2d 260 (5th Cir. 1985); <i>Keough v. Tate County Bd. of Educ.</i>, 748 F.2d 1077 (5th Cir. 1984); <i>McClain v. Lafayette County Sch. Bd. of Educ.</i>, 673 F.2d 106 (5th Cir. 1982); <i>Tasby v. Estes</i>, 643 F.2d 1103 (5th Cir. 1981); <i>Boykins v. Fairfield Bd. of Educ.</i>, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); <i>Dixon v. Alabama State Bd. of Educ.</i>, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]</p>
REPRESENTATIVE	<p>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 the 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.</p>
TERM OF EXPULSION	<p>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.</p>
EXPULSION BEYOND ONE YEAR	<p>The period of expulsion may not exceed one year unless the District determines that:</p> <ol style="list-style-type: none">1. The student is a threat to the safety of other students or to District employees; or2. Extended placement is in the best interest of the student. <p><i>Education Code 37.009(h)</i></p>
NOTICE OF EXPULSION ORDER TO PARENT OR GUARDIAN	<p>The 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.</p> <p><i>Education Code 37.009(g), (h)</i></p>
TO COURT	<p>Not later than the second business day after the date an expulsion hearing is held, the 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.</p> <p>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:</p>

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

1. All information in the 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), 52.041(a), (b)

TO JUVENILE
BOARD

In a county that operates a juvenile justice alternative education program (JJAEP) [see FODA], no student shall be expelled without written notification by the Board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following the 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 the 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], the 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 the 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

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

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 the 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 the District DAEP as a condition of probation.

EXCEPTION

A court may order a student to attend a regular classroom, a regular campus, or the 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
EXPULSED STUDENT

In a county that operates a JJAEP, the 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]

CONTRACTING FOR
SERVICES

The 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)

RETURN TO CLASS

EARLY /
PERMISSIVE

On the recommendation of the placement review committee, or on its own initiative, the 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, the District may not refuse to admit the student if the student meets the requirements for admission. [See FD] The District may place the student in a DAEP.

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

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)

EXPULSION FROM
ANOTHER DISTRICT

If a student has been expelled from another school district, the expelling district shall provide to the district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The 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

The 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 FOD for provisions concerning expulsion of students with disabilities.

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 G: COMMUNITY AND GOVERNMENTAL RELATIONS

GA ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

GB PUBLIC INFORMATION PROGRAM

GBA Information Access

GBAA Requests for Information

GBB School Communications Program

GBBA News Media Relations

GE RELATIONS WITH PARENT ORGANIZATIONS

GF PUBLIC COMPLAINTS

GK COMMUNITY RELATIONS

GKA Conduct on School Premises

GKB Advertising and Fund Raising in the Schools

GKC Visitors to the Schools

GKD Nonschool Use of School Facilities

GKDA Distribution of Nonschool Literature

GKE Business, Civic, and Youth Groups

GKF Cultural Institutions

GKG School Volunteer Program

GN RELATIONS WITH EDUCATIONAL ENTITIES

GNA Other Schools and Districts

GNB Regional Education Service Centers

GNC Colleges and Universities

GND State Education Agency

GNE Education Accreditation Agencies

GR RELATIONS WITH GOVERNMENTAL ENTITIES

GRA Local Governmental Authorities

GRB County Governmental Authorities

GRC Emergency Management

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

GKA
(LEGAL)

TRESPASSING The Board or its authorized representative may refuse to allow persons having no legitimate business to enter on property under the Board's control and may eject any undesirable person from the property on his or her refusal to leave peaceably on request. Identification may be required of any person on the property. *Education Code 37.105, 37.107*

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 any school in the District.

DEFINITION 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.
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 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.

DEFINITIONS Disrupting the conduct of classes or other school activities includes:

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

GKA
(LEGAL)

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 teacher and, either through acts of misconduct or use of loud or profane language, disrupting class activities.

For purposes of this provision, "school property" shall include the public school campuses or school grounds upon which any public school is located, and any grounds or buildings used by District schools for assemblies or other school-sponsored activities.

For purposes of this provision, "public property" shall include any street, highway, alley, public park, or sidewalk.

Education Code 37.124

TOBACCO

The Board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property. Students are prohibited from possessing 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*

SMOKING IN
BUILDINGS

The 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 he or she is in possession of a burning tobacco product or smokes tobacco in a facility of a public school or an elevator.

DEFENSE

It is a defense to prosecution that the 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

The District shall be equipped with facilities for extinguishment of smoking materials.

Penal Code 48.01(a)-(c)

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

GKA
(LEGAL)

- ALCOHOL The 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]
- INTOXICANTS The possession of any intoxicating beverage for consumption, sale, or distribution while on the grounds or in a building of any school in the District or while entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a school in the District is being held constitutes a Class C misdemeanor. *Education Code 37.122*
- FIREARMS / WEAPONS A person commits an offense if the person knowingly, intentionally, or recklessly possesses or goes with a firearm, illegal knife, or prohibited weapon listed in Penal Code 46.05(a) onto the physical premises of a school or educational institution or any grounds or building in which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, unless pursuant to written regulations or written authorization of the District. *Penal Code 46.03* [See also FNCG]
- “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 46.035(f)(3)*
- 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 exhibits, uses or threatens to exhibit or use a firearm:
1. 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
 2. On a school bus being used to transport children to and from school-sponsored activities.
- Education Code 37.125*
- CONCEALED
HANDGUN LICENSE
HOLDER A concealed handgun license holder commits an offense if the license holder carries a handgun on the property of another without effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was forbidden and failed to depart.
- For purposes of this section, 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 holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun 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.

An offense under this section is a Class A misdemeanor.

PREMISES
EXCEPTION

It is an exception to the application of this law that the property on which the license holder carries a handgun is owned or leased by the District and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Penal Code 30.06 [See also FNCG]

INTERSCHOLASTIC
EVENTS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, on or about the license holder’s person on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event. *Penal Code 46.035(b)(2)*

BOARD MEETINGS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Government Code Chapter 411, Subchapter H, regardless of whether the handgun is concealed, at any meeting of the Board, if the license holder was given effective notice under Penal Code 30.06. *Penal Code 46.035(c), (i)*

DEFENSE TO
PROSECUTION

It is a defense to prosecution under Penal Code 46.035(b) and (c) [see INTERSCHOLASTIC EVENTS and BOARD MEETINGS, above] that the actor, at the time of the commission of the offense, was:

1. A judge or justice of a federal court;

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

GKA
(LEGAL)

2. An active judicial officer, as defined by Section 411.201, Government Code;
3. A district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney; or
4. A bailiff designated by the active judicial officer and engaged in escorting the officer.

Penal Code 46.035(h-1)

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)*

NONSCHOOL USE OF SCHOOL FACILITIES
DISTRIBUTION OF NONSCHOOL LITERATURE

GKDA
(LOCAL)

DISTRIBUTION OF
NONSCHOOL
LITERATURE
PERMITTED

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the District or by a District-affiliated school-support organization shall not be sold, circulated, distributed, or posted on any District premises by any District employee or by persons or groups not associated with the District, except in accordance with this policy.

The District shall not be responsible for, nor shall the District endorse, the contents of any nonschool literature distributed on any District premises.

[See CPAB regarding use of the District's internal mail system and FNAA regarding distribution of nonschool literature by students]

LIMITATIONS ON
CONTENT

Nonschool literature shall not be distributed on District property if:

1. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
2. The materials endorse actions endangering the health or safety of students.
3. The materials promote illegal use of drugs, alcohol, or other controlled substances.
4. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
5. The materials contain defamatory statements about public figures or others.
6. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
7. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence, and the materials would materially and substantially interfere with school activities or the rights of others.
8. There is reasonable cause to believe that distribution of the nonschool literature would result in material and substantial interference with school activities or the rights of others.

PRIOR REVIEW

All nonschool literature intended for distribution on school campuses or other District premises under this policy shall be submitted to the Superintendent or designee for prior review in accordance with the following:

1. Materials shall include the name of the person or organization sponsoring the distribution.

NONSCHOOL USE OF SCHOOL FACILITIES
DISTRIBUTION OF NONSCHOOL LITERATURE

GKDA
(LOCAL)

2. Using the standards found in this policy at LIMITATIONS ON CONTENT, the Superintendent or designee shall approve or reject submitted materials within two school days of the time the materials were received.

EXCEPTIONS TO
PRIOR REVIEW

Prior review shall not be required for distribution of nonschool literature in the following circumstances:

1. Distribution of materials by an attendee to other attendees at a school-sponsored meeting intended for adults and held after school hours;
2. Distribution of materials by an attendee to other attendees at a community group meeting held in accordance with GKD(LOCAL) or a noncurriculum-related student group meeting held in accordance with FNAB(LOCAL); or
3. Distribution for electioneering purposes during the time a school facility is being used as a polling place in accordance with state law [see BBB].

All nonschool literature distributed under these exceptions shall be removed from District property immediately following the event at which the materials were distributed.

Even when prior review is not required, all other provisions of this policy shall apply.

TIME, PLACE,
AND MANNER
RESTRICTIONS

Each campus principal shall designate times, locations, and means by which nonschool literature that is appropriate for distribution, as provided in this policy, may be made available or distributed to students or others at the principal's campus.

The Superintendent or designee shall designate times, locations, and means for distribution of nonschool literature at District facilities other than school campuses, in accordance with this policy.

VIOLATIONS OF
POLICY

Failure to comply with this policy regarding distribution of non-school literature shall result in appropriate administrative action, including but not limited to confiscation of nonconforming materials and/or suspension of use of District facilities. Appropriate law enforcement officials may be called if a person refuses to comply with this policy or fails to leave the premises when asked. [See GKA]

APPEALS

Decisions made by the administration in accordance with this policy may be appealed in accordance with the appropriate District complaint policy. [See DGBA or GF]

RELATIONS WITH EDUCATIONAL ENTITIES
STATE EDUCATION AGENCY

GND
(LEGAL)

ACCREDITATION
REQUIRED

Each district must be accredited by TEA. Accreditation shall be determined in accordance with the Education Code. *Education Code 11.001, 39.071*

ACADEMIC
EXCELLENCE
INDICATORS

The State Board shall adopt a set of indicators of the quality of learning on a campus. Campus and District performance on the indicators shall be compared to state-established standards and the degree of change from one school year to the next on each indicator shall also be considered. The indicators must be based on information that is disaggregated by race, ethnicity, gender, and socioeconomic status and shall include:

1. The results of certain state assessment instruments aggregated by grade level and subject area.
2. Dropout and completion rates, including dropout rates and District completion rates for grade levels 9 through 12 computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education [see CFC].
3. High school graduation rates computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001.
4. Student attendance rates.
5. The percentage of graduating students who attain scores on the questions developed for end-of-course assessment instruments under Education Code 39.0233(a) that are equivalent to a passing score on the TASP, administered by state institutions of higher education.
6. The percentage of graduating students who meet the course requirements established by the State Board for the recommended high school program.
7. The results of the Scholastic Assessment Test (SAT), the American College Test (ACT), articulated postsecondary degree programs described by Education Code 61.852, and certified workforce training programs described by Labor Code Chapter 311.
8. The percentage of students, aggregated by grade level, provided accelerated instruction under Education Code 28.0211(c), the results of assessments administered under that section, the percentage of students promoted through the grade placement committee process under Education Code 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the perform-

ance of those students in the school year following that promotion on the state assessment instruments.

9. For students who have failed to perform satisfactorily on a state assessment instrument, the numerical progress of those students grouped by percentage on subsequent assessment instruments, aggregated by grade level and subject area.
10. The percentage of students exempted, by exemption category, from the assessment program.
11. The percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Education Code 39.027(a)(3) and (4).
12. The percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Education Code 39.023(b).
13. The measure of progress toward preparation for postsecondary success.
14. The measure of progress toward dual language proficiency under Education Code 39.034(b) for students of limited English proficiency.

Education Code 39.051(a), (b)

Performance on the indicators at items 1, 2, 3, 8, 9, and 14 must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Education Code 29.052, are or former students of limited English proficiency were enrolled. If such a student is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided. *Education Code 39.051(b-1)*

Performance on the indicator at item 1 above shall be compared to state standards, required improvement, and comparable improvement, as established by the Commissioner. Required improvement is the progress necessary for a campus or the District to meet state standards and for its students to meet exit requirements; comparable improvement is derived by measuring campuses and the District against a profile developed from a total state student performance data base that exhibits substantial equivalence to the characteristics of students served by a campus or district, including past academic performance, socioeconomic status, ethnicity, and limited English proficiency. *Education Code 39.051(c)*

Annually, the Commissioner shall define exemplary, recognized, and unacceptable performance on indicators at items 1 through 7

and shall project the standards for each level of performance for succeeding years. For the indicator at item 8 above, the Commissioner shall define exemplary, recognized, and unacceptable performance based on student performance for the period covering both the current and the preceding academic years. *Education Code 39.051(d); 19 TAC 97.1001(a)*

The indicators, standards, and procedures used to determine ratings under both standard and alternative education accountability procedures established by the Commissioner shall be annually published in official TEA publications and shall cover the following:

1. Indicators, standards, and procedures used to determine District ratings;
2. Indicators, standards, and procedures used to determine campus ratings;
3. Indicators, standards, and procedures used to determine acknowledgement on additional indicators; and
4. Procedures for submitting a rating appeal.

19 TAC 97.1001(a)

ACCREDITATION
CRITERIA

PRIMARY

The District's accreditation is based primarily on:

1. The District's overall performance by all student populations and on the performance of each of its individual campuses, as demonstrated on the state-adopted Academic Excellence Indicator System (AEIS) and other indicators of student performance.
2. The District's current special education compliance status with TEA.

Use of the AEIS in the rating system shall include consideration of campus and District performance in relation to the state standard for each indicator, required improvement, and comparable improvement.

Consideration of the effectiveness of the District's special population and career and technology programs must be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability and include the results of assessments required under Education Code 39.023.

Education Code 39.072(b), (c); 19 TAC 97.1(b), (c), 97.3

OTHER

Other criteria for accreditation include:

1. Statutory Requirements

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2. State Board of Education rules
 3. Applicable court orders
 4. Reporting data through PEIMS
 5. High school graduation requirements
 6. Effectiveness of career and technology programs
 7. Effectiveness of programs for special populations
 8. Extracurricular activities
 9. Health and safety
 10. Purchasing
 11. Elementary school class size limits
 12. Removal of a disruptive student from the classroom
 13. At-risk programs
 14. Prekindergarten programs
- 19 TAC 97.1(b), (c)*

INTERNET
DISSEMINATION

A district that maintains an Internet Web site shall, not later than the tenth day of instruction of each school year, make the information contained in the most recent performance rating of the District, as determined under Education Code 39.072, and a definition and explanation of each performance rating described by Education Code 39.072(a) available to the public on the Web site. *Education Code 39.252*

ACCREDITATION
INVESTIGATIONS

The Commissioner of Education shall determine the frequency of on-site visits and the level of investigative review needed, according to annual comprehensive analyses of student performance and equity in relation to the academic excellence indicators. *Education Code 39.074(b)*

The Commissioner shall authorize special accreditation investigations to be conducted:

1. When excessive numbers of students eligible to be tested in the state assessment program are absent from testing.
2. When excessive numbers of students are exempted from required state assessment instruments.
3. In response to complaints alleging violations of civil rights or other requirements imposed on the state by federal law or court order.

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4. In response to established compliance reviews of the District's financial accounting practices and state and federal program requirements.
5. When extraordinary numbers of students are placed in disciplinary alternative education programs, other than placements under Education Code 37.006 (required removal) or 37.007 (expulsion).
6. In response to an allegation involving a conflict between members of the Board or between the Board and District administration, if it appears that the conflict involves a violation of a role or duty, clearly defined in the Education Code, of the Board or the administration.
7. When excessive numbers of students in special education programs under Education Code Chapter 29, Subchapter A, are assessed through assessment instruments developed or adopted under Education Code 39.023(b).
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 established under Education Code 39.0301, including for the purpose of investigating or auditing the District under that section.
9. As the Commissioner otherwise determines necessary.

Education Code 39.075(a)

PAPERWORK
REQUIREMENTS

The Commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to TEA concerning imposition of excessive paperwork requirements on classroom teachers. *Education Code 39.075(b-1)*

INVESTIGATION
PROCEDURES

TEA shall adopt written procedures for conducting on-site investigation and shall make the procedures available to the complainant, the alleged violator, and the public. *Education Code 39.076(a)*

REVISION OF
RATINGS

Ratings may be revised as a result of investigative activities by the Commissioner. *19 TAC 97.100(c)*

ACCREDITATION
RATINGS

TEA shall evaluate the District's performance and rate it for accreditation purposes as:

1. Exemplary (meets or exceeds state exemplary standards).
2. Recognized (meets or exceeds the state standards and meets required improvement).
3. Academically acceptable (exceeds academically unacceptable, but is below exemplary and recognized).

4. Academically unacceptable (fails to achieve the standard of acceptable performance).

Education Code 39.072; 19 TAC 97.1(a), 97.2

GOLD PERFORMANCE
RATINGS

In addition to District and campus performance ratings, the Commissioner shall develop a gold performance rating program based on enhanced performance. Under the gold performance rating program, a district or campus rated exemplary is eligible for an exemplary gold rating, a district or campus rated recognized is eligible for a recognized gold rating, and a district or campus rated academically acceptable is eligible for an academically acceptable gold rating.

The performance standards on which a gold performance rating is based should include:

1. Student proficiency on state assessment instruments and other measures of proficiency determined by the Commissioner;
2. Student performance on one or more nationally recognized norm-referenced assessment instruments;
3. Improvement in student performance;
4. In the case of middle or junior high school campuses, student proficiency in mathematics, including algebra; and
5. In the case of high school campuses:
 - a. The extent to which graduating students are academically prepared to attend institutions of higher education;
 - b. The percentage of students who take advanced placement tests and student performance on those tests; and
 - c. The percentage of students who take and successfully complete advanced academic courses or college-level course work offered through dual credit programs provided under agreements between high schools and institutions of higher education.

Education Code 39.0721

EXCELLENCE
EXEMPTIONS

Except as provided below, a school campus or district that is rated exemplary is exempt from requirements and prohibitions imposed and rules adopted by the State Board under the Education Code.

A school campus or the District shall not be exempt from a prohibition on conduct that constitutes a criminal offense. A school campus or the District shall not be exempt from requirements imposed by federal law or rule, including requirements for special education

or bilingual education programs. A school campus or the District shall not be exempt from a requirement or prohibition imposed by state law or rule relating to:

1. Curriculum essential knowledge and skills or minimum graduation requirements
2. Public school accountability
3. Extracurricular activities
4. Health and safety
5. Competitive bidding
6. Elementary school class size limits, except as provided below
7. Removal of a disruptive student from the classroom
8. At-risk program
9. Prekindergarten programs
10. Rights and benefits of school employees
11. Special education programs under Education Code Chapter 29, Subchapter A
12. Bilingual education programs under Education Code Chapter 29, Subchapter B

ELEMENTARY
CLASS SIZE

The Commissioner may exempt an exemplary school campus from elementary class size limits under this section if the school campus submits to the Commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The Commissioner shall review achievement levels annually. The exemption remains in effect until the Commissioner determines that achievement levels of the campus have declined. [See BF]

Education Code 39.112

CONFINED
STUDENTS

A student confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission, Texas Juvenile Probation Commission, or any other governmental entity, including a juvenile board, is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other academic excellence indicator shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located. *Education Code 39.072(d)*

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IMPROVEMENT PLAN
EXEMPTION

If the District or a campus is required to develop and implement a student achievement improvement plan because it does not satisfy accreditation criteria, it may request from the Commissioner and be granted an exemption or waiver from any law or rule other than a prohibition on conduct that constitutes a criminal offense, a requirement imposed by federal law or rule, or a requirement or prohibition imposed by state law or rule relating to accountability, educator rights and benefits, or textbook selection. *Education Code 7.056(f)*

CHARACTER PLUS
SCHOOL

TEA shall, based on data reported by districts, annually designate as a Character Plus School each school that provides a character education program that meets the prescribed criteria and is approved by the committee selected by the District. *Education Code 29.906(e)(2)* [See EHBK]

RELATIONS WITH GOVERNMENTAL ENTITIES

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INTERLOCAL
COOPERATION
CONTRACTS

In order to increase the efficiency and effectiveness of District operations and government, the District may contract, to the extent it deems feasible, with other school districts, local governments, and agencies of the state to study the feasibility of the performance of a governmental function or service by interlocal contract or to provide a governmental function or service that each party to the contract is authorized to perform individually. *Gov't Code 791.001, 791.011(c)*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall 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. The contract may be renewed annually.

Gov't Code 791.011(d)-(f)

COOPERATIVE
PURCHASING
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative organization as described at CH(LEGAL). *Local Gov't Code 271.102*

NURSING SERVICES

The District may contract with a hospital district in which the District is located to provide nursing services and assistance to employees or students of the District. *Health and Safety Code 281.0465*

TRANSPORTATION
SYSTEM

The Board may establish and operate an economical public school transportation system outside the county or District, as applicable, if the county or District enters into an interlocal contract as provided by Government Code Chapter 791. *Education Code 34.007(a)*

RELATIONS WITH GOVERNMENTAL ENTITIES
LOCAL GOVERNMENTAL AUTHORITIES

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REPORTS TO LOCAL
LAW ENFORCEMENT

The principal, or a school employee under his or her supervision who is designated by the principal, shall notify the District police department (if one exists) and the police department of the municipality in which the school is located, or, if the school is not in a municipality, the sheriff of the county in which the school is located, if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. [See GRA(EXHIBIT)]
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16). [See FNCG]
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. [See GRA(EXHIBIT)]
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

The report shall include the name and address of each student the person believes may have participated in the activity, but is not required if the person reasonably believes that the activity does not constitute a criminal offense.

Education Code 37.015, 37.007(e)

REPORTS TO
JUVENILE JUSTICE
AGENCY

The Superintendent or designee may disclose information contained in a student's educational records to a juvenile justice agency if the disclosure is under an interagency agreement authorized by Family Code 58.0051.

The District is not required or authorized to release student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g). [See FL]

Education Code 37.084

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LOCAL GOVERNMENTAL AUTHORITIES

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STUDENTS TAKEN
INTO CUSTODY

The District shall permit a student to be taken into custody:

1. Pursuant to an order of the juvenile court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer if there is probable cause to believe the student has engaged in delinquent conduct or conduct in need of supervision.
4. By a probation officer if there is probable cause to believe the student has violated a condition of probation imposed by the juvenile court.
5. Pursuant to a properly issued directive to apprehend.
6. By an authorized representative of Child Protective Services (CPS), Texas Department of Family and Protective Services (DFPS), a law enforcement officer, or a juvenile probation officer, without a court order, under the conditions set out in Family Code 262.104 relating to the student's physical health or safety.

Family Code 52.01, 262.104

STUDENTS IN
CUSTODY

A person taking a child into custody, without unnecessary delay and without first taking the child to any place other than a juvenile processing office designated under Family Code 52.025, may, if school is in session, bring the child to the school campus to which the child is assigned if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day. *Family Code 52.02(a)(7)*

NOTICE FROM LAW
ENFORCEMENT

ARREST OF
STUDENT

A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency knows or believes is enrolled as a student in a public primary or secondary school shall orally notify the superintendent or designee in the district in which the student is enrolled or believed to be enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. Within seven days after oral notice is given, the law enforcement agency shall mail written notice. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the Superintendent or the Superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by the Superintendent or designee in making such a determination. This notice shall be made only if the

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NOTICE OF DISPOSITION OF CHARGES	student has been arrested or referred for committing an offense specified at REPORTABLE OFFENSES. <i>Code of Criminal Procedure 15.27(a)</i>
	On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student, for an offense or for any conduct specified at REPORTABLE OFFENSES, the office of the prosecuting attorney shall orally and in writing notify the Superintendent or designee of the conviction, deferred prosecution, deferred adjudication, or adjudication and whether the student is required to register as a sex offender. <i>Code of Criminal Procedure 15.27(b)</i>
	The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the district that removed a student to a disciplinary alternative education program, if: <ol data-bbox="561 871 1417 1161" style="list-style-type: none">1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or2. The 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.
	<i>Code of Criminal Procedure 15.27(g)</i>
SEX OFFENDER	The local law enforcement authority shall immediately provide notice to the superintendent of the district in which the person subject to registration under the Sex Offender Registration Program intends to reside, by mail to the office of the Superintendent, as set out below.
LAW ENFORCEMENT NOTICE TO SUPERINTENDENT	A local law enforcement authority shall provide notice to the Superintendent only if: <ol data-bbox="561 1524 1417 1873" style="list-style-type: none">1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;2. The person subject to registration is a student enrolled in a public or private secondary school; or3. The basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or

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Promotion of Child Pornography), or a substantially similar offense

A local law enforcement authority may not provide notice to the Superintendent if the basis for the notice is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.

Code of Criminal Procedure 62.054

NOTICE TO
PERSONNEL
ARREST OF
STUDENT

The Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising a student who has been arrested or taken into custody as provided by a law enforcement agency. All personnel shall keep the information received confidential.

The Superintendent or designee may send to an employee having direct supervisory responsibility over the student the information contained in the confidential notice of the student's arrest or referral as provided by the law enforcement agency if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

Code of Criminal Procedure 15.27(a), (a-1)

CONVICTION OR
ADJUDICATION OF
STUDENT

When the Superintendent or designee receives information from a prosecuting attorney of a student's conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct for an offense specified at REPORTABLE OFFENSES, the Superintendent or designee shall, within 24 hours of receiving notification from the office of the prosecuting attorney, notify all instructional and support personnel who have regular contact with the student.
Code of Criminal Procedure 15.27(b)

SEX OFFENDER

On receipt of the notice from law enforcement regarding a registered sex offender, the Superintendent shall release the information contained in the notice to appropriate District personnel, including peace officers and security personnel, principals, nurses, and counselors. *Code of Criminal Procedure 62.053(e), 62.055(f)*

REPORTABLE
OFFENSES

The following are reportable offenses for purposes of this policy:

1. Any felony offense; and
2. The following misdemeanors:
 - a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault),

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22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);

- b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and
- c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h)

JUVENILE JUSTICE
INFORMATION
SYSTEM

Juvenile justice agencies in a county or region of Texas may jointly create and maintain a local juvenile justice information system in accordance with Family Code Chapter 58, Subchapter D. A local juvenile justice information system shall include each public school district in the county. *Family Code 58.303, 58.305*

Districts that are served by a local juvenile justice information system shall have Level 1 Access. Level 1 Access is information that relates to a child:

- 1. Who:
 - a. A school official has reasonable grounds to believe has committed an offense for which a report is required under Education Code 37.015; or
 - b. Has been expelled, the expulsion of which is required to be reported under Family Code 52.041; and
- 2. Who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

Family Code 58.306

Information that is part of a local juvenile justice information system is not public information and may not be released, except as authorized by law. *Family Code 58.307*

CPS INVESTIGATIONS
AT SCHOOL

A school official may not refuse to permit a CPS investigator to interview at school a student who is alleged to be a victim of abuse or neglect under Family Code 261. A school official may not require the CPS investigator to permit District personnel to be present at a student interview conducted at school. *Family Code 261.302(b), 261.303(a); Atty. Gen. Op. DM-476 (1998)*

A person that has confidential locating or identifying information regarding a family that is the subject of a CPS investigation shall release that information to DFPS on request. The release of infor-

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mation to DFPS as required by this subsection by a person is not subject to Government Code 552.352 or any other law providing liability for the release of confidential information. *Family Code 261.303(e)*

CPS INVESTIGATIONS
OF SCHOOLS

On receipt of a report of alleged or suspected child abuse or neglect in a public school, DFPS shall perform an investigation as provided by Family Code 261. Investigations of school personnel or volunteers for child abuse or neglect shall be conducted by CPS in accordance with the procedures adopted in DFPS rule. *Family Code 261.406; 40 TAC 700.401–413*

NOTIFICATION TO
PRINCIPAL

Prior to conducting an investigation of school personnel or volunteers, CPS shall notify the school principal (or the principal's supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.

The CPS investigator must request that the school principal (or the principal's supervisor) not alert the alleged perpetrator or others regarding the report until the investigator has first had an opportunity to interview the alleged perpetrator.

40 TAC 700.407

CONDUCTING
INTERVIEWS

School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the CPS investigator, provided the investigator notifies the school principal (or that individual's supervisor in the event that the principal is the alleged perpetrator) prior to conducting an interview or examination on school premises.

PARTICIPANTS

CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:

1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or
2. A better interview or examination of the child would result without school personnel or volunteers being present.

Family Code 261.303; 40 TAC 700.409(a)

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REPORT OF FINDINGS	<p>After DFPS has closed the school investigation, CPS shall provide a report of the investigation to TEA, SBEC, the Board President, and the school principal, unless the principal is the alleged perpetrator.</p> <p>CPS need not provide a report of the investigation if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.</p> <p><i>40 TAC 700.411(a), (d)</i></p>
NOTICE FROM RESIDENTIAL FACILITY	<p>A residential facility, unless the facility is an open-enrollment charter school, shall notify the district in which the facility is located not later than the third day after the date a person three years of age or older is placed in a residential facility. <i>Education Code 5.001, 29.012(a)</i></p>
MUNICIPAL ANNEXATION	<p>A municipality that proposes to annex an area shall provide written notice of the proposed annexation to each public school district located in the area proposed for annexation within the period prescribed for publishing the notice of the first annexation hearing. The municipality may not proceed with the annexation unless it provides the required notice. <i>Local Gov't Code 43.905</i></p>
SCHOOL CROSSING GUARDS	<p>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, the District may provide school crossing guard services to areas of the municipality that are not part of the District. <i>Local Gov't Code 343.012</i></p>
VISITING SCHOOL RESOURCE OFFICER	<p>“School resource officer” means a peace officer who is licensed under Occupations Code Chapter 1701 and assigned by the officer’s employing political subdivision to provide:</p> <ol style="list-style-type: none">1. A police presence at a public school;2. Safety or drug education to students; or3. Other similar services. <p><i>Occupations Code 1701.601, 1701.602</i></p>

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EMERGENCY MANAGEMENT

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MUTUAL AID	<p>A district that maintains the capability to provide mutual aid may render mutual aid to other local government entities under mutual aid agreements or the Texas Statewide Mutual Aid System. <i>Gov't Code 418.107(c)</i></p> <p>The District may provide mutual aid assistance on request from another local government entity or organized volunteer group. The Superintendent, with the approval and consent of the Board President, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the Board. <i>Gov't Code 418.109(d)</i></p>
DEFINITIONS	
LOCAL GOVERNMENT ENTITY	<p>"Local government entity" means a county, incorporated city, independent school district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.</p>
MUTUAL AID	<p>"Mutual aid" means a homeland security activity, as defined by Government Code 421.001, performed under the system or a written mutual aid agreement.</p> <p><i>Gov't Code 418.004</i></p>
REQUESTS FOR ASSISTANCE	<p>A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing not later than the 30th day after the date the request was made. <i>Gov't Code 418.115</i></p>
ABILITY TO RENDER ASSISTANCE	<p>When contacted with a request for mutual aid assistance, the District shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.</p> <p>A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.</p> <p><i>Gov't Code 418.1151</i></p>
SUPERVISION AND CONTROL	<p>When providing mutual aid assistance under the system:</p> <ol style="list-style-type: none">1. The response effort must be organized and function in accordance with the National Incident Management System guidelines;2. The personnel, equipment, and resources of the District being used in the response effort are under the operational control

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EMERGENCY MANAGEMENT

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of the requesting local government entity unless otherwise agreed;

3. Direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the District;
4. The designated supervisory personnel of the District shall:
 - a. Maintain daily personnel time records, material records, and a log of equipment hours;
 - b. Be responsible for the operation and maintenance of the equipment and other resources furnished by the District; and
 - c. Report work progress to the requesting local government entity;
5. The District's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Gov't Code 418.1152

DURATION OF AID

The provision of mutual aid assistance under the system may continue until:

1. The services of the District are no longer required; or
2. The District determines that further assistance should not be provided.

Gov't Code 418.1153

EMPLOYEE RIGHTS
AND PRIVILEGES

A person assigned, designated, or ordered to perform duties by the district employing the person in response to a request under the Texas Statewide Mutual Aid System is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

The district employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Gov't Code 418.116

REIMBURSEMENT
OF COSTS

If the division of emergency management in the office of the governor requests the provision of assistance and the District responds,

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the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the District. A request for reimbursement made to the division must be made in accordance with procedures developed by the division. *Gov't Code 418.118*

If a local government entity requests mutual aid assistance from the District under the system, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the District, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the District in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Government Code 418.111. *Gov't Code 418.1181*

EMERGENCY
MANAGEMENT
TRAINING

This section applies only to an appointed public officer:

1. Whose position description, job duties, or assignment includes emergency management responsibilities; or
2. Who plays a role in emergency preparedness, response, or recovery.

An appointed public officer shall complete a course of training provided or approved by the division of emergency management in the office of the governor of not less than three hours regarding the responsibilities of state and local governments under Government Code Chapter 418 not later than the 180th day after the date the person:

1. Takes the oath of office, if the person is required to take an oath of office to assume the person's duties as an appointed public officer; or
2. Otherwise assumes responsibilities as an appointed public officer, if the person is not required to take an oath of office to assume the person's duties.

The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer's completion of the training.

Not later than January 1, 2009, each public officer who has taken the oath of office for the District office before January 1, 2008, and

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who is required to complete a course of training under this section must complete the training.

Government Code 418.005

[See CKC for emergency management within the District]