



AN EARLY COLLEGE DISTRICT

BROWNSVILLE
INDEPENDENT SCHOOL DISTRICT



TASB Policy Update 126 (Second Reading)



(LOCAL) Policy Comparisons

These documents are generated by an automated process that compares the updated policy to the current policy as found in TASB records.

In this packet, you will find:

- Policies being recommended for revision (annotated)
- New policies (not annotated)
- Policies recommended for deletion (annotated in PDF; not shown in Word)

Annotations are shown as follows:

- Deletions are in a red strike-through font: ~~deleted text~~.
- Additions are in a blue font: new text.
- Blocks of text that were moved without changes are shown in green, with double underline and double strike-through formatting to distinguish the text's new placement from its original location: ~~moved text~~ becomes moved text.
- Revision bars appear in the right margin to show sections with changes.

Note: While the annotation software competently identifies simple changes, large or complicated changes — as in an extensive rewrite — may be more difficult to follow. In addition, TASB's recent changes to the policy templates to facilitate accessibility sometimes make formatting changes appear tracked, even though the text remains the same.

For further assistance in understanding policy changes, please refer to the explanatory notes in your Localized Policy Manual update packet or contact your policy consultant.

Contact us:

School Districts and Education Service Centers, call 800-580-7529 or email policy.service@tasb.org.

Community Colleges, call 800-580-1488 or email colleges@tasb.org.

- **Policy Code BED:** Under *Procedures* (last paragraph) and *Meeting Management*, please revert the language to the previous version.

We don't recommend reverting to prior language at *Procedures* or *Meeting Management*. Please see BED(LEGAL) at Public Comment and TASB Legal Services' eSource article on [public comment and other rights of the Public](#).

Explanatory Notes

TASB Localized Policy Manual Update 126

BED(LOCAL) BOARD MEETINGS: PUBLIC PARTICIPATION

Recommended revisions comply with the SB 12 requirement that public comment occur at the beginning of board meetings.

Given the new requirements in SB 12, it is recommended that the overall time limit for public comments be removed from the policy. Based on a review of the new statute, it does not appear to permit such a limitation.

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library

(TASB login required), describe common legal concerns and best practices specific to this policy's topic.

BF(LEGAL)

**United States
Constitution**

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV*

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. When the board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys.

Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 176 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)

A board may create a limited public forum for the purpose of hearing comments from the public so long as:

1. The board does not discriminate against speech on the basis of viewpoint;
2. Any restrictions are reasonable in light of the purpose served by the forum; and
3. The board provides alternative paths for expressing categories of protected speech that are excluded from the forum.

Fairchild v. Liberty Indep. Sch. Dist., 597 F.3d 747 (5th Cir. 2010)

Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

Public Comment

A board shall allow each member of the public who desires to address the board regarding an item on an agenda for an open meeting of the board to address the board regarding the item at the meeting before or during the board's consideration of the item.

[See FA(LEGAL) for the requirements relating to prioritizing public comments at the beginning of each board meeting]

Time Limits

A board may adopt reasonable rules regarding the public's right to address the board under these provisions, including rules that limit the total amount of time that a member of the public may address the board on a given item.

***Additional Time
for Translation***

If a board does not use simultaneous translation equipment in a manner that allows the board to hear the translated public testimony simultaneously, a rule adopted that limits the amount of time that a member of the public may address the board must provide

that a member of the public who addresses the board through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator in order to ensure that non-English speakers receive the same opportunity to address the board.

Public Criticism

A board may not prohibit public criticism of the board, including criticism of any act, omission, policy, procedure, program, or service. This does not apply to public criticism that is otherwise prohibited by law.

Gov't Code 551.007

Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, whether in person or virtual, to obstruct or interfere with the meeting by physical action, verbal utterance, or electronic disturbance, including hacking, of any virtual component of the meeting. *Penal Code 42.05*

Open Meetings Act

Public Comment and Other Rights of the Public

Published online in [TASB School Law eSource](#)

Public Comment Basics

1. Must a board allow public comment at board meetings?

Yes, each member of the public who desires to address the board regarding an item on an open meeting agenda must be allowed to do so. Tex. Gov't Code §551.007(b). The board must prioritize public comments by presenting those comments at the beginning of each board meeting. Tex. Educ. Code 26.0071(2). A district's policy regarding public comment can be found at BED(LOCAL).

2. Must a board allow public comment for board “workshops” or “work sessions” where voting may not be taking place?

Yes, if the board is going to consider an item on the agenda for an open meeting, as defined by the OMA. A board must allow each member of the public who desires to address the board regarding an item on an agenda for an open meeting of the board to address the board regarding the item at the meeting before or during the board's consideration of the item. The OMA defines *open* to mean open to the public, and *meeting* to mean any deliberation or gathering that meets the definition of a meeting under Section 551.001(4) of the OMA. Tex. Gov't Code § 551.001(4), (5). This may include special called meetings, workshops, or other board meetings.

TASB Model Policy BED(LOCAL) provides for public comment at every school board meeting. Boards can choose between a local policy option that limits public comments to agenda items or a local policy that allows public comments on any topic related to school district business.

3. Must a board allow public comment for subject matters not listed on the board's meeting agenda?

No. The board is not required to provide a public forum for every person wishing to express an opinion on any matter whatsoever. See Tex. Gov't Code § 551.001(5) (“open” means open to the public). See *also* Tex. Att'y Gen. Op. No. JH-0188 (1973) (“open to the public” does not mean that the public may choose the items to be discussed; it means that the public is permitted to attend the meetings). Boards may choose to allow members of the public to provide information and feedback to the board about matters not listed on the board's agenda as a matter of local practice.

4. How may the board identify the public comment segment on its meeting agenda and notice?

A notation such as “Public Comment” or “Audience Participation” on the meeting notice as a separate agenda item is generally sufficient to inform the public that the board has designated time to receive public input. The attorney general has opined that while such public comment

sessions constitute meetings for which notice must be given, the terms “public comment,” “public forum,” “open mic,” or some other generic term, provide sufficient notice for such sessions. If, prior to a meeting, the board is aware or reasonably should be aware of specific topics to be raised, such as a local neighborhood association requesting to present a public comment that is not already on the board’s agenda, then the meeting notice should be tailored to reflect that knowledge. Tex. Att’y Gen. Op. No. JC-0169 (2000). Furthermore, a district that chooses to distinguish between separate public comment periods for agenda and non-agenda items may wish to clarify the difference on its meeting notice.

Reasonable Rules

5. May a board reasonably regulate public comments at its meetings?

Yes, a board may adopt reasonable rules governing public comments, including rules that limit the total amount of time that a member of the public may address the board on a given item. Tex. Gov’t Code § 551.007(c). For example, boards may require speakers to sign up in advance and may establish reasonable limits on the length of presentations or the total time a member of the public can address the board on a given item. Boards may also place a reasonable limit on the total amount of time one speaker has to address all items on the agenda. Tex. Att’y Gen. Op. No. KP-0300 (2020). However, if a board adopts rules limiting the amount of time a member of the public has available to address the board but does not use simultaneous translation equipment to hear the translated testimony, then the board must provide at least twice the amount of time for non-English speakers who need a translator to relay their testimony. Tex. Gov’t Code § 551.007(d).

As stated above, public comment on agenda items must always be prioritized at the beginning of each board meeting. This means a board may not adopt any rule or procedure that places public comment at any other point in the meeting. Tex. Educ. Code 26.0071(2).

In adopting and implementing reasonable restrictions, a board must not discriminate for or against a specific viewpoint. For example, if speakers arrive to speak about the football program, the board cannot provide more time to the individuals who speak favorably of the program than to the speakers who criticize the program. *See Leventhal v. Vista Unified Sch. Dist.*, 973 F. Supp. 951 (S.D. Cal. 1997) (concluding that public comment periods at school board meetings are limited public forums). *See also City of Madison Joint Sch. Dist. No. 8 v. Wisconsin Employment Relations Comm’n*, 429 U.S. 167 (1976) (stating that permitting one side of a debatable public question to have a monopoly in expressing its views to the government is the antithesis of constitutional guarantees).

See TASB Policy Service’s Regulations Resource Manual BED(EXHIBIT) for sample board procedures.

6. May a board require speakers who wish to address the board to reside within the school district?

A residency requirement for participation in public comment is a risky proposition. Courts in other jurisdictions have determined that a residency requirement for public comment is a

reasonable, viewpoint-neutral regulation of speech in a limited public forum. *See, e.g., Rowe v. City of Cocoa, Fla.*, 358 F.3d 800 (11th Cir. 2004) (holding that city council rule limiting speech during public comment to residents or taxpayers of the city did not violate the First or Fourteenth Amendments because such a rule did not discriminate against speakers on the basis of viewpoint). In Texas, however, the OMA does not restrict or define the meaning of “a member of the public” in requiring school boards to allow a member of the public to address the board concerning an agenda item. Tex. Gov’t Code § 551.007(b).

Enforcing a residency requirement on speakers may present both legal and practical challenges when non-district residents—including parents, volunteers, vendors, donors, corporate sponsors, business representatives, and others—desire to address the board concerning their involvement with district business. For these reasons, TASB Legal Services does not recommend that a board require speakers at public comment to reside within the district’s boundaries. Districts that choose to explore this option should seek advice from their school attorney.

Some districts have a local practice of asking individuals who sign up for public comment to provide contact information and/or to indicate whether they are parents of students enrolled in the district. Asking individuals to provide this information voluntarily is fine, as long as the information is not used to prevent speakers from addressing the board. Be aware that some information provided on written sign-up forms may be considered confidential under the Texas Public Information Act.

7. May a board limit public comment to certain topics or subject matters?

Yes, in compliance with the law. As long as limitations do not discriminate against particular viewpoints or deny speakers the opportunity to address the board about an agenda item to be considered at an open meeting, school boards may limit public comment to subjects listed on a meeting’s agenda or to matters that are within the board’s control or jurisdiction. Tex. Gov’t Code § 551.007(b). *See Featherstone v. Columbus City Sch., Dist. Bd. of Educ.*, 92 F. App’x 279 (6th Cir. 2004) (holding that school board did not violate citizen’s First Amendment rights when it attempted to limit his comments to items on the board’s meeting agenda).

8. May a board limit the number of speakers for each agenda item or require that a group of individuals designate one spokesperson?

No. The board must allow every member of the public who desires to address the board about an item on the agenda for an open meeting to do so before or during the board’s consideration of the item. A board may not, for example, require the designation of a spokesperson to reduce the number of speakers or cap the total amount of time in a manner that results in denying a member of the public who has followed the district’s procedures to address the board. It may be reasonable for the board to offer, but not require, alternative options to address the board, such as submitting written comments in lieu of spoken comments or donating an individually assigned amount of time to another registered speaker. If a board finds that it is overwhelmed by the number of citizens wishing to address the board, the board should seek legal advice before refusing to allow a citizen to address the board prior to its consideration of an agenda item.

9. Will a board be liable for the public comments of a speaker alleged to be defaming another individual?

No. The school district itself has immunity from claims of defamation. A statement is defamatory if the words tend to injure a person's reputation, exposing the person to public hatred, contempt, ridicule, or financial injury. Tex. Civ. Prac. & Rem. Code §§ 73.001, 101.051; *see, e.g., Campbell v. Salazar*, 960 S.W.2d 719, 725 (Tex. App.—El Paso 1997, pet. denied) (affirming that a schoolteacher who was defamed by theft accusations had suffered mental anguish and financial injury). Unless an individual board member repeats defamatory statements to a third party, only the public comment speaker could be held responsible for defamatory statements made in public comment.

However, different rules may apply to the republication of recordings of meetings by districts on district websites. Consult a school attorney prior to posting recordings of board meetings to the Internet.

10. May a board generally prohibit criticism of the board or the district?

No. Texas Government Code section 551.007 prohibits a board from prohibiting public criticism of the board or district, including criticism of any act, omission, policy, procedures, program, or service. Tex. Gov't Code § 551.007(e).

11. May a board prohibit a speaker from engaging in criticism of an individual or referring to employees by name?

It's risky. Section 551.007 does not require a board to allow public criticism that is otherwise prohibited by law. Tex. Gov't Code § 551.007(e). However, in order to be prohibited by law, a speaker's comments would have to be more than critical—they would need to constitute an illegal act, such as slander or invasion of privacy. A district should consult its school attorney when developing procedures that will prohibit certain types of speech during public comment. Considerations should include whether prohibitions are reasonable, viewpoint-neutral, and avoid interfering with a person's rights under any law.

12. How should a board respond if a speaker makes personal attacks or slanderous remarks about a specific employee or trustee during the public comment segment of the meeting?

Understandably, school officials may be uncomfortable when members of the public use the forum of public comment to directly attack specific employees or officials. Nonetheless, the discomfort caused by such situations must be balanced with the right of a member of the public under state and federal law to address the board. School boards should plan ahead, preferably with input from the district's attorney, for the best way to respond when a member of the public goes on the attack. Several factors are important to consider before stopping a speaker from making public comments.

- **First Amendment:** Treating speakers differently based on their viewpoints may be an unreasonable restriction on public speech protected by the First Amendment. For example, treating compliments for individual employees differently from criticism about individual employees may constitute viewpoint discrimination. *See Bach v. Sch. Bd. of City of Virginia*

Beach, 139 F. Supp. 2d 738, 741 (E.D. Va. 2001) (ruling unconstitutional a school board bylaw that directed speakers to avoid “attacks or accusations regarding the honesty, character, integrity, or other like personal attributes of any identified individual or group”). *See also Zapach v. Dismuke*, 134 F. Supp. 2d 682 (E.D. Pa. 2001) (holding that chair’s decision to stop citizen’s comment based on his mention of individuals’ names was content- and viewpoint-based discrimination); *Gault v. City of Battle Creek*, 73 F. Supp. 2d 811 (W.D. Mich. 1999) (granting a preliminary injunction in favor of citizens who had been prevented from making negative personal comments about city officials at a city council meeting).

- **Texas Open Meetings Act:** As stated above, the OMA does not allow a school board to prohibit public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program, or service. Tex. Gov’t Code § 551.007(e). In some situations, it may be difficult to distinguish between *ad hominem* attacks against a particular employee or official and criticism of the district itself, especially if the employee or official in question is being criticized for implementing a district policy. When this occurs, it is far less risky to allow the person to continue speaking than to stop him or her and risk a violation of the law.
- **Local grievance policies:** By adopting local grievance policies, the board has adopted procedures to hear and address complaints, including complaints about specific individuals. *See, e.g.*, TASB Policies DGBA(LEGAL), (LOCAL) (employee complaints/grievances); FNG(LEGAL), (LOCAL) (student and parent complaints/ grievances); GF(LEGAL), (LOCAL) (public complaints/grievances). If a speaker begins to complain about a particular individual by name, the board may recommend that the speaker seek relief via the district’s formal grievance procedure. Insisting that the person stop speaking in public comment based on the grievance procedures is riskier, for the reasons discussed here. School boards wishing to utilize this option should consult their school attorneys about how to handle these situations.

In one case, the Fifth Circuit Court of Appeals concluded that a board did not violate a former teacher’s aide’s First Amendment rights by preventing her from mentioning by name in public comment the teacher employee about whom she had filed a grievance that was scheduled for a closed session presentation at the same meeting. The Fifth Circuit reasoned that public comment is a limited public forum, the school district had a robust alternate grievance process, and the OMA provides an exception allowing the board to discuss pending complaints involving individual employees and individual students in closed session. This legal precedent suggests that a board may ask someone with a pending complaint about an employee or student not to mention that person by name during public comment. *Fairchild v. Liberty Indep. Sch. Dist.*, 597 F.3d 747 (5th Cir. 2010). This is a fairly narrow exception, however. Absent an extenuating circumstance, such as an already pending grievance, a presiding officer may recommend, but should not insist, that a member of the public use the district’s grievance policies.

In short, a board that cuts off a member of the public’s comments before the person’s allotted time has expired risks a legal challenge. Consequently, a board should exercise this option only with the advice of an attorney.

13. May the board immediately go into closed session to hear a speaker's complaint raised during public comment?

Because of the legal risks involved, TASB Legal Services recommends districts only employ this option rarely, concerning a topic for which the board has properly posted advance notice as required by the OMA, and with advice of the board's attorney.

Although most boards have adopted local policies that call for certain grievance matters that are authorized by the OMA to be heard in closed meeting, there is no OMA requirement for a board to move into closed meeting to hear "public comment" complaints about an employee. *Dixon v. Grand Prairie Indep. Sch. Dist.*, Tex. Comm'r of Educ. Decision No. 064-R3-1299 (Nov. 6, 2001). Under the OMA, the board is 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 if the officer or employee who is the subject of the deliberation requests a public hearing. Tex. Gov't Code § 551.074. Similar exceptions apply to confidential student information or the discipline of individual students. Tex. Gov't Code §§ 551.082-.0821. If the employee does not request a public hearing to be held open session, the board may go into closed session to hear the complaint. In this narrow instance, some school boards may opt to go into closed session to hear a speaker continue presenting a complaint for the remainder of the speaker's allocated public comment time if that complaint concerns an already posted agenda item for that meeting.

Although this practice avoids the awkwardness of public criticism, it raises other legal concerns. For example, the attorney general has opined that members of the public may not be invited into closed meetings unless specifically permitted by law. Consequently, when a school board invited select audience members to come individually into closed session to share their comments on the superintendent's performance, the board violated the OMA. Tex. Att'y Gen. Op. No. GA-0511 (2007).

Further, entering an unplanned closed meeting may also have an adverse impact on the public's trust or confidence in the board. If a speaker begins to present a complaint during the public comment portion of a meeting and the board stops the presentation to go into closed session to hear the complaint, other members of the public in attendance may feel that the school board is trying to hide something.

In addition, allowing a member of the public to bypass grievance procedures—appearing for the first time in public comment, raising a complaint, and directing those comments to the board in closed session — undermines the purpose of the grievance process and would likely overload the board's public comment session and slow down meetings. Furthermore, once the board hears a complaint presented as public comment in closed session, and the concerns are raised again in a formal grievance proceeding, the board may then be challenged as biased.

For these reasons, TASB Legal Services does not recommend going into closed session to hear a member of the public's comments as a routine matter. Remember, also, that the board must not act or vote in closed session on any matter.

14. How does a grievance process differ from public comment?

While a member of the public may choose to use either or both methods of communicating with the board about concerns related to district business, the grievance process and the public comment segment of a board meeting offer two very different avenues.

State and federal laws grant citizens the right to petition the government for redress of grievances and require school districts to have a grievance process. U.S. Const. amend. I, XIV; Tex. Const. art. I, § 27. *See also* Tex. Gov't Code § 617.005 (permitting public employees to present grievances concerning their wages, hours of employment, or conditions of work). Local district policies outline grievance procedures. *See* TASB Model Policies DGBA, FNG, and GF.

Grievances present school officials with a formal opportunity to grant or deny a request for relief, offer grievants more time to present their concerns and submit documentation for a formal record, and allow for a means of exhausting administrative remedies. In contrast, public comments at board meetings are often limited in time or manner of presentation due to the board's need to complete district business in a timely and efficient manner.

Unlike public comments that do not generally require detailed advance notice, a grievance proceeding must be specified on a meeting agenda. Merely permitting a grievant to attend a board meeting and speak during public comment does not fulfill the board's obligation to hear a grievance. *Brown v. DeSoto Indep. Sch. Dist.*, Tex. Comm'r of Educ. Decision No. 128-R1-698 (Aug. 12, 1999). *See also Adams v. Flour Bluff Indep. Sch. Dist.*, Tex. Comm'r of Educ. Decision No. 115-R10-598 (Aug. 6, 1999) (holding that offering a teacher an opportunity to make a three-minute presentation about the termination of her probationary contract during open comment of a board meeting was not sufficient and ordering the board to grant teacher a grievance hearing).

On the other hand, a grievant who skips the district's multi-step grievance process and speaks to the board during public comment has failed to properly invoke the district's grievance process. *Thomson v. Fort Worth Indep. Sch. Dist.*, Tex. Comm'r of Educ. Decision No. 155-R8-497 (Nov. 5, 2002).

15. May district employees speak during public comment periods?

Yes, employees may speak during public comment, but the district must handle employees' comments with care. Employees have a First Amendment right to speak out on matters of public concern. For example, the U.S. Supreme Court held that a teacher could not be fired for publishing a letter in the newspaper criticizing the school district's allocation of funds. *Pickering v. Bd. of Educ. of Twp. High Sch. Dist. 205*, 391 U.S. 563 (1968). An employee's comments about his or her own employment, on the other hand, are not as protected. *See, e.g., Williams v. Dallas Indep. Sch. Dist.*, 480 F.3d 689 (5th Cir. 2007) (per curiam) (concluding that employee's statements relating to his job as athletic director were written in the course of performing his job and, thus, not protected).

In some instances, depending on the community's level of interest, an employee's commentary on his or her own employment may constitute a matter of public concern. Because public concern is difficult to assess, the safest course of action is usually to allow an employee to speak in public comment.

Responding to the Public

16. How may a board respond to inquiries from speakers during public comment about topics not on the meeting's agenda?

The OMA does not authorize a board to discuss or act on comments or complaints from a member of the public if the subject is not on the meeting agenda. If a member of the public or a member of the board inquires about a subject for which notice has not been given, board members may respond only in the following ways:

- **Give factual information:** Make a statement of specific factual information, e.g., “The deadline for submitting bids on that proposal is March 1, 2020.”
- **Refer to policy:** Recite existing policy in response to the inquiry, e.g., “Complaints by a parent against a district employee should be submitted under the district’s local policy FNG(LOCAL).”
- **Place on future agenda:** Respond merely that the matter shall be placed on a future agenda, e.g., “The board will add your request to the agenda of the next board meeting.”
- **Deliberate placement on agenda:** Discuss only the limited inquiry of a proposal to place the subject on the agenda for a subsequent meeting, e.g., “Does any board member have any objections to placing this item for deliberation on the agenda for the meeting after next?”

Tex. Gov’t Code § 551.042.

In contrast, if the subject of a public comment is already on the agenda for that meeting, the board may choose to respond without any violation of the OMA. As a best practice, consider listening to all comments on an agenda item prior to responding to any single speaker.

17. May a board member participate as a member of the public to address the board during public comment?

No. During a board meeting of the school district for which a board member was elected and serves, the board member cannot shed the role of elected official to take on another role, such as community member, volunteer, employee of another entity, parent, or private citizen—even though, outside of the meeting, a board member is often juggling several of these roles. All members of the board who are present count towards the quorum required to call a board meeting, and their comments at a board meeting will be reasonably construed as meeting the definition of a deliberation under the OMA. *See* Tex. Gov’t Code § 551.001 (defining *meeting* and *deliberation*). Therefore, whether a board member is sitting with the rest of the board, standing with the audience in the board room, or announcing aloud that the member is no longer present as an official or in an official capacity, the member remains an official member of the board as duly elected at all times during a board meeting.

Furthermore, a board member’s statement during a meeting on any item that is *not* on the meeting agenda may violate the OMA. *See Stratta v. Roe*, 961 F.3d 340 (5th Cir. May 29, 2020) (concluding that the OMA would not allow a board member to speak during public comment in order to discuss an item not on the meeting’s agenda); *Hays County Water Planning P’ship v. Hays*

County, Texas, 41 S.W.3d 174 (Tex. App.—Austin 2001, pet. denied) (finding that a meeting notice stating “Presentation by [County] Commissioner” did not provide adequate notice of the presentation because a commissioner presented to the rest of the board and included the commissioner’s views on development and substantive policy issues of importance to the county).

Disruptive Behavior at Board Meetings

18. Does a member of the public have the right to disrupt a board meeting?

No. The school board has a right to insist that persons attending a meeting maintain order and obey the board’s rules. The board may remove a person who disrupts a public meeting. Although the OMA does not address behavior or conduct of the public, other laws do. In Texas, it is a criminal offense for a person to substantially obstruct or interfere with a lawful meeting, whether in person or virtual, with the intent to prevent or disrupt the meeting, by means of physical action, verbal utterance, or electronic disturbance, including hacking any virtual component of the meeting. Tex. Penal Code § 42.05; *Morehead v. State*, 807 S.W.2d 577 (Tex. Crim. App. 1991). Therefore, as a last resort, the board can request the assistance of local law enforcement to escort a disruptive individual from a meeting.

TASB Legal Services strongly recommends that school districts work in advance of board meetings in consultation with school attorneys to adequately plan and prepare for use of law enforcement at board meetings. TASB Model Policy BED(LOCAL) addresses this concern.

19. What constitutes a meeting disruption?

Whether particular conduct rises to the level of a disruption is an issue for the board to consider. According to one federal district court in Texas, “Being ‘disruptive,’ is not confined to physical violence or conduct, but also encompasses any type of conduct that seriously violates rules of procedure . . . established to govern conduct at [board] meetings.” *Lockett v. City of Grand Prairie*, 2001 WL 285280, at *5 (N.D. Tex. Mar. 19, 2001) (mem.) (not designated for publication). The board should take care to warn an individual who is mildly disruptive and only remove an individual who is *substantially* interfering with the board’s ability to conduct business. See *McMahon v. Albany Unified Sch. Dist.*, 129 Cal.Rptr.2d 184 (Cal. Ct. App. 2002) (upholding removal of an audience member who dumped trash on the ground during a California school board meeting).

If a person’s conduct rises to the level of substantially obstructing or interfering with a lawful meeting, as described by the criminal offense above, a board should request assistance from local law enforcement.

Boards should work with their school attorneys to determine reasonable rules and best practices for managing meeting disruptions without violating other rights of a member of the public.

20. What can the board do to limit meeting disruptions by members of the public?

In order to maintain decorum and conduct school business in a professional manner, the school board must insist that persons attending a meeting maintain order and obey the board's rules. Many boards adopt specific operating procedures for meetings in addition to reasonable rules for public comments. Meeting procedures may set out specific responses for the presiding officer to use when handling disruptions, including use of warnings, ejection from the meeting, and law enforcement actions. For example, many presiding officers read a brief statement prior to the public comment segment of the meeting as a general reminder to all public participants of the board's expectations. A sample script is available from TASB Policy Service's Regulations Resource Manual BED(Exhibit).

For more information about the extent of a school district's authority to restrict and control visitors to school property and events, including exclusion or removal from school grounds, see TASB Legal Services' article [Visitors to School Property and School Events](#).

Distribution of Literature and Display of Signs at Board Meetings

21. May members of the public pass out flyers or other printed material at board meetings, including during public comment?

Yes, in accordance with local board policy. TASB Model Policy GKDA(LOCAL) addresses this issue. Most districts allow the distribution of nonschool-sponsored material (like a concerned citizen's pamphlets) with certain restrictions on the time or place of the distribution. For example, a district's policy may require a member of the public to provide materials to a staff member to distribute prior to the meeting.

22. May the board restrict the types of flyers or other printed material that may be distributed at board meetings or require that materials be approved by the administration in advance?

Probably not. Courts considering so-called "prior administrative review" policies distinguish between school-sponsored events at which students are likely to be present and events that are designed for adults. The Fifth Circuit Court of Appeals has indicated that a district may not impose prior review on citizen flyers at school-sponsored events that take place after hours and are intended for adults rather than students. *See Chiu v. Plano Indep. Sch. Dist.*, 339 F.3d 273 (5th Cir. 2003) (holding that school district had no legitimate interest in requiring pre-clearance of handbills distributed by parents outside school hours with no disruption of normal school operations). Therefore, unless a district can say with confidence that students regularly attend and participate in school board meetings, school board meetings are likely to fall within the category of events for which the district may not require prior review.

The district may still apply reasonable limitations on content and time, place, and manner restrictions, however. For more information on distribution of materials on school property, including distribution of materials by students, see TASB Legal Services' [Distribution of Nonschool Materials on School Property](#).

23. May members of the public display signs or posters at board meetings?

Yes, as allowed by a district's local policy. Policy GKDA(LOCAL) typically places the same restrictions on signs and posters as on handbills. *See Chiu v. Plano Indep. Sch. Dist.*, 339 F.3d 273 (5th Cir. 2003) (holding that district's policy requiring parents to obtain prior approval before displaying signs after school hours at a parents-only meeting was an unconstitutional prior restraint on speech as applied and that the administrators' enforcement of the policy was objectively unreasonable). *See also Godwin v. E. Baton Rouge Parish Sch. Bd.*, 408 So. 2d 1214 (La. 1982) (upholding regulation prohibiting hand-carried signs at board meetings). Again, reasonable limitations on content and time, place, and manner restrictions for the display of signs and posters may still apply.

24. Where can I get more information about board meetings?

The [office of the attorney general](#) is the primary source of information related to the Open Meetings Act. Supplemental resources from TASB related to school board meetings and public participation at meetings are available on the [TASB Store](#) and [TASB School Law eSource](#). School district trustees and administrators may contact TASB Legal Services at 800-580-5345.

This document is provided for educational purposes and contains information to facilitate a general understanding of the law. References to judicial or other official proceedings are intended to be a fair and impartial account of public records, which may contain allegations that are not true. This publication is not an exhaustive treatment of the law, nor is it intended to substitute for the advice of an attorney. Consult your own attorney to apply these legal principles to specific fact situations.

Updated August 2025.

BOARD MEETINGS
PUBLIC PARTICIPATION

BED
(LOCAL)

**Limit on
Participation**

Audience participation at a Board meeting is limited to the portion of the meeting designated to receive public comment in accordance with this policy. At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.

Public Comment

At all Board meetings, public comment shall be limited to items on the agenda posted with notice of the meeting.

Procedures

Individuals who wish to participate during the portion of the meeting designated for public comment shall sign up with the presiding officer or designee before the meeting begins as specified in the Board's procedures on public comment and shall indicate the agenda item on which they wish to address the Board.

Public comment shall occur at the beginning of the meeting.

Except as permitted by this policy and the Board's procedures on public comment, an individual's comments to the Board shall not exceed three minutes per meeting. The presiding officer may make adjustments to public comment procedures as described at Meeting Management to limit total public comment time to 30 minutes.

Meeting
Management

When necessary for effective meeting management or to accommodate large numbers of individuals wishing to address the Board, the presiding officer may make adjustments to public comment procedures, including adjusting when public comment will occur during the meeting, reordering agenda items, continuing agenda items to a later meeting, providing expanded opportunity for public comment, or establishing an overall time limit for public comment and adjusting the time allotted to each speaker. However, no individual shall be given less than one minute to make comments.

Board's Response

Specific factual information or recitation of existing policy may be furnished in response to inquiries, but the Board shall not deliberate or decide regarding any subject that is not included on the agenda posted with notice of the meeting.

**Complaints and
Concerns**

The presiding officer or designee shall determine whether an individual addressing the Board has attempted to solve a matter administratively through resolution channels established by policy. If not, the individual shall be referred to the appropriate policy to seek resolution:

- Employee complaints: DGBA
- Student or parent complaints: FNG
- Public complaints: GF

Disruption

The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any individual continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the individual removed from the meeting.

**Limit on
Participation**

Audience participation at a Board meeting is limited to the portion of the meeting designated to receive public comment in accordance with this policy. At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.

Public Comment

Public comment shall occur at the beginning of the meeting. [See FA]

At all Board meetings, public comment shall be limited to items on the agenda posted with notice of the meeting.

Procedures

Individuals who wish to participate during the portion of the meeting designated for public comment shall sign up with the presiding officer or designee before the meeting begins as specified in the Board's procedures on public comment and shall indicate the agenda item on which they wish to address the Board.

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Except as permitted by this policy and the Board's procedures on public comment, an individual's comments to the Board shall not exceed ~~three minutes~~ three minutes per meeting. ~~The presiding officer may make adjustments to public comment procedures as described at Meeting Management to limit total public comment time to 30 minutes.~~

**Meeting
Management**

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Specific factual information or recitation of existing policy may be furnished in response to inquiries, but the Board shall not deliberate or decide regarding any subject that is not included on the agenda posted with notice of the meeting.

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- Employee complaints: DGBA

- Student or parent complaints: FNG
- Public complaints: GF

Disruption

The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any individual continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the individual removed from the meeting.

- **Policy Code DEC (Requires Second Reading):** Please incorporate the following provisions regarding the sick leave bank. *(Additionally, could you advise on what other districts are currently doing regarding these parameters?)*
 - **Donations:** Employees may donate any number of their available days to a co-worker experiencing a serious health condition as defined by the FMLA.
 - **Cost Allocation:** Donated days must be allocated based on the hourly cost conversion from the donor employee to the recipient employee.
 - **Promotion:** The District will promote the sick leave bank annually, or more frequently as needed.

All of these details would be more appropriate to address in administrative regulations than board-adopted policies. Board policy needs to authorize a sick leave bank and set some high-level parameters, but the policy requires the superintendent (or designee) to develop administrative regulations to administer the bank.

Please remember that the board may always review administrative regulations, in accordance with BP(LOCAL).

For questions about sick leave bank administration, please contact TASB HR Services at hrservices@tasb.org or 800-580-7782.

Explanatory Notes

TASB Localized Policy Manual Update 126

BE(LOCAL) BOARD MEETINGS

Several recommended revisions have been made to this policy on board meetings. SB 12 prompted new language at Meeting Place and Time indicating that board meetings will be held outside of typical work hours. Language at Notice to Members has been adjusted to reflect HB 1522, which requires board agendas

to be posted for three business days, rather than 72 hours, before the meeting. This recommended revision appropriately adjusts when the notice of the meeting will be provided to board members.

At Deadline, the recommended revisions are also in response to HB 1522. We offer for your consideration

language requiring that agenda items be submitted 10 calendar days before a meeting. This deadline would provide the district sufficient time to compile items and post an agenda by the statutory deadline. If the district would like to adjust the deadline, please contact your policy consultant.

SB 413 requires roll call voting, so the language at Record Vote has been revised accordingly. A paragraph

in the Minutes section has been removed, as the statement is true for all district records and it is not necessary to separately address retention in this policy. Please refer to CPC(LOCAL) and your district's

record retention procedures.

Please note: We have retained the district's locally developed provisions requiring the board secretary to email proposed agenda items to all board members.

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library

(TASB login required), describe common legal concerns and best practices specific to this policy's topic.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

**Leave
Administration**

The Superintendent shall develop administrative regulations addressing employee leaves and absences to implement the provisions of this policy and shall report annually to the Board any revisions to these regulations.

Definitions

The term "immediate family" is defined as:

Immediate Family

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Any person residing in the employee's household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definitions of spouse, parent, son or daughter, and next of kin are found in DECA(LEGAL).

Family Emergency

The term "family emergency" shall be limited to disasters and life-threatening situations involving the employee or a member of the employee's immediate family.

Leave Day

A "leave day" for purposes of earning, using, or recording leave shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

School Year

A "school year" for purposes of earning, using, or recording leave shall mean the term of the employee's annual employment as set by the District for the employee's usual assignment, whether full-time or part-time.

Catastrophic Illness
or Injury

A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the District. Such conditions typically require prolonged hospitalization or recovery or are expected to result in disability or death. Conditions relating to pregnancy or childbirth shall be considered catastrophic if they meet the requirements of this paragraph.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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(LOCAL)

Note: For District contribution to employee insurance during leave, see CRD(LOCAL).

Availability

The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.

**State Leave
Proration**

If an employee separates from employment with the District before his or her last duty day of the school year or begins employment after the first duty day of the school year, state personal leave shall be prorated based on the actual time employed.

If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for state personal leave the employee used beyond his or her pro rata entitlement for the school year.

Medical Certification

An employee shall submit medical certification of the need for leave if:

1. The employee is absent more than five consecutive workdays because of personal illness or illness in the immediate family;
2. The District requires medical certification due to an employee's historical pattern of absences within the last 12 months or when deemed necessary by the supervisor or Superintendent; or
3. The employee requests FMLA leave for the employee's serious health condition; a serious health condition of the employee's spouse, parent, or child; or for military caregiver leave.

In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]

State Personal Leave

The Board requires employees to differentiate the manner in which state personal leave is used.

**Nondiscretionary
Use**

Nondiscretionary use of leave shall be for the same reasons and in the same manner as state sick leave accumulated before May 30, 1995. [See DEC(LEGAL)]

Nondiscretionary use includes leave related to the birth or placement of a child and taken within the first year after the child's birth, adoption, or foster placement.

Discretionary Use

Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

*Request for
Leave*

In deciding whether to approve or deny a request for discretionary use of state personal leave, the supervisor shall not seek or consider the reasons for which an employee requests to use leave. The supervisor shall, however, consider the duration of the requested absence in conjunction with the effect of the employee's absence on the educational program and District operations, as well as the availability of substitutes.

Local Leave

Each full-time employee shall earn paid local sick leave days at the rate of one-half equivalent workday for each 18 workdays of employment, concurrently with state leave, up to the local leave maximum of six equivalent workdays per year, in accordance with administrative regulations.

Local leave shall accumulate without limit.

Local leave shall be used according to the terms and conditions of state sick leave accumulated before the 1995–96 school year.

An employee may also use local leave for:

1. Contribution to a sick leave bank [See DEC(LEGAL)];
2. Transfer to another employee [See DEC(LEGAL)];
3. Absences related to the birth or placement of a child when leave is taken within the first year after the child's birth, adoption, or foster placement; or
4. Conditions described at Suspension in DCD(LOCAL).

Parental Leave

A full-time employee with at least three years of service with the District within the last five years shall be eligible for 12 weeks of paid parental leave after the birth, adoption, or foster placement of a child.

When both spouses are employed by the District, the District shall limit paid parental leave to a combined total of 12 weeks. Each spouse's eligibility shall be based on the individual's years of service with the District.

Sick Leave Bank

The District shall establish a sick leave bank that employees may join through contribution of local leave.

Leave contributed to the bank shall be solely for the use of participating employees. An employee who is a member of the bank may request leave from the bank if the employee or a member of the employee's immediate family experiences a catastrophic illness or injury and the employee has exhausted all paid leave and any applicable compensatory time.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

The Superintendent shall develop regulations for the operation of the sick leave bank that address the following:

1. Membership in the sick leave bank, including the number of days an employee must contribute to become a member;
2. Procedures to request leave from the sick leave bank;
3. The maximum number of days per school year a member employee may receive from the sick leave bank;
4. The committee or administrator authorized to consider requests for leave from the sick leave bank and criteria for granting requests; and
5. Other procedures deemed necessary for the operation of the sick leave bank.

Appeal

An employee may appeal a decision regarding the sick leave bank in accordance with DGBA(LOCAL), beginning with the Superintendent or appropriate administrator.

**Employee Transfer
of Local Leave**

The District shall establish and implement a transfer of local leave program.

An employee may qualify for participation in the transfer of local leave program if the following conditions exist:

1. The employee has exhausted all paid leave;
2. The employee or immediate family member of the employee experiences a catastrophic illness or injury; and
3. If the employee participates in the sick leave bank, he or she has received and used the maximum number of sick bank days allowed by administrative regulations.

The transferring employee may submit the request to transfer local leave days and must follow the established procedures as determined by the Superintendent or designee.

With the exception of immediate family members, the transferring employee shall only be permitted to transfer his or her local leave to an employee whose employment pay grade/level is equal to or below that of the transferring employee. Additionally, a classified employee shall not be permitted to transfer his or her local leave to a certified employee.

The Superintendent or designee shall develop procedures for the operation of the transfer of local leave program that address the following:

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

1. Procedures to request transfer of local leave;
2. The maximum number of days per school year an employee may receive from a transferring employee or transferring employees; and
3. Other procedures deemed necessary for the operation of the transfer of local leave program.

Appeal

All decisions regarding employee transfer of local leave may be appealed in accordance with DGBA(LOCAL), beginning with the Superintendent or designee.

Mental Health Leave

A District peace officer or a full-time District telecommunicator, as defined by law, or a security officer who experiences a traumatic event in the scope of employment shall be granted a maximum of five days of mental health leave per traumatic event. Such leave shall be provided in accordance with administrative regulations and shall not be deducted from the employee's pay or leave balance.

The Superintendent shall develop regulations regarding mental health leave that address the following:

1. Circumstances or reasons under which an eligible employee may use mental health leave;
2. Procedures for requesting mental health leave and maintaining the anonymity of the requester;
3. The administrator authorized to approve requests for mental health leave; and
4. Other procedures deemed necessary for administering this provision.

Quarantine Leave

A District peace officer shall be granted quarantine leave when ordered by the local health authority or the peace officer's supervisor to quarantine or isolate due to possible or known exposure to a communicable disease while on duty. Such leave shall be provided in accordance with administrative regulations and shall not be deducted from the employee's pay or leave balance.

The Superintendent shall develop regulations regarding quarantine leave that address the following:

1. Continuation of all employment benefits and compensation for the duration of the leave;
2. Reimbursement for reasonable costs related to the quarantine; and

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

3. Other procedures deemed necessary for administering this provision.

**Line of Duty Illness
or Injury Leave of
Absence**

The District shall provide a line of duty illness or injury leave of absence for security officers in accordance with line of duty illness or injury leave of absence provided for District police officers.

Following a leave of absence with full pay as required by law or provided by the District, the District shall not extend the leave of absence for a police officer's or security officer's line of duty illness or injury. In accordance with law, Board-adopted policy, or administrative regulations, the police officer or security officer may use accumulated leave.

**Family and Medical
Leave**

FMLA leave shall run concurrently with applicable paid leave and compensatory time, as applicable.

Note: See DECA(LEGAL) for provisions addressing FMLA.

Twelve-Month
Period

For purposes of an employee's entitlement to FMLA leave, the 12-month period shall be July 1 through June 30.

Combined Leave for
Spouses

When both spouses are employed by the District, the District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 12 weeks. The District shall limit military caregiver leave to a combined total of 26 weeks.

Intermittent or
Reduced Schedule
Leave

The District shall not permit use of intermittent or reduced schedule FMLA leave for the care of a newborn child or for the adoption or placement of a child with the employee.

Certification of
Leave

When an employee requests leave, the employee shall provide certification, in accordance with FMLA regulations, of the need for leave.

Fitness-for-Duty
Certification

In accordance with administrative regulations, when an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification.

Leave at the End of
Semester

When a teacher takes leave near the end of the semester, the District may require the teacher to continue leave until the end of the semester.

**Temporary Disability
Leave**

Any full-time employee shall be eligible for temporary disability leave. The maximum length of temporary disability leave shall be 180 calendar days. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for return to active duty.]

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent as a request for temporary disability leave.

The District shall require the employee to use temporary disability leave and paid leave, including any compensatory time, concurrently with FMLA leave.

**Workers'
Compensation**

Note: Workers' compensation is not a form of leave. The workers' compensation law does not require the continuation of the District's contribution to health insurance.

An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

Paid Leave Offset

The District shall permit the option for paid leave offset in conjunction with workers' compensation income benefits. [See CRE]

Court Appearances

Absences due to compliance with a valid subpoena or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance.

Absences for court appearances related to an employee's personal business shall be deducted from the employee's personal leave or shall be taken by the employee as leave without pay.

**Payment for
Accumulated Leave
Upon Retirement**

The following leave provisions shall apply to local leave accumulated beginning on the original effective date of this program.

An employee who retires from the District shall be eligible for payment for accumulated local leave under the following conditions:

1. The employee's retirement is voluntary, i.e., the employee is not being discharged or nonrenewed.
2. The employee requests payment within 60 days after the last day of employment.

In the case of an employee's death, the employee's designated beneficiary may request payment within 60 days after the death of the employee.

The employee shall receive payment for each day of accumulated local leave, to a maximum of 30 days, at a rate established by the Board. If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

The rate established by the Board shall be in effect until the Board adopts a new rate. Any changes to the rate shall apply beginning with the school year following the adoption of the rate change.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

**Leave
Administration**

The Superintendent shall develop administrative regulations addressing employee leaves and absences to implement the provisions of this policy and shall report annually to the Board any revisions to these regulations.

Definitions

The term "immediate family" is defined as:

Immediate Family

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Any person residing in the employee's household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definitions of spouse, parent, son or daughter, and next of kin are found in DECA(LEGAL).

Family Emergency

The term "family emergency" shall be limited to disasters and life-threatening situations involving the employee or a member of the employee's immediate family.

Leave Day

A "leave day" for purposes of earning, using, or recording leave shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

School Year

A "school year" for purposes of earning, using, or recording leave shall mean the term of the employee's annual employment as set by the District for the employee's usual assignment, whether full-time or part-time.

Daily Rate of Pay

The "daily rate" of a contract employee, including a teacher, school counselor, or librarian, shall be computed by dividing the employee's annual salary by the number of duty days in the employee's contract year.

Catastrophic Illness
or Injury

A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the Dis-

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

trict. Such conditions typically require prolonged hospitalization or recovery or are expected to result in disability or death. Conditions relating to pregnancy or childbirth shall be considered catastrophic if they meet the requirements of this paragraph.

Note: For District contribution to employee insurance during leave, see CRD(LOCAL).

Availability

The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.

**State Leave
Proration**

If an employee separates from employment with the District before his or her last duty day of the school year or begins employment after the first duty day of the school year, state personal leave shall be prorated based on the actual time employed.

If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for state personal leave the employee used beyond his or her pro rata entitlement for the school year.

Medical Certification

An employee shall submit medical certification of the need for leave if:

1. The employee is absent more than five consecutive workdays because of personal illness or illness in the immediate family;
2. The District requires medical certification due to an employee's historical pattern of absences within the last 12 months or when deemed necessary by the supervisor or Superintendent; or
3. The employee requests FMLA leave for the employee's serious health condition; a serious health condition of the employee's spouse, parent, or child; or for military caregiver leave.

In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]

State Personal Leave

The Board requires employees to differentiate the manner in which state personal leave is used.

**Nondiscretionary
Use**

Nondiscretionary use of leave shall be for the same reasons and in the same manner as state sick leave accumulated before May 30, 1995. [See DEC(LEGAL)]

Nondiscretionary use includes leave related to the birth or placement of a child and taken within the first year after the child's birth, adoption, or foster placement.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

Discretionary Use

Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.

*Request for
Leave*

In deciding whether to approve or deny a request for discretionary use of state personal leave, the supervisor shall not seek or consider the reasons for which an employee requests to use leave. The supervisor shall, however, consider the duration of the requested absence in conjunction with the effect of the employee's absence on the educational program and District operations, as well as the availability of substitutes.

Local Leave

Each full-time employee shall earn ~~six~~ paid local ~~sick leave days at the rate of one-half equivalent workday for each 18 workdays of employment, concurrently with state leave, up to the local leave maximum of six equivalent workdays per year,~~ leave days per school year in accordance with administrative regulations.

Local leave shall accumulate without limit.

Local leave shall be used according to the terms and conditions of state ~~sick~~personal leave ~~accumulated before the 1995-96 school year.~~ [See State Personal Leave, above]

An employee may also use local leave ~~for:~~

~~4. Contribution to a sick leave bank [See DEC(LEGAL)];~~

~~5. Transfer to another employee [See DEC(LEGAL)];~~

~~6. Absences related to the birth or placement of a child when leave is taken within the first year after the child's birth, adoption, or foster placement; or~~

~~Conditions~~under conditions described at Suspension in DCD(LOCAL).

Parental Leave

A full-time employee with at least three years of service with the District within the last five years shall be eligible for 12 weeks of paid parental leave after the birth, adoption, or foster placement of a child.

When both spouses are employed by the District, the District shall limit paid parental leave to a combined total of 12 weeks. Each spouse's eligibility shall be based on the individual's years of service with the District.

Sick Leave Bank

The District shall establish a sick leave bank that employees may join through contribution of local leave.

Leave contributed to the bank shall be solely for the use of participating employees. An employee who is a member of the bank may

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

request leave from the bank if the employee or a member of the employee's immediate family experiences a catastrophic illness or injury and the employee has exhausted all paid leave and any applicable compensatory time.

The Superintendent shall develop regulations for the operation of the sick leave bank that address the following:

1. Membership in the sick leave bank, including the number of days an employee must contribute to become a member;
2. Procedures to request leave from the sick leave bank;
3. The maximum number of days per school year a member employee may receive from the sick leave bank;
4. The committee or administrator authorized to consider requests for leave from the sick leave bank and criteria for granting requests; and
5. Other procedures deemed necessary for the operation of the sick leave bank.

Appeal

An employee may appeal a decision regarding the sick leave bank in accordance with DGBA(LOCAL), beginning with the Superintendent or appropriate administrator.

**Employee Transfer
of Local Leave**

The District shall establish and implement a transfer of local leave program.

An employee may qualify for participation in the transfer of local leave program if the following conditions exist:

1. The employee has exhausted all paid leave;
2. The employee or immediate family member of the employee experiences a catastrophic illness or injury; and
3. If the employee participates in the sick leave bank, he or she has received and used the maximum number of sick bank days allowed by administrative regulations.

The transferring employee may submit the request to transfer local leave days and must follow the established procedures as determined by the Superintendent or designee.

With the exception of immediate family members, the transferring employee shall only be permitted to transfer his or her local leave to an employee whose employment pay grade/level is equal to or below that of the transferring employee. Additionally, a classified employee shall not be permitted to transfer his or her local leave to a certified employee.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

The Superintendent or designee shall develop procedures for the operation of the transfer of local leave program that address the following:

1. Procedures to request transfer of local leave;
2. The maximum number of days per school year an employee may receive from a transferring employee or transferring employees; and
3. Other procedures deemed necessary for the operation of the transfer of local leave program.

Appeal

All decisions regarding employee transfer of local leave may be appealed in accordance with DGBA(LOCAL), beginning with the Superintendent or designee.

Mental Health Leave

A District peace officer or a full-time District telecommunicator, as defined by law, or a security officer who experiences a traumatic event in the scope of employment shall be granted a maximum of five days of mental health leave per traumatic event. Such leave shall be provided in accordance with administrative regulations and shall not be deducted from the employee's pay or leave balance.

The Superintendent shall develop regulations regarding mental health leave that address the following:

1. Circumstances or reasons under which an eligible employee may use mental health leave;
2. Procedures for requesting mental health leave and maintaining the anonymity of the requester;
3. The administrator authorized to approve requests for mental health leave; and
4. Other procedures deemed necessary for administering this provision.

Quarantine Leave

A District peace officer shall be granted quarantine leave when ordered by the local health authority or the peace officer's supervisor to quarantine or isolate due to possible or known exposure to a communicable disease while on duty. Such leave shall be provided in accordance with administrative regulations and shall not be deducted from the employee's pay or leave balance.

The Superintendent shall develop regulations regarding quarantine leave that address the following:

1. Continuation of all employment benefits and compensation for the duration of the leave;

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

2. Reimbursement for reasonable costs related to the quarantine; and
3. Other procedures deemed necessary for administering this provision.

**Line of Duty Illness
or Injury Leave of
Absence**

The District shall provide a line of duty illness or injury leave of absence for security officers in accordance with line of duty illness or injury leave of absence provided for District police officers.

Following a leave of absence with full pay as required by law or provided by the District, the District shall not extend the leave of absence for a police officer's or security officer's line of duty illness or injury. In accordance with law, Board-adopted policy, or administrative regulations, the police officer or security officer may use accumulated leave.

**Family and Medical
Leave**

The District shall make FMLA leave available to employees in accordance with DECA(LEGAL) and the following provisions.

**Concurrent Use of
Paid Leave**

FMLA leave shall run concurrently with applicable paid leave and compensatory time, as applicable, **except as provided below**.

Note: — See
DECA(LEGAL)
for provisions
addressing
Twelve-Month
Period
FMLA Exception

A teacher shall notify the appropriate administrator if they choose not to use paid leave concurrently with FMLA leave for an absence related to pregnancy or the birth or adoption of child.

For purposes of an employee's entitlement to FMLA leave, the 12-month period shall be July 1 through June 30.

**Combined Leave for
Spouses**

When both spouses are employed by the District, the District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 12 weeks. The District shall limit military caregiver leave to a combined total of 26 weeks.

**Intermittent or
Reduced Schedule
Leave**

The District shall not permit use of intermittent or reduced schedule FMLA leave for the care of a newborn child or for the adoption or placement of a child with the employee.

**Certification of
Leave**

When an employee requests leave, the employee shall provide certification, in accordance with FMLA regulations, of the need for leave.

**Fitness-for-Duty
Certification**

In accordance with administrative regulations, when an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification.

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Leave at the End of Semester	When a teacher takes leave near the end of the semester, the District may require the teacher to continue leave until the end of the semester.
Temporary Disability Leave	Any full-time employee shall be eligible for temporary disability leave. The maximum length of temporary disability leave shall be 180 calendar days. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for return to active duty.] An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent as a request for temporary disability leave. The District shall require the employee to use temporary disability leave and paid leave, including any compensatory time, concurrently with FMLA leave.
Workers' Compensation	Note: Workers' compensation is not a form of leave. The workers' compensation law does not require the continuation of the District's contribution to health insurance. An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.
Paid Leave Offset	The District shall permit the option for paid leave offset in conjunction with workers' compensation income benefits. [See CRE]
Court Appearances	Absences due to compliance with a valid subpoena or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance. Absences for court appearances related to an employee's personal business shall be deducted from the employee's personal leave or shall be taken by the employee as leave without pay.
Payment for Accumulated Leave Upon Retirement	The following leave provisions shall apply to local leave accumulated beginning on the original effective date of this program. An employee who retires from the District shall be eligible for payment for accumulated local leave under the following conditions: 1. The employee's retirement is voluntary, i.e., the employee is not being discharged or nonrenewed. 2. The employee requests payment within 60 days after the last day of employment.

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In the case of an employee's death, the employee's designated beneficiary may request payment within 60 days after the death of the employee.

The employee shall receive payment for each day of accumulated local leave, to a maximum of 30 days, at a rate established by the Board. If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee.

The rate established by the Board shall be in effect until the Board adopts a new rate. Any changes to the rate shall apply beginning with the school year following the adoption of the rate change.

- **Policy Code DGBA (Requires Second Reading):** Please apply the following changes, keeping in mind that the Trustees prefer to revert this policy to its previous version unless a specific change is mandated by SB 12:
 - **Pages 2, 3, 5 (Days/Untimely Filings), and 7 (Level One):** Revert to previous language.

We don't recommend reverting to prior language at Days because SB 12 defines some timelines in calendar days and others in business days. We have specified calendar or business days at each deadline.

We also don't recommend reverting to prior language at Untimely Filings. Please see General Requirements, #9, in DGBA(LEGAL).

Explanatory Notes

TASB Localized Policy Manual Update 126

DGBA(LOCAL) PERSONNEL-MANAGEMENT RELATIONS: EMPLOYEE COMPLAINTS/GRIEVANCES

We recommend for your consideration this revised policy regarding employee complaints, which includes revisions prompted by the applicable portions of SB 12. Please contact your policy consultant if additional revisions are necessary.

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library

(TASB login required), describe common legal concerns and best practices specific to this policy's topic.

PERSONNEL-MANAGEMENT RELATIONS
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**United States
Constitution**

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV*

When a board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968) [See DG]

Texas Constitution

Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

Federal Laws

Section 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b), .11*

Americans with
Disabilities Act

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107, .140*

Title IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(c); North Haven Bd. of Educ. v. Bell*, 456 U.S. 512 (1982) [For legally referenced material relating to Title IX grievance procedures, see FFH(LEGAL).]

State Laws

Wages, Hours,
Conditions of Work

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship.

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Atty. Gen. Op. JM-177 (1984); Corpus Christi Am. Fed'n of Teachers v. Corpus Christi Indep. Sch. Dist., 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)*

Representative

A district cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); Sayre v. Mullins, 681 S.W.2d 25 (Tex. 1984)*

A district should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974); Corpus Christi Indep. Sch. Dist. v. Padilla, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)*

Employment Policy

A district's employment policy must provide each employee with the right to present grievances to the board.

The policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of a district, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the board.

Education Code 11.1513

District Grievance
Policy

The board shall adopt a grievance policy to address grievances received by the district. *Education Code 26A.001(a)*

Levels of Review

The policy must provide for the following levels of review, except as provided below:

1. Review by the principal of the district campus at which the grievance is filed or the principal's designee or, for a griev-

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ance that arises from subject matter unrelated to a campus,
an administrator at the school district's central office;

2. If established by the policy, an appeal to an administrator at the school district's central office;
3. An appeal to the superintendent of the school district or the superintendent's designee; and
4. An appeal to the board of trustees of the school district.

A review or appeal on a grievance must be conducted by a person with the authority to address the grievance unless a preliminary hearing is necessary to develop a record or a recommendation for the board of trustees of the school district.

Education Code 26A.001(b), (c)

*General
Requirements*

The policy must:

1. Prohibit the board or a district employee from retaliating against a student or parent of a student who files a grievance in accordance with the policy;
2. Require a person involved in reviewing a grievance under the policy to recuse himself or herself from reviewing the grievance if the person is the subject of the grievance;
3. Provide for a higher level of review if the person who would otherwise review the grievance is required to recuse himself or herself;
4. Provide for the creation and retention of a record of each hearing on the grievance, including documents submitted by the person who filed the grievance or determined relevant by school district personnel and a written record of the decision, including an explanation of the basis for the decision and an indication of each document that supports the decision;
5. Allow the person who filed the grievance to supplement the record with additional documents or add additional claims;
6. Allow for a member of the board to file a grievance with the district, but prohibit the member from voting on matters related to that grievance;
7. Allow for a remand to a lower level of review to develop a record at any time, including at the board level of review;
8. Require the district to direct a grievance that is filed with the incorrect administrator to the appropriate administrator and

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consider the grievance filed on the date on which the grievance was initially filed;

9. Require the district to issue a decision on the merits of the concern raised in the grievance, notwithstanding procedural errors or the type of relief requested;
10. Unless otherwise required by law, allow for a hearing or meeting at which the grievance will be discussed to be open or closed at the request of the person who filed the grievance; and
11. For a grievance before the board, require that the person who filed the grievance be provided at least five business days before the date on which the meeting to discuss the grievance will be held a description of any information the board of trustees intends to rely on that is not contained in the record; and
12. For a grievance before the board, require the meeting at which the grievance is discussed be recorded by video or audio recording or by transcript created by a certified court reporter.

Education Code 26A.001(e)

Deadlines
Appeal

The policy must provide at least 20 days to file an appeal after the date on which a decision on the grievance was made.

Hearings

For a hearing that is not before the board of trustees of the school district, the policy must require:

1. The district to hold a hearing not later than the 10th day after the date on which the grievance or appeal was filed; and
2. A written decision to be made not later than the 20th day after the date on which the hearing was held that includes any relief or redress to be provided and information regarding filing an appeal, including the timeline to appeal under this provision and Education Code 7.057, if applicable.

For a hearing before the board, the policy must require the board to:

1. Hold a meeting to discuss the grievance not later than the 60th day after the date on which the previous decision on the grievance was made; and
2. Make a decision on the grievance not later than the 30th day after the date on which the meeting is held.

Education Code 26A.002

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Employee Grievance Policy	A district's grievance policy must permit an employee to report a grievance against a supervisor to a different supervisor if the employee alleges that the supervisor: 1. Violated the law in the workplace; or 2. Unlawfully harassed the employee.
<i>Telephone Representation</i>	If a district's grievance policy provides for representation, the policy must permit an employee's representative to represent the employee through a telephone conference call at any formal grievance proceeding, hearing, or conference at which the employee is entitled to representation according to the policy. This provision applies to grievances under Education Code 11.171(a) and only if the district has the equipment necessary for a telephone conference call. <i>Education Code 11.171(a), (c)</i>
<i>Audio Recording</i>	A district's grievance policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of an employee's authorization to make an audio recording may not result in a delay of any timeline provided by the grievance policy. A district is not required to provide equipment for the employee to make the recording. <i>Education Code 11.171(b)</i>
Board Committee	The board may delegate the authority to hear and decide a grievance to a committee of at least three members composed only of members of the board. For purposes of an appeal to the commissioner under Education Code 7.057, a decision by the committee is a decision of the board of trustees. The policy requirements above apply to the committee in the same manner as those requirements apply to the board. <i>Education Code 29A.001(e)</i>
Report on Grievance	Each school district shall annually submit a report on grievances filed in the district during the preceding year. <i>Education Code 26A.001(g)</i>
Filing Procedures and Forms	The board shall develop, make publicly available in a prominent location on the district's website, and include in the district's student handbook the procedures for resolving grievances; standardized forms for filing a grievance, a notice of appeal, or a request for a hearing under this chapter; and the method by which a grievance may be filed electronically.
<i>Electronic Filing</i>	A district shall ensure that a grievance may be submitted electronically at the location on the district's website at which the information described above is available.

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TEA Notification A district shall submit and make accessible to the Texas Education Agency the location on the district's website at which the information described above is available.

Education Code 26A.003

Commissioner
Enforcement If a grievance is appealed to the commissioner under Education Code 7.057, the commissioner of education may:

On Appeal

1. Investigate an alleged violation of state or federal law regarding the confidentiality of student information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), relating to the grievance and collaborate with relevant federal agencies in such an investigation; and
2. Take any action necessary to compel the district, the district's board, or a district employee to comply with the state or federal law.

Education Code 26A.001(f)

*Determination of
Retaliation*

If the commissioner determines that a school district educator has retaliated against a student or parent of or person standing in parental relation to a student in violation of the policy requirement, above, the commissioner of education may report the educator to the State Board for Educator Certification for investigation. *Education Code 26A.001(i)*

*Superintendent
Testimony*

If the commissioner of education finds against a school district under Education Code 7.057 in at least five grievances to which that provision applies involving the district during a school year, the superintendent of the school district must appear before the State Board of Education to testify regarding the commissioner's findings and the frequency of grievances against the district. *Education Code 26A.004*

Finality of Grades

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with a district's grading policy applicable to the grade, as determined by the board.

A board's determination is not subject to appeal.

Education Code 28.0214

Open Meetings Act

A board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, a board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. *Gov't Code 551.074* [See BEC]

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Closed Meeting

A board may conduct a closed meeting on an employee complaint to the extent required or provided by law. *Gov't Code 551.082* [See BEC]

**Record of
Proceedings**

An appeal of a board's decision to the commissioner shall be decided based on a review of the record developed at the district level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is a district's responsibility to make and preserve the records of the proceedings before the board. If a district fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the district. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
 - a. The tape recording must be complete, audible, and clear; and
 - b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the board; and
8. The decision of the board.

19 TAC 157.1073(d)

**Whistleblower
Complaints**

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under a district's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.006* [See DG]

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Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

**Other Complaint
Processes**

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability), shall be submitted in accordance with the DIA series.
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with the DIA series.
3. Complaints concerning retaliation relating to discrimination and harassment shall be submitted in accordance with the DIA series.
4. Complaints concerning instructional resources shall be submitted in accordance with the EF series.
5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with the CKE series.
6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.
7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.

Notice to Employees

The District shall inform employees of this policy through appropriate District publications.

Guiding Principles

Informal Process

The Board encourages employees to discuss their concerns with their supervisor, principal, or other appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

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<i>Mediation</i>	As part of informal resolution, either an employee or an administrator may request mediation to resolve a concern. If either the employee or the administrator requests mediation, both parties shall attend a mediation meeting. Neither party shall be required to accept a proposed resolution, and entering into mediation does not prevent an employee from filing a formal complaint.
Ombudsman	The director of human resources shall assign an ombudsman to conduct a mediation meeting. The ombudsman shall be an impartial, part-time professional who shall receive training each year from the District on policies, regulations, and guidelines and mediation strategies.
Meeting	In the meeting, the employee and the administrator may make a presentation. The employee, administrator, and ombudsman shall discuss potential resolutions to the employee's concerns. The ombudsman may set reasonable time limits and guidelines for the meeting.
Conference Summary	At the end of the meeting, the ombudsman shall prepare a meeting summary. If the employee and administrator have come to a mutually agreed upon resolution, the summary shall reflect that resolution. The employee and administrator shall sign the summary, and a copy of the summary shall be provided to both parties and the director of human resources. The ombudsman shall follow up with both parties in a reasonable time to ensure that the resolution is implemented in accordance with the summary and shall report the follow-up status to the director of human resources.
Direct Communication with Board Members	Employees shall not be prohibited from communicating with a member of the Board regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.
Formal Process	An employee may initiate the formal process described below by timely filing a written complaint form. Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time. The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

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Freedom from Retaliation	Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.
Whistleblower Complaints	Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. Timelines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint. [See DG]
Complaints Against Supervisors	Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaint forms alleging a violation of law by the Superintendent may be submitted directly to the Board or designee.
General Provisions Filing	Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.
Scheduling Conferences	The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the employee's absence.
Response	At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator. Responses shall be sent by electronic communication to the employee's email address of record and by U.S. Mail to the employee's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.
Days	"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Representative	"Representative" shall mean any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process. The employee may designate a representative through written notice to the District at any level of this process. The representative

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may participate in person or by telephone conference call. If the employee designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.

Consolidating
Complaints

Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.

Untimely Filings

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness. A grievant who is untimely a second time shall not be eligible to continue the complaint process.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and
Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the employee unless the employee did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Audio Recording

As provided by law, an employee shall be permitted to make an audio recording of a conference or hearing under this policy at which the substance of the employee's complaint is discussed. The

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employee shall notify all attendees present that an audio recording is taking place.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, employees on a school campus shall file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the employee within 15 days after receipt of the written complaint. Attendees at the conference shall be limited to the employee, the employee's representative, the staff attorney, and the Level One administrator. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

**Introduction of
Evidence**

All parties must introduce all evidence at the initial level of the grievance procedure. All parties may introduce new evidence if the new evidence occurred after the previous hearing date. The new evidence must be received by the opposing party at least five business days prior to the upcoming hearing.

Level Two

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a

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conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The employee may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the employee at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. Attendees at the conference shall be limited to the employee, the employee's representative, the responding party, the staff attorney, and the Superintendent or designee. The conference shall be limited to the issues and documents considered at Level One. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may appeal the decision to the Board.

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The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the employee of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board. The complaint shall be placed on the agenda of a Board meeting held no more than 45 workdays after the employee submits an appeal notice. If the employee is unable to attend the Board meeting, the timeline shall be extended for another 45 workdays.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing.

The grievant has the right to ask for an open or closed hearing before the Board.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The employee or the employee's representative, the responding party, and the staff attorney may make a presentation and provide rebuttal and answer any questions from the Board, for which the presiding officer may set reasonable time limits and guidelines. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

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In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the employee or the employee's representative, the responding party, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

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Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

**Other Complaint
Processes**

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process [has been followed](#):

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability), shall be submitted in accordance with ~~the DIA series~~.
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with ~~the DIA series~~.
3. Complaints concerning retaliation ~~relating~~[related](#) to discrimination and harassment shall be submitted in accordance with ~~the DIA series~~.
4. Complaints concerning instructional resources shall be submitted in accordance with the EF series.
5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with the CKE series.
6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.
7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.

Notice to Employees

The District shall inform employees of this policy through appropriate District publications [and on the District's website](#).

**~~Guiding Principles~~
Informal Process**

The Board encourages employees to discuss their concerns with their supervisor, principal, or other appropriate [campus or District](#) administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

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<i>Mediation</i>	As part of informal resolution, either an employee or an administrator may request mediation to resolve a concern. If either the employee or the administrator requests mediation, both parties shall attend a mediation meeting. Neither party shall be required to accept a proposed resolution, and entering into mediation does not prevent an employee from filing a formal complaint.
Ombudsman	The director of human resources shall assign an ombudsman to conduct a mediation meeting. The ombudsman shall be an impartial, part-time professional who shall receive training each year from the District on policies, regulations, and guidelines and mediation strategies.
Meeting	In the meeting, the employee and the administrator may make a presentation. The employee, administrator, and ombudsman shall discuss potential resolutions to the employee's concerns. The ombudsman may set reasonable time limits and guidelines for the meeting.
Conference Summary	At the end of the meeting, the ombudsman shall prepare a meeting summary. If the employee and administrator have come to a mutually agreed upon resolution, the summary shall reflect that resolution. The employee and administrator shall sign the summary, and a copy of the summary shall be provided to both parties and the director of human resources. The ombudsman shall follow up with both parties in a reasonable time to ensure that the resolution is implemented in accordance with the summary and shall report the follow-up status to the director of human resources.

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~~Direct
Communication with
Board Members~~
~~Employees shall not
be prohibited from
communicating with
a member of the
Board regarding
District operations~~
~~Formal Process
communication
between an
employee and a
Board member
would be
inappropriate
because of a
pending hearing or
appeal related to the
employee~~
Filing
Deadlines

If an employee has engaged in the informal process in an attempt to resolve the complaint with the District and has not reached a resolution during the process, the employee must file a complaint within 15 business days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance.

All deadlines shall be strictly followed unless otherwise required by law or modified by mutual written consent.

An employee may initiate the formal process described below by timely filing a written complaint form.

~~Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time.~~

~~The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.~~ The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

The complaint form shall be filed with the lowest level administrator who has the authority to remedy the alleged problem. In most circumstances, the employee shall file Level One complaints with the campus principal for any complaint on a matter related to a campus. For a complaint that arises on a matter that is unrelated to a campus, the complaint shall be filed with the appropriate District-level administrator.

If the subject matter of the complaint requires a Board decision, is a complaint about a Board member, or is a complaint about the Superintendent, the complaint shall be initiated at the Board level. A preliminary hearing to develop a record or recommendation for the Board may be conducted by an appropriate administrator.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

Option to Continue
Informal Process

Even after initiating the formal complaint process, the employee is encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time.

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Notice of Complaint	A District employee against whom a complaint has been filed shall be provided notice of the complaint in accordance with administrative regulations. The employee shall have sufficient opportunity to submit a written response to the complaint that shall be included in the record of the complaint.
Freedom from Retaliation	Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.
Whistleblower Complaints	Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. Timelines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint. [See DG]
Complaints Against Supervisors	Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee . Complaint forms . Complaints alleging a violation of law by the Superintendent may be submitted directly to the Board or Board's designee.
Direct Communication with Board Members	Employees shall not be prohibited from communicating with a member of the Board regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.
General Provisions Filing	Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax , or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three business days after the deadline.
Scheduling Conferences Hearings	The District shall make reasonable attempts to schedule conferences hearings at a mutually agreeable time. If the employee fails to appear at a scheduled conference hearing, the District may hold the conference hearing and issue a decision in the employee's absence.
Response At Levels One and Two, "response" Decision	A "decision" shall mean a written communication to the employee from the appropriate administrator. Responses shall be sent by electronic communication to the employee's email address of record and by U.S. Mail to the employee's mailing address of

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~~record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline~~ that provides an explanation of the basis of the decision, an indication of each document that supports the decision, and any relief or redress to be provided. A decision shall be issued on the merits of the concern raised in the complaint notwithstanding any procedural errors or the type of relief or redress requested.

~~Days~~

~~"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."~~The decision shall also include information regarding the filing of an appeal in accordance with this policy. After a hearing at Level Three, the decision shall include information on submitting an appeal to the commissioner.

A decision may be hand-delivered, sent by electronic communication to the employee's email address of record, or sent by U.S. Mail to the employee's mailing address of record. Mailed decisions shall be timely if they are postmarked by U.S. Mail on or before the deadline.

Representative

"Representative" shall mean any person who or an organization that does not claim the right to strike and is designated by the employee to represent ~~him or her~~the employee in the complaint process.

The employee may designate a representative through written notice to the District at any level of this process. The representative may participate in person or by telephone conference call. If the employee designates a representative with fewer than three business days' notice to the District before a scheduled ~~conference or~~ hearing, the District may reschedule the ~~conference or~~ hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.

Consolidating
Complaints

~~Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not file~~To promote efficiency in addressing complaints, the appropriate administrator shall determine if separate or serial complaints arising from ~~any~~an event or series of ~~events that have been or could have been addressed in a previous complaint.~~

~~When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.~~

~~Untimely Filings~~

~~All time limits shall be strictly followed unless modified by mutual written consent.~~

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~~If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness. A grievant who is untimely a second time shall not be eligible to continue the complaint process.~~

~~Costs Incurred~~related events shall be consolidated.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and
Appeal Forms

Complaints and appeals under this policy shall be submitted ~~in writing~~ on a form provided by the District.

Copies of any documents that support the complaint should be ~~at-
tached to~~included with the complaint form. If the employee does not have copies of these documents, ~~they~~copies may be presented at the Level One ~~conference~~hearing. After the Level One ~~confer-
ence, no new documents may be submitted by the employee un-
less the employee did not know the documents existed before the~~ Level One ~~conference~~hearing, the employee may supplement the record with additional documents or include additional claims.

Record

A record of each complaint hearing shall be created and retained in accordance with this policy. The record shall include documents submitted by the employee who filed the complaint, documents determined relevant by District personnel, and the decision.

Remand

A complaint or appeal form that is incomplete in any material aspect ~~may~~shall be ~~dismissed but may be refiled with all the required information if the re-filing is within the designated time for filing.~~re-filed, if at Level One, and remanded at all other levels in order to develop an adequate record of the complaint.

If an adequate record has not been developed, the appropriate administrator may remand the complaint to a lower level. The Board or Board committee may remand a complaint to a lower level if at the Board level of review an adequate record has not been developed.

Assignment of
Hearing Officer

When a District employee is the subject of a complaint, the hearing shall be conducted by an administrator who is in a supervisory or higher organizational role. The District employee who is the subject of the complaint shall recuse themselves from reviewing the complaint at any level in the process.

Investigation

The District may conduct an investigation at any level in the complaint process. If the District and the employee mutually agree, all deadlines shall be suspended during an investigation.

Audio Recording

As provided by law, an employee shall be permitted to make an audio recording of a ~~conference or~~ hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place.

Complaint Levels

Level One

~~Complaint forms must be filed:~~

~~8. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and~~

~~9. With the lowest level administrator who has the authority to remedy the alleged problem.~~

~~In most circumstances, employees on a school campus shall file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.~~

~~If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.~~

~~If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.~~

~~The appropriate administrator shall investigate as necessary and schedule a conference with the employee within 15 days after receipt of the written complaint. Attendees at the conference shall be limited to the employee, the employee's representative, the staff attorney, and the Level One administrator. The administrator may set reasonable time limits for the conference.~~

~~Absent extenuating circumstances, the administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.~~

Introduction of Evidence

~~All parties must introduce all evidence at the initial level of the grievance procedure. All parties may introduce new evidence if the new evidence occurred after the previous hearing date. The new evidence must be received by the opposing party at least five business days prior to the upcoming hearing.~~

Level Two

At Level One, the appropriate hearing officer shall hold a hearing with the employee within 10 calendar days after receipt of the written complaint. The hearing officer may set reasonable time limits for the hearing.

The hearing officer shall provide the employee a decision within 20 calendar days following the hearing. In reaching a decision, the hearing officer may consider information provided with the complaint form and any other relevant documents or information the hearing officer believes will help resolve the complaint.

Level Two

If the employee did not receive the relief requested at Level One or if the time for a ~~response~~decision has expired, the employee may request a ~~conference with the Superintendent or designee~~hearing at Level Two to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ~~ten~~20 calendar days of the date of the ~~written~~ Level One ~~response~~decision or, if no ~~response was received,~~ within ~~ten~~decision has been communicated to the employee, within 20 calendar days of the Level One ~~response~~decision deadline.

After receiving notice of the appeal, the Level One ~~administrator~~hearing officer shall prepare and forward a record of the Level One complaint to the Level Two ~~administrator~~. ~~The employee may request~~hearing officer and provide a copy of the Level One record to the employee.

The Level One record shall include:

1. The original complaint form and any attachments.
2. ~~All~~Any other documents submitted by the employee at Level One.
3. ~~The~~If the complaint is against a District employee, the written response of the District employee, if any.
- ~~3.4.~~ 4. The decision issued at Level One and any attachments.
- ~~4.5.~~ 5. All other documents relied upon by the Level One ~~administrator~~hearing officer in reaching the Level One decision.

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The ~~Superintendent or designee~~ shall schedule a conference ~~within ten~~ hearing officer shall hold a hearing within 10 calendar days after the appeal notice is filed. ~~Attendees at the conference shall be limited to the employee, the employee's representative, the responding party, the staff attorney, and the Superintendent or designee. The conference shall be limited to the issues and documents considered at Level One. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.~~ The hearing officer may set reasonable time limits for the hearing.

The ~~Superintendent or designee~~ hearing officer shall provide the employee a ~~written response~~ decision within ~~ten~~ 20 calendar days following the ~~conference~~. The ~~written response shall set forth the basis of the decision~~ hearing. In reaching a decision, the ~~Superintendent or designee~~ hearing officer may consider the Level One record, any additional information provided at prior to the Level Two ~~conference~~ hearing, and any other relevant documents or information the ~~Superintendent or designee~~ hearing officer believes will help resolve the complaint.

Recordings of the Level One and Level Two ~~conferences~~ hearings, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the employee did not receive the relief requested at Level Two or if the time for a ~~response~~ decision has expired, the employee may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ~~ten~~ 20 calendar days of the date of the ~~written~~ Level Two ~~response~~ decision or, if no ~~response was received~~, ~~within ten~~ decision has been communicated to the employee, within 20 calendar days of the Level Two ~~response~~ decision deadline.

~~The Superintendent or designee shall inform the employee of the date, time, and place of the Board.~~ Unless the Board delegates a committee in accordance with law, the Board shall hear the appeal of the Level Two decision.

After receiving notice of the appeal, the Board or Board committee shall hold a meeting to discuss the complaint no later than 60 calendar days after the date on which the Level Two decision was made.

The Superintendent shall inform the employee whether the Board or a Board committee will hear the appeal and of the date, time,

and place of the meeting at which the complaint will be on the agenda for presentation to the Board. ~~The complaint shall be placed on the agenda of a Board meeting held no more than 45 workdays after the employee submits an appeal notice. If the employee is unable to attend the Board meeting, the timeline shall be extended for another 45 workdays~~ or Board committee.

At least five business days before the Board or Board committee meeting, the Superintendent shall provide the employee a description of any information the Board intends to rely on that is not contained in the record created at the previous hearing levels, including any preliminary hearing.

The Superintendent ~~or designee~~ shall provide the Board the record of the Level Two appeal. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. ~~The written response~~ Any other documents submitted by the employee at Level Two.
- ~~3.4.~~ The decision issued at Level Two and any attachments.
- ~~4.5.~~ All other documents relied upon by the administration in reaching the Level Two decision.

~~The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing.~~

~~The grievant has the right to ask for an open or closed hearing before the Board.~~

~~The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]~~

~~The employee or the employee's representative, the responding party, and the staff attorney may make a presentation and provide rebuttal and answer any questions from the Board, for which the presiding officer may set reasonable time limits and guidelines. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.~~ employee may request that the complaint be heard in

open or closed meeting. The District shall honor that request unless the Texas Open Meetings Act or other applicable law requires otherwise. [See BE]

At the meeting, the presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the employee and administration to each make a presentation and provide rebuttal and an opportunity for questioning by Board members.

In addition to any other record of the ~~Board~~ meeting required by law, the Board ~~or Board committee~~ shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the employee or the employee's representative, ~~the responding party~~, any presentation from the administration, and questions from ~~the Board~~ members with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board ~~or Board committee~~ shall then consider the complaint. It ~~may give notice of its~~ shall make a decision ~~orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.~~

no later than 30 calendar days after the date of the Board or Board committee meeting at which the complaint was presented. The employee shall be provided a decision in accordance with this policy and state law.

- **Policy Code BE (Minutes):** Please add language clarifying that both written minutes and official recordings of the Texas School District Board of Trustees meetings are permanent records.

I've revised the policy to indicate that minutes and recordings shall be retained in accordance with Texas State Library and Archive Commission (TSLAC) [requirements for local governments](#). There is some nuance in those requirements. Minutes and audiovisual recordings of open meetings must be retained permanently. However there are some exceptions: for example, recordings in which votes are not made and written minutes are not required by law to be taken have a retention period of two years.

Explanatory Notes

TASB Localized Policy Manual Update 126

BE(LOCAL) BOARD MEETINGS

Several recommended revisions have been made to this policy on board meetings. SB 12 prompted new language at Meeting Place and Time indicating that board meetings will be held outside of typical work hours. Language at Notice to Members has been adjusted to reflect HB 1522, which requires board agendas

to be posted for three business days, rather than 72 hours, before the meeting. This recommended revision appropriately adjusts when the notice of the meeting will be provided to board members.

At Deadline, the recommended revisions are also in response to HB 1522. We offer for your consideration

language requiring that agenda items be submitted 10 calendar days before a meeting. This deadline would provide the district sufficient time to compile items and post an agenda by the statutory deadline. If the district would like to adjust the deadline, please contact your policy consultant.

SB 413 requires roll call voting, so the language at Record Vote has been revised accordingly. A paragraph

in the Minutes section has been removed, as the statement is true for all district records and it is not necessary to separately address retention in this policy. Please refer to CPC(LOCAL) and your district's

record retention procedures.

Please note: We have retained the district's locally developed provisions requiring the board secretary to email proposed agenda items to all board members.

The [Legal Tips for Policy Development](#), available in the Policy Online® Governance and Management Library

(TASB login required), describe common legal concerns and best practices specific to this policy's topic.

BOARD MEETINGS

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(LOCAL)

Meeting Place and Time

The notice for a Board meeting shall reflect the date, time, and location of the meeting.

Regular Meetings

Regular meetings of the Board shall normally be held on the first Tuesday of each month at 5:30 p.m. When determined necessary and for the convenience of Board members, the Board President may change the date, time, or location of a regular meeting with proper notice.

Special or Emergency Meetings

The Board President shall call special meetings at the Board President's discretion or on request by two members of the Board.

Other types of meetings, including but not limited to a Board training, workshop, election canvass, and rescheduled meeting, shall be called at the Board President's discretion or on request by the Superintendent or two members of the Board.

The Board President shall call an emergency meeting when it is determined by the Board President or two members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.

Agenda

Deadline

The deadline for submitting items for inclusion on the agenda is the sixth calendar day at noon before regular meetings and the third calendar day at noon before special meetings.

Preparation

In consultation with the Board President, the Superintendent shall prepare the agenda for all Board meetings. Any Board member may request that a subject be included on the agenda for a meeting, and the Superintendent shall include on the preliminary agenda of the meeting all topics that have been timely submitted by a Board member.

For an item to be included on the agenda for a meeting, the written request of one Board member supported by one additional Board member is required. The member shall make an initial written request to the Superintendent and the District Board secretary. The District Board secretary shall then send the written request to each Board member at his or her email address. All written requests for agenda items and supporting information for agenda items shall be timely submitted in accordance with this policy.

Before the official agenda is finalized for any meeting, the Superintendent shall consult the Board President to ensure that the agenda and the topics included meet with the Board President's approval. In reviewing the preliminary agenda, the Board President shall ensure that any topics the Board or at least two Board members have requested to be addressed are either on that agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not have authority to remove from the

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agenda a subject requested by at least two Board members without specific authorization from those Board members.

Notice to Members

Members of the Board shall be given notice of regular and special meetings at least 72 hours prior to the scheduled time of the meeting and at least one hour prior to the time of an emergency meeting.

Closed Meeting

Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, in accordance with law.

The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BEC]

Order of Business

The order of business for regular Board meetings shall be as set out in the agenda accompanying the notice of the meeting. At the meeting, the order in which posted agenda items are taken may be changed by consensus of Board members.

Rules of Order

The Board shall observe the parliamentary procedures as found in the latest edition of *Robert's Rules of Order, Newly Revised*, except as otherwise provided by law, Board-adopted policy, or Board procedures. Procedural rules may be suspended at any Board meeting by majority vote of the members present. A Board member shall conduct himself or herself in accordance with BBF(LOCAL).

Voting

Voting shall be by electronic vote, voice vote or show of hands, as directed by the Board President. Any member may abstain from voting, and a member's vote or failure to vote shall be recorded in the minutes. [See BDAA(LOCAL) for the Board President's voting rights]

Consent Agenda

When the agenda is prepared, the Board President shall determine items, if any, that qualify to be placed on the consent agenda. A consent agenda shall include items of a routine and/or recurring nature grouped together under one action item. For each item listed as part of a consent agenda, the Board shall be furnished with background material. All such items shall be acted upon by one vote without separate discussion, unless a Board member requests that an item be withdrawn for individual consideration. The remaining items shall be adopted under a single motion and vote.

Minutes

The minutes of each meeting shall be taken by the Board Secretary or clerk and shall contain a summary of the action of the Board with motions and results of votes. A narrative style of writing the minutes shall be used with background material included as necessary. When approved, these minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall

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be approved by vote of the Board and signed by the Board President and the Board Secretary.

The official minutes of the Board shall be retained on file in the office of the Superintendent and shall be available for examination during regular office hours.

**Discussions and
Limitation**

Each member may speak to a question for the first time for no more than five minutes and for the second time no more than three minutes.

Discussions shall be addressed to the Board President and then the entire membership. Discussion shall be directed solely to the business currently under deliberation, and the Board President shall halt discussion that does not apply to the business before the Board.

The Board President shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the Board President shall not interfere with debate so long as members wish to address themselves to an item under consideration.

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(LOCAL)

Meeting Place and Time Board meetings shall be held during a time that is outside of typical work hours. [See FA(LEGAL)]

The notice for a Board meeting shall reflect the date, time, and location of the meeting.

Regular Meetings Regular meetings of the Board shall normally be held on the ~~first Tuesday~~ ~~first Tuesday~~ of each month at ~~5:30 p.m.~~ ~~5:30 p.m.~~ When determined necessary and for the convenience of Board members, the Board President may change the date, time, or location of a regular meeting with proper notice.

Special or Emergency Meetings The Board President shall call special meetings at the Board President's discretion or on request by two members of the Board.

Other types of meetings, including but not limited to a Board training, workshop, election canvass, and rescheduled meeting, shall be called at the Board President's discretion or on request by the Superintendent or two members of the Board.

The Board President shall call an emergency meeting when it is determined by the Board President or two members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.

Agenda
Deadline The deadline for submitting items for inclusion on the agenda is ~~the sixth calendar~~ ~~the 10th calendar~~ day at noon before regular meetings and ~~the third calendar~~ ~~the 10th calendar~~ day at noon before special meetings.

Preparation In consultation with the Board President, the Superintendent shall prepare the agenda for all Board meetings. Any Board member may request that a subject be included on the agenda for a meeting, and the Superintendent shall include on the preliminary agenda of the meeting all topics that have been timely submitted by a Board member.

For an item to be included on the agenda for a meeting, the written request of one Board member supported by one additional Board member is required. The member shall make an initial written request to the Superintendent and the District Board secretary. The District Board secretary shall then send the written request to each Board member at his or her email address. All written requests for agenda items and supporting information for agenda items shall be timely submitted in accordance with this policy.

Before the official agenda is finalized for any meeting, the Superintendent shall consult the Board President to ensure that the agenda and the topics included meet with the Board President's approval. In reviewing the preliminary agenda, the Board President

BOARD MEETINGS

BE
(LOCAL)

shall ensure that any topics the Board or at least two Board members have requested to be addressed are either on that agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not have authority to remove from the agenda a subject requested by at least two Board members without specific authorization from those Board members.

Notice to Members

Members of the Board shall be given notice of regular and special meetings at least ~~72 hours~~ **three business days** prior to the scheduled ~~time~~ **date** of the meeting and at least one hour prior to the time of an emergency meeting.

Closed Meeting

Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, in accordance with law.

The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BEC]

Order of Business

The order of business for regular Board meetings shall be as set out in the agenda accompanying the notice of the meeting. At the meeting, the order in which posted agenda items are taken may be changed by consensus of Board members.

Rules of Order

The Board shall observe the parliamentary procedures as found in the latest edition of *Robert's Rules of Order, Newly Revised*, except as otherwise provided by law, Board-adopted policy, or Board procedures. Procedural rules may be suspended at any Board meeting by majority vote of the members present. A Board member shall conduct himself or herself in accordance with BBF(LOCAL).

~~Voting~~ **Record Vote**

Voting **on any item** shall be ~~by electronic record vote, voice vote or by~~ show of hands, **roll call, or electronic means** as directed by the Board President. Any member may abstain from voting **on an item**, and a member's vote or failure to vote shall be recorded in the minutes. [See BDAA(LOCAL) for the Board President's voting rights]

Consent Agenda

When the agenda is prepared, the Board President shall determine items, if any, that qualify to be placed on the consent agenda. A consent agenda shall include items of a routine and/or recurring nature grouped together under one action item. For each item listed as part of a consent agenda, the Board shall be furnished with background material. All such items shall be acted upon by one vote without separate discussion, unless a Board member requests that an item be withdrawn for individual consideration. The remaining items shall be adopted under a single motion and vote.

BOARD MEETINGS

BE
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Minutes

The minutes of each meeting shall be taken by the Board Secretary or clerk and shall contain a summary of the action of the Board with motions and results of votes. A narrative style of writing the minutes shall be used with background material included as necessary. When approved, these minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall be approved by vote of the Board and signed by the Board President and the Board Secretary.

~~The official minutes of the Board shall be retained on file in the office of the Superintendent and shall be available for examination during regular office hours.~~ [See CPC regarding retention of records.]

**Discussions and
Limitation**

Each member may speak to a question for the first time for no more than five minutes and for the second time no more than three minutes.

Discussions shall be addressed to the Board President and then the entire membership. Discussion shall be directed solely to the business currently under deliberation, and the Board President shall halt discussion that does not apply to the business before the Board.

The Board President shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the Board President shall not interfere with debate so long as members wish to address themselves to an item under consideration.

UPDATE 126 AND DISTRICT-REQUESTED REVISIONS

Meeting Place and Time	<u>Board meetings shall be held during a time that is outside of typical work hours. [See FA(LEGAL)]</u> The notice for a Board meeting shall reflect the date, time, and location of the meeting.
Regular Meetings	Regular meetings of the Board shall normally be held on the first Tuesday<u>first Tuesday</u> of each month at 5:30 p.m.<u>5:30 p.m.</u> When determined necessary and for the convenience of Board members, the Board President may change the date, time, or location of a regular meeting with proper notice.
Special or Emergency Meetings	The Board President shall call special meetings at the Board President's discretion or on request by two members of the Board. Other types of meetings, including but not limited to a Board training, workshop, election canvass, and rescheduled meeting, shall be called at the Board President's discretion or on request by the Superintendent or two members of the Board. The Board President shall call an emergency meeting when it is determined by the Board President or two members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.
Agenda	
Deadline	The deadline for submitting items for inclusion on the agenda is the sixth calendar<u>the 10th calendar</u> day at noon before regular meetings and the third calendar<u>the 10th calendar</u> day at noon before special meetings.
Preparation	In consultation with the Board President, the Superintendent shall prepare the agenda for all Board meetings. Any Board member may request that a subject be included on the agenda for a meeting, and the Superintendent shall include on the preliminary agenda of the meeting all topics that have been timely submitted by a Board member. For an item to be included on the agenda for a meeting, the written request of one Board member supported by one additional Board member is required. The member shall make an initial written request to the Superintendent and the District Board secretary. The District Board secretary shall then send the written request to each Board member at his or her email address. All written requests for agenda items and supporting information for agenda items shall be timely submitted in accordance with this policy. Before the official agenda is finalized for any meeting, the Superintendent shall consult the Board President to ensure that the agenda and the topics included meet with the Board President's

BOARD MEETINGS

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BOARD MEETINGS

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~~The official minutes of the Board shall be retained on file in the office of the Superintendent and shall be available for examination during regular office hours.~~ The official minutes and recordings of Board meetings shall be retained in accordance the Texas State Library and Archives Commission local government retention schedules [Ssee CPC regarding retention of records..]

**Discussions and
Limitation**

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- **Policy Code CSA (Designation and Use of Private Spaces):** Please add language specifying that private spaces must be designated for use strictly by biological males or biological females, as defined by SB 8.

This provision is addressed at CSA(LEGAL) at Designation of Multiple-Occupancy Private Spaces. We don't recommend repeating legal requirements in local policy.

Explanatory Notes

TASB Localized Policy Manual Update 126

CSA(LOCAL) FACILITY STANDARDS: SAFETY AND SECURITY

SB 8 from the Second Special Session prompted the inclusion of a section on Designation and Use of Private Spaces. The superintendent is directed to designate private spaces in accordance with law and to develop regulations to ensure compliance.

FACILITY STANDARDS
SAFETY AND SECURITY

CSA
(LEGAL)

**Safety and Security
Requirements for
Facilities**

Facilities Standards
Compliance

A district must ensure that each district facility complies with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under Education Code 7.061 (Facilities Standards) or provided by other law or agency rule.

A district must develop and maintain documentation of the district's implementation of and compliance with school safety and security facilities standards for each district facility, including a good cause exception claimed under Education Code 37.353 [see Good Cause Exception, below], and shall, if requested by the Texas Education Agency (TEA), provide that documentation in the manner prescribed by TEA.

Education Code 37.351

Good Cause
Exception

If a district is unable to bring a district facility into compliance with a school facilities standard related to safety and security, the district may claim a good cause exception from the requirement to comply with that standard, including for a reason related to:

1. The age, physical design, or location of the noncompliant facility;
2. The projected remaining use or functional life of the noncompliant facility;
3. Availability of funding; or
4. Supply chain obstacles.

A district that claims a good cause exception must develop an alternative performance standard with which the district is able to comply.

A good cause exception claimed by a district expires on the fifth anniversary of the date on which the exception is claimed. On the expiration of the exception, the district must reevaluate whether the district is able to comply with each school facility standard related to safety and security, and if not, renew the claim for an exception and the alternative performance standard.

[See CKE for good cause exception from compliance with armed security officer requirement.]

Education Code 37.353

Security Review

If a district constructs, acquires, renovates, or improves a district facility, the district shall, as soon as practicable, conduct a security review of the facility to:

FACILITY STANDARDS
SAFETY AND SECURITY

CSA
(LEGAL)

1. Determine whether the facility meets school safety and security requirements as described by commissioner rule; and
2. Identify security vulnerabilities at the facility in the event of an active shooter incident and describe strategies to mitigate each vulnerability identified.

Education Code 37.1087

Confidentiality

Any document or information collected, identified, developed, or produced relating to a safety or security requirement is confidential under Government Code 418.177 and 418.181 (Texas Disaster Act) and not subject to disclosure under Government Code Chapter 552 (Public Information Act). *Education Code 37.355.*

**Commissioner's
School Safety Rules
for Instructional
Facilities**

Definitions

The following words and terms when used in 19 Administrative Code 61.1031 shall have the following meanings:

"Actively monitored" means supervised by an adult who can visibly review visitors prior to entrance, who can take immediate action to close and/or lock the door, and whose duties allow for sufficient attention to monitoring.

"Exterior secured area" means an area fully enclosed by a fence and/or wall that:

1. If enclosed by a fence or wall, utilizes a fence or wall at least 6 feet high with design features that prevent it from being easily scalable, such as stone, wrought iron, chain link with slats or wind screen, or chain link topped with an anti-scaling device, or utilizes a fence or wall at least 8 feet high;
2. Is well maintained; and
3. If gated, features locked gates with emergency egress hardware and has features to prevent opening from the exterior without a key or combination mechanism.

"Instructional facility" has the meaning assigned in Education Code 46.001, and includes any real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching curriculum under Education Code 28.002. An instructional facility does not include real property, improvements to real property, or necessary fixtures of an improvement to real property that are part of a federal, state, or private correctional facility or facility of an institution of higher education, medical provider, or other provider of professional or social services over which a school system has no control.

"Modular, portable building" means:

FACILITY STANDARDS
SAFETY AND SECURITY

CSA
(LEGAL)

1. An industrialized building as defined by Occupations Code 1202.002 and 1202.003;
2. Any relocatable educational facility as defined by Occupations Code 1202.004, regardless of the location of construction of the facility; or
3. Any other manufactured or site-built building that is capable of being relocated and is used as a school facility.

“Primary entrance” means:

1. The main entrance to an instructional facility that is closest to or directly connected to the reception area; or
2. Any exterior door the school system intends to allow visitors to use to enter the facility during school hours either through policy or practice.

“School system” means a public independent school district or public open-enrollment charter school.

“Secure vestibule” means a secured space with two or more sets of doors and an office sign-in area where all but the exterior doors shall:

1. Remain closed, latched, and locked;
2. Comply with 19 Administrative Code 61.1031(c)(3)(B) (exterior door construction); and
3. Only open once the visitor has been visually verified.

19 TAC 61.1031(a)

Safety and Security
Standards

The provisions of 19 Administrative Code 61.1031 apply to all school instructional facilities owned, operated, or leased by a school system, regardless of the date of construction or date of lease. The provisions ensure that all school system instructional facilities have access points that are secured by design, maintained to operate as intended, and appropriately monitored. *19 TAC 61.1031(b)*

A school system shall implement the following safety and security standards compliance requirements to all school instructional facilities owned, operated, or leased by the school system.

*Doors,
Entrances, and
Windows*

All instructional facilities campus-wide, including modular, portable buildings, must include the addition of graphically represented alpha-numerical characters on both the interior and exterior of each exterior door location. The characters may be installed on the door, or on at least one door at locations where more than one door

leads from the exterior to the same room inside the facility, or on the wall immediately adjacent to or above the door location. Characters shall comply with the International Fire Code Section 505. The primary entrance of an instructional facility shall always be the first in the entire sequence and is the only door location that does not require numbering. The numbering sequence shall be clockwise and may be sequenced for the entire campus or for each facility individually. The door-numbering process must comply with any and all accessibility requirements related to signage.

Unless a secure vestibule is present, a primary entrance shall:

1. Meet all standards for exterior doors;
2. Include a means to allow an individual located within the building to visually identify an individual seeking to enter the primary entrance when the entrance is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms;
3. Feature a physical barrier that prevents unassisted access to the facility by a visitor; and
4. Feature a location for a visitor check-in and check-out process.

All exterior doors shall:

1. Be, by default, set to a closed, latched, and locked status, except that:
 - a. A door may be unlocked if it is actively monitored or within an exterior secured area; and
 - b. For the purposes of ventilation, a school system may designate in writing as part of its multihazard emergency operations plan specific exterior doors that are allowed to remain open for specified periods of time if explicitly authorized by the school safety and security committee when a quorum of members are present, and only if it is actively monitored or within an exterior secured area;
2. Be constructed, both for the door and door frame and their components, of materials and in a manner that make them resistant to entry by intruders. Unless inside an exterior secured area, doors constructed of glass or containing glass shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to open or otherwise enter through the door (for example, using forced entry-resistant film);

3. Include:
 - a. A mechanism that fully closes and engages locking hardware automatically after entry or egress without manual intervention, regardless of air pressure within or outside of the facility; and
 - b. A mechanism that allows the door to be opened from the inside when locked to allow for emergency egress while remaining locked; and
4. If keyed for re-entry, be capable of being unlocked with a single (or a small set of) master key(s), whether physical key, punch code, or key-fob or similar electronic key device.

Except when inside an exterior secured area, classrooms with exterior entry doors shall include a means to allow an individual located in the classroom to visually identify an individual seeking to enter the classroom when the door is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms.

Except when inside an exterior secured area, all windows that are adjacent to an exterior door and that are of a size and position that, if broken, would easily permit an individual to reach in and open the door from the inside shall be constructed or modified such that the glass cannot be easily broken.

Except when inside an exterior secured area, all ground-level windows near exterior doors that are of a size and position that permits entry from the exterior if broken shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to enter through the window frame (for example, using forced entry-resistant film).

If designed to be opened, all ground-level windows shall have functional locking mechanisms that allow for the windows to be locked from the inside and, if large enough for an individual to enter when opened or if adjacent to a door, be closed and locked when staff are not present.

Roof access doors should default to a locked, latched, and closed position when not actively in use and be lockable from the interior.

All facilities must include one or more distinctive, exterior secure master key box(es) designed to permit emergency access to both law enforcement agencies and emergency responder agencies from the exterior (for example, a Knox box) at a location designated by the local authorities with applicable jurisdiction or provide all local law enforcement electronic or physical master key access to the building(s).

FACILITY STANDARDS
SAFETY AND SECURITY

CSA
(LEGAL)

*Communications
Infrastructure*

A communications infrastructure shall be implemented that must:

1. Ensure equipment is in place such that law enforcement and emergency responder two-way radios can function within most portions of the building(s); and
2. Include a panic alert button, duress, or equivalent alarm system, via standalone hardware, software, or integrated into other telecommunications devices or online applications, that includes the following functionality:
 - a. An alert must be capable of being triggered by campus staff, including temporary or substitute staff, from an integrated or enabled device.
 - b. An alert must be triggered automatically in the event a district employee makes a 9-1-1 call using the hardware or integrated telecommunications devices from any location within the school system.
 - c. With any alert generated, the location of where the alert originated shall be included.
 - d. The alert must notify a set of designated school administrators as needed to provide confirmation of response, and, if confirmed, notice must be issued to the 9-1-1 center of an emergency situation requiring a law enforcement and/or emergency response and must include the location of where the alert originated. A notice can simultaneously be issued to all school staff of the need to follow appropriate emergency procedures.
 - e. For any exterior doors that feature electronic locking mechanisms that allow for remote locking, the alert system will trigger those doors to automatically lock.

*Compliance with
9-1-1 Rules and
Regulations*

In implementing these requirements, school systems shall comply with state and federal Kari's Laws and federal RAY BAUM's Act and corresponding rules and regulations pertaining to 9-1-1 service for school telephone systems, including a multi-line telephone system.

19 TAC 61.1031(c)

*Operating
Requirements*

A school system shall implement the following.

1. Access control. The board shall adopt a policy requiring the following continued auditing of building access:
 - a. Conduct at least weekly inspections during school hours of all exterior doors of all instructional facilities to certify

that all doors are, by default, set to a closed, latched, and locked status and cannot be opened from the outside without a key as required above;

- b. Report the findings of weekly inspections to the school system's safety and security committee and ensure the results are kept for review as part of the safety and security audit;
 - c. Report the findings of weekly inspections to the principal or leader of the instructional facility to ensure awareness of any deficiencies identified and who must take action to reduce the likelihood of similar deficiencies in the future; and
 - d. Include a provision in the school system's applicable policy stating that nothing in a school system's access control procedures will be interpreted as discouraging parents, once properly verified as authorized campus visitors, from visiting campuses they are authorized to visit.
2. Exterior and interior door numbering site plan.
- a. A school system must develop and maintain an accurate site layout and exterior and interior door designation document for each instructional facility school system-wide that identifies all exterior and interior doors in the instructional facility and depicts all exterior doors on a floor plan with an alpha-numeric designation, in accordance with the door numbering specifications established above.
 - b. Copies of exterior and interior door numbering site plans shall be readily available in each campus main office.
 - c. Electronic copies of exterior and interior door numbering site plans shall be supplied to the local 9-1-1 administrative entity so that the site plans can be made available to emergency responders by 9-1-1 dispatchers.
 - d. The site layout and exterior and interior door designation document should be oriented in a manner that depicts true north.
3. Maintenance.
- a. A school system shall perform at least twice-yearly maintenance checks to ensure the facility components func-

tion as required. At a minimum, maintenance checks shall ensure the following:

- (1) Instructional facility exterior doors function properly, including meeting the requirements above;
 - (2) The locking mechanism for any ground-level windows that can be opened function properly;
 - (3) Any perimeter barriers and related gates function properly;
 - (4) All panic alert or similar emergency notification systems in classrooms and campus central offices function properly, which includes at least verification from multiple campus staff and classroom locations that a notification can be issued and received by the appropriately designated personnel, that the alert is successfully broadcast to all campus staff and to appropriate law enforcement and emergency responders, and that a potential threat observed on video triggers an alert from video surveillance monitoring systems;
 - (5) All school telephone systems and communications infrastructure provide accurate location information when a 9-1-1 call is made in accordance with state and federal laws and rules and when an alert is triggered;
 - (6) All exterior master key boxes function properly and the keys they contain function properly;
 - (7) Law enforcement and emergency responder two-way radios operate effectively within each instructional facility; and
 - (8) Two-way radios used by school system peace officers, school resource officers, or school marshals properly communicate with local law enforcement and emergency response services.
- b. A school system shall ensure procedures are in place to require that staff who become aware of a facility component functionality deficiency that would be identified during the twice-yearly maintenance review immediately report the deficiency to the school system's administration, regardless of the status of the twice-yearly maintenance review.

- c. A school system shall promptly remedy any deficiencies discovered as a consequence of maintenance checks.

19 TAC 61.1031(d)

Compliance With
Standards for
Construction

In implementing the requirements of 19 Administrative Code 61.1031, school systems shall comply with the provisions of 19 Administrative Code 61.1040(j). [See CS]

To the extent that any provisions of 19 Administrative Code 61.1031 conflict with rules adopted in Chapter 61, Subchapter CC, (relating to Commissioner's Rules Concerning School Facilities), including terms defined or standards established, the provisions of 19 Administrative Code 61.1031 prevail.

In implementing these requirements, school systems shall comply with the standards adopted under Government Code 469.052 (Elimination of Architectural Barriers).

19 TAC 61.1031(e), (f), (g)

Records Control
Schedule

In implementing these requirements, school systems must adopt a three-year records control schedule that complies with the minimum requirements established by the Texas State Library and Archives Commission schedule, record series item number 5.4.017, as referenced in Government Code 441.169 and Local Government Code 203.041. *19 TAC 61.1031 (h)* [See CPC]

Certification

All requirements above shall be implemented during the 2022- 23 school year and thereafter. Annually, a school system shall certify compliance with those requirements as part of ongoing security audits under Education Code 37.108(b); maintain the certification locally; and report as required by the Texas School Safety Center. Any and all noncompliance shall be reported to the school system's safety and security committee, the school system's board, and the Texas School Safety Center, as required by Education Code 37.108(c). [See CKA]

*Provisional
Certification*

A school system may provisionally certify compliance of a facility component that is not in compliance if:

1. The school system has taken the necessary steps to initiate an upgrade of the facility component to ensure compliance; and
2. For the 2023-24 school year, the contractor or supplier has been procured and has provided a time frame when the upgrade will be completed.

TEA may modify rule requirements or grant provisional certification for individual site needs as determined by TEA.

Rules related to provisional certification expire August 31, 2024.

19 TAC 61.1031(i), (j)

**Silent Panic Alert
Technology**

Beginning with the 2025-26 school year, a district shall provide each classroom in the district with silent panic alert technology that allows for immediate contact with district emergency services and emergency services agencies, law enforcement agencies, health departments, and fire departments.

Silent panic alert technology provided by a district does not satisfy the requirement under Education Code 37.108(a)(2) [see CKC] for the district to ensure employees have classroom access to a telephone or another electronic communication device.

To comply, a district may use funds provided to the district through the school safety allotment or other available funds and may use the district's customary procurement process.

Education Code 37.118

**Breaching Tool and
Ballistic Shield**

Each district must have at least one breaching tool and one ballistic shield available for use at each campus in the event of an active shooter incident. *Education Code 37.1171*

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, appropriate security criteria. *Education Code 46.0081*

Playgrounds

Public funds may not be used to purchase or install:

1. Playground equipment that:
 - a. Does not comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use," published by ASTM International; or
 - b. Has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed;
2. Surfacing for the area under and around playground equipment if the surfacing will not comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing," published by ASTM International.

Exception	Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 2009, even if the equipment or surfacing does not comply with the applicable specifications described above. <i>Health and Safety Code 756.061</i>
Texas Women's Privacy Act Definitions	"Female" means an individual who naturally has or will have, or had or would have but for a congenital anomaly or an intentional or unintentional disruption, a reproductive system designed to produce, transport, and provide eggs for fertilization. "Male" means an individual who naturally has or will have, or had or would have but for a congenital anomaly or an intentional or unintentional disruption, a reproductive system designed to produce, transport, and utilize sperm for fertilization. "Multiple-occupancy private space" means a facility designed or designated for simultaneous use by more than one individual and in which an individual may be in a state of undress in the presence of another individual, regardless of whether the facility provides curtains or partial walls for privacy. The term includes a restroom, locker room, changing room, or shower room. "Sex" means an individual's biological sex, either male or female. "Single-occupancy private space" means a facility designed or designated for use by only one individual at a time and in which the individual may be in a state of undress. The term includes: 1. A single toilet restroom with a locking door that is designed or designated as unisex or for use based on sex; and 2. Sleeping quarters designed or designated for use by one individual. <i>Gov't Code 3002.001</i>
Designation of Multiple-Occupancy Private Spaces	A district shall designate each multiple-occupancy private space in a building the district owns, operates, or controls for use only by individuals of one sex. A district shall take every reasonable step to ensure an individual whose sex is opposite to the sex designated for a multiple-occupancy private space does not enter the private space. <i>Gov't Code 3002.051</i>
Accommodations	A district is not prohibited from: 1. Adopting a policy necessary to accommodate an individual with a disability, a young child, or an elderly individual who re-

quires assistance when using a multiple-occupancy private space;

2. Establishing a single-occupancy private space, family restroom, or changing room; or
3. Changing the designation of a multiple-occupancy private space from the use designated to exclusive use by individuals of the sex opposite to the previously designated sex.

A district is prohibited from providing an accommodation that allows an individual to use a multiple-occupancy private space designated for the exclusive use of individuals of the sex opposite to the individual's sex.

Gov't Code 3002.052

Exceptions

A designation of a multiple-occupancy private space does not apply to:

1. An individual entering a multiple-occupancy private space designated for the exclusive use of individuals of the sex opposite to the individual's sex:
 - a. For a custodial purpose;
 - b. For a maintenance or inspection purpose;
 - c. To render medical or other emergency assistance;
 - d. To accompany and provide assistance to an individual who needs assistance in using the facility;
 - e. For a law enforcement purpose; or
 - f. To render assistance necessary in preventing a serious threat to proper order or safety; or
2. A child who is:
 - a. Nine years of age or younger entering a multiple-occupancy private space designated for the exclusive use of individuals of the sex opposite to the child's sex; and
 - b. Accompanied by an individual caring for the child.

Gov't Code 3002.053

Civil Penalty

A district that violates these requirements is liable for a civil penalty of:

1. \$25,000 for the first violation; and
2. \$125,000 for the second or a subsequent violation.

Each day of a continuing violation constitutes a separate violation.

Gov't Code 3002.101

Complaint and
Notice

A resident of this state may file a complaint with the attorney general against a district for a violation of these requirements only if:

1. The resident provides the district a written notice describing the violation; and
2. The district does not cure the violation before the end of the third business day after the date the written notice is received.

Gov't Code 3002.102(a)

Attorney General
Investigation

Before bringing an action against a district, the attorney general shall investigate a complaint to determine whether legal action is warranted.

The district subject to the complaint shall provide to the attorney general any information the attorney general requests in connection with the complaint, including:

1. Supporting documents related to the complaint; and
2. A statement on whether the district has complied or intends to comply.

If the attorney general determines legal action is warranted, the attorney general shall provide to the appropriate officer of the district charged with the violation a written notice:

1. Describing the violation and location of the multiple-occupancy private space found to be in violation;
2. Stating the amount of the proposed penalty for the violation; and
3. Requiring the district to cure the violation on or before the 15th day after the date the notice is received to avoid the penalty, unless a court previously found the district liable for a violation.

Gov't Code 3002.103

Civil Penalty and
Mandamus

If, after receipt of notice, the district has not cured the violation on or before the 15th day after the date the notice is received or was previously found liable by a court for a violation, the attorney general may bring an action to collect the civil penalty.

In addition to bringing an action, the attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief.

An action may be brought or filed in a district court in the county in which the principal office of the district is located.

The attorney general may recover reasonable expenses incurred in obtaining relief, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Gov't Code 3002.104 (a)-(d)

Private Cause of
Action

A person affected by a district's violation of these requirements may bring a civil action and is entitled to obtain:

1. Declaratory relief;
2. Injunctive relief; and
3. Court costs, including reasonable attorney's and witness fees.

Gov't Code 3002.105(a)

**Building Access
Control**

Audits of building access control shall include weekly inspections of instructional facilities during school hours to certify all exterior doors are, by default, set to closed, latched, and locked status and cannot be opened from the outside without a key.

The Superintendent shall ensure that the findings of the weekly inspections are:

1. Reported to the District safety and security committee; and
2. Reported to the campus principal or lead administrator of the instructional facility to ensure awareness of any deficiencies identified.

The campus principal or lead administrator shall assign appropriate staff to take action to reduce the likelihood of similar deficiencies in the future.

The results of the weekly reports shall be kept for review as part of the required safety and security audit.

The District's building access control procedures shall not be interpreted as discouraging parents or guardians who have been properly verified as authorized visitors from visiting their student's campus. [See GKC]

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The District's building access control procedures shall not be interpreted as discouraging parents or guardians who have been properly verified as authorized visitors from visiting their student's campus. [See GKC]

Designation and Use of Private Spaces

The Board shall ensure that the Superintendent, or appropriate staff as determined by the Superintendent, designates private spaces in accordance with law.

The Superintendent shall develop administrative regulations to ensure compliance with law and policy regarding the use of private spaces in District facilities.

NUMBERED UPDATE 126 AND DISTRICT-REQUESTED REVISIONS

Building Access Control

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The District's building access control procedures shall not be interpreted as discouraging parents or guardians who have been properly verified as authorized visitors from visiting their student's campus. [See GKC]

Designation and Use of Private Spaces

The Board shall ensure that the Superintendent, or appropriate staff as determined by the Superintendent, designates private spaces for exclusive use by biological males or biological females, as defined by law, with accommodations and exceptions as allowed by law [See CSA(LEGAL) at Texas Women's Privacy Act].

The Superintendent shall develop administrative regulations to ensure compliance with law and policy regarding the use of private spaces in District facilities.

- **Policy Code CV (Construction Contracts):** Please update the threshold to \$25,000 in both the first and second paragraphs.

I have revised the threshold for superintendent authority in the second paragraph at Construction Contracts to \$25,000.

We have revised the first paragraph at Construction Contracts so that it simply refers to the competitive purchasing threshold established in law, rather than to a specific dollar amount. That legal threshold is now \$100,000 and is addressed at CV(LEGAL) at Contracts Valued at or Above \$100,000.

Explanatory Notes

TASB Localized Policy Manual Update 126

CSA(LOCAL) FACILITY STANDARDS: SAFETY AND SECURITY

SB 8 from the Second Special Session prompted the inclusion of a section on Designation and Use of Private Spaces. The superintendent is directed to designate private spaces in accordance with law and to develop regulations to ensure compliance.

FACILITIES CONSTRUCTION

CV
(LOCAL)

Compliance with Law

The Superintendent shall establish procedures that ensure that all school facilities within the District comply with applicable laws and local building codes.

Purchase of School Sites

The following shall apply to the purchase of school sites:

1. Every effort shall be made to purchase sites by negotiation with a willing seller at a fair and reasonable price.
2. The Board shall have the power by the exercise of the right of eminent domain to acquire the fee simple title to real property within the District for the purpose of securing sites upon which to construct school buildings or for any other purpose that may be deemed necessary for the District. [See also CHG]
3. If negotiations for the acquisition of a school site are dropped, no payment will be made for services rendered by a realtor who conducted said negotiations.

Construction Contracts

Prior to advertising, the Board shall determine the project delivery/contract award method to be used for each construction contract valued at or above \$50,000. To assist the Board, the Superintendent shall recommend the project delivery/contract award method that he or she determines provides the best value to the District. [See CV series generally and CBB(LEGAL) for requirements if federal funds are involved.]

For construction contracts valued at or above \$50,000, the Superintendent shall also submit the resulting contract to the Board for approval. Lesser expenditures for construction and construction-related materials or services shall be at the discretion of the Superintendent and consistent with law and policy. [See also CH and CBB(LEGAL)]

Note: For provisions regarding delegation of authority for construction contracts in the event of a catastrophe, emergency, or natural disaster affecting the District, see CH(LOCAL).

Change Orders

Change orders permitted by law shall be approved by the Board or its designee prior to any changes being made in the approved plans or the actual construction of the facility.

Project Administration

All construction projects shall be administered by the Superintendent or designee.

The Superintendent shall keep the Board informed concerning construction projects and also shall provide information to the general public.

Final Payment

The District shall not make final payments for construction or the supervision of construction until the work has been completed and the Board has accepted the work.

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