

# Localized Policy Manual

## *Update 88*

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### West Orange-Cove CISD

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Update 88 addresses numerous changes from the Administrative Code. Many of these rule changes are in response to legislation from the 81<sup>st</sup> Texas Legislative Session. Major topics affected by the rule changes include textbooks, district awards for teacher excellence, Family Medical Leave for military service of relatives of district employees, performance appraisals, student physical education, curriculum, automatic admission, assessments, retention and promotion, limited English proficient students, and compulsory attendance.

Changes not stemming from Administrative Code revisions include new local policy text addressing notification to affected individuals in the event of a security breach of electronic data and employee use of electronic media, and new legal provisions addressing juvenile residential facilities and Public Information Act requests.

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

In addition to the updated policies, your Localized Update 88 packet contains:

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

***Vantage Points—A Board Member's Guide to Update 88*** may be found in the separately wrapped package accompanying this packet. ***Vantage Points*** offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute the enclosed copies of *Vantage Points* to your board members** at the earliest possible opportunity, preferably with their review copies of this update.

Update 88 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this Update, please call your policy consultant at 800-580-7529 or 512-467-0222.

## Regarding board action on Update 88 . . .

- Board action on Localized Update 88 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 88, affecting (LOCAL) policies (see attached list).” Policy On Line districts have access to a list of the (LOCAL) policies included in the update through the Local Manual Updates application in myTASB. Other districts may generate a list of the (LOCAL) policy codes added, revised, or deleted (and the titles/subtitles of those policies) using the Instruction Sheet as a guide and attach that list to the posting. BoardBook compilers should use “Policy Update 88, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.
- A suggested motion for board action on Localized Update 88 is as follows:  
*“I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 88 [with the following changes:]”*
- The board’s action on Localized Update 88 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the minutes where they make up the authoritative record of your board’s actions. Include a copy of new, replaced, or rescinded (LOCAL) policies.
- In constructing the separate historical record of the manual, the emphasis is on tracking the history of individual policies. For guidance on maintaining this record, please refer to the **Policy Administrator’s Guide** at [http://www.tasb.org/services/policy/mytasb/admin\\_guide/index.aspx](http://www.tasb.org/services/policy/mytasb/admin_guide/index.aspx).

## Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. If the district uses Policy On Line, you will need to notify us of the board’s action on Update 88 so that your district’s Localized Policy Manual as it appears on TASB’s Web server can be updated. Policy On Line staff may be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618, using the tan form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (<http://www.tasb.org/policy/pol/private/polfdbk.html>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 88 policy changes should be inspected and revised by the district as needed.

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**PLEASE NOTE:** This Localized Update packet and the Update 88 **Vantage Points** may not be considered as legal advice and are not intended as a substitute for the advice of the board’s own legal counsel.

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# Instruction Sheet

## TASB Localized Policy Manual Update 88

District      West Orange-Cove CISD

<b>Code</b>	<b>Action To Be Taken</b>	<b>Note</b>
CCG (LEGAL)	Replace policy	Revised policy
CDB (LEGAL)	Replace policy	Revised policy
CFA (LEGAL)	Replace policy	Revised policy
CMD (LEGAL)	Replace policy	Revised policy
CQ (LEGAL)	Replace policy	Revised policy
CQ (LOCAL)	Replace policy	Revised policy
CS (LEGAL)	Replace policy	Revised policy
DBD (LEGAL)	Replace policy	Revised policy
DEA (LEGAL)	Replace policy	Revised policy
DEAA (LEGAL)	Replace policy	Revised policy
DEC (LOCAL)	No policy enclosed	See explanatory note
DECA (LEGAL)	Replace policy	Revised policy
DECB (LEGAL)	Replace policy	Revised policy
DH (LOCAL)	Replace policy	Revised policy
DL (LEGAL)	Replace policy	Revised policy
DMA (LEGAL)	Replace policy	Revised policy
DNA (LEGAL)	Replace policy	Revised policy
E (LEGAL)	Replace table of contents	Revised table of contents
EEM (LEGAL)	ADD policy	See explanatory note
EFAA (LEGAL)	Replace policy	Revised policy
EHAA (LEGAL)	Replace policy	Revised policy
EHAC (LEGAL)	Replace policy	Revised policy
EHBC (LEGAL)	Replace policy	Revised policy
EHBF (LEGAL)	Replace policy	Revised policy
EHBL (LEGAL)	Replace policy	Revised policy
EIC (LEGAL)	Replace policy	Revised policy
EIE (LEGAL)	Replace policy	Revised policy
EIE (LOCAL)	Replace policy	Revised policy
EK (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy
EKBA (LEGAL)	Replace policy	Revised policy
FD (LEGAL)	Replace policy	Revised policy

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FEA (LEGAL)	Replace policy	Revised policy
FEB (LEGAL)	Replace policy	Revised policy
FFAD (LEGAL)	Replace policy	Revised policy
FOC (LEGAL)	Replace policy	Revised policy
FODA (LEGAL)	Replace policy	Revised policy
GBA (LEGAL)	Replace policy	Revised policy
GBAA (LEGAL)	Replace policy	Revised policy
GNC (LEGAL)	Replace policy	Revised policy

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CCG (LEGAL) LOCAL REVENUE SOURCES  
AD VALOREM TAXES

A new Administrative Code provision, effective March 1, 2010, is cited at HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE, on page 10, and addresses the duration of the homestead exemption in these circumstances.

At REINVESTMENT ZONES—DISTRICT DESIGNATED on page 12, we have added an existing statutory provision that allows the board to designate an area that is entirely within the territory of the school district as a reinvestment zone in certain circumstances. The board's designation of the area must either be reasonably likely to contribute to the expansion of primary employment in the reinvestment zone or attract major investment in the reinvestment zone that would benefit the property and the school district and contribute to the economic development of the region of the state in which the school district is located.

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

Text at SALE, LEASE, OR CONVEYANCE OF ANY INTEREST IN REAL PROPERTY, on page 3, has been revised to reflect modifications to Civil Order 5281 by the Fifth Circuit Court of Appeals in *United States v. Texas* (2010). In this most recent decision, the Fifth Circuit held that some districts are now exempt from Civil Order 5281, which requires certain districts to notify the Commissioner when real property is sold, leased, or otherwise conveyed. For further information on exemption status, see TEA's April 8, 2010, To the Administrator Addressed Letter at <http://ritter.tea.state.tx.us/taa/legal040810.html>.

CFA (LEGAL) ACCOUNTING  
FINANCIAL REPORTS AND STATEMENTS

Changes to the PUBLIC HEARING and notice requirements for the annual financial management report are prompted by amendments to the Administrative Code, effective May 31, 2010. See page 3.

The amendments clarify that the district must give notice of the public hearing to property owners in the geographic boundaries of the district and to parents of district students. Likewise, notice of the hearing must be provided to a newspaper of general circulation in the geographic boundaries of the district. Although not included in policy, the Administrative Code revisions also include changes to the "School FIRST Rating Worksheet" that explains the indicators that TEA uses to assign school district financial accountability ratings and that specifies the minimum financial accountability rating information that the district must report to parents and taxpayers in the district. The revised form may be found at <http://info.sos.state.tx.us/fids/201002534-1.pdf>.

CMD (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

New Administrative Code provisions effective February 22, 2010, affected several sections of this policy:

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- A new funding provision at TEXTBOOK FUNDING—MAXIMUM COST requires the State Board of Education (SBOE) to reduce the approved maximum cost for each nonconforming instructional material according to the calculation described in Administrative Code 66.51(a)(11). A district will be responsible for the cost that exceeds the reduced state maximum cost for these materials.
- The district’s required CERTIFICATION to the SBOE and the Commissioner stating that the district provides students with textbooks, electronic textbooks, or instructional materials that cover all elements of the TEKS now must be made “prior to the beginning of each school year” instead of “annually”; includes enrichment curriculum subjects in addition to foundation curriculum subjects; and must be submitted in a format approved by the Commissioner. See page 5.
- A district is still eligible to receive a TEXTBOOK CREDIT for textbooks purchased at a cost below the price limit set by the SBOE but is only eligible for the credit in the first year of implementation. See page 6.
- In addition, the district must provide NOTIFICATION TO TEA of how the district used the textbook credit and submit an itemized expenditure report to TEA.

We have updated the policy throughout with citations to the new TAC provisions.

#### CQ (LEGAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

Beginning at SECURITY BREACH NOTIFICATION on page 5, we have added more detail about a district’s obligations to notify affected persons in the event of a breach of system security affecting sensitive personal information, including definitions for “breach of system security” and “sensitive personal information.”

The persons that a district must notify in such circumstances and the timelines that a district must comply with vary, as provided by Business and Commerce Code 521.053. According to the statute, if a district owns or licenses the computerized data, the district must notify any Texas resident whose personal information was, or is reasonably believed to have been, acquired. In this case, notification must be made as quickly as possible or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. If a district only maintains, but does not own, the computerized data, the district must immediately notify the owner or license holder. There are exceptions to these timelines if a criminal investigation is pending. In addition, a district required to notify more than 10,000 persons at one time must also notify each consumer reporting agency without unreasonable delay.

Although the district must comply with these legal provisions governing to whom it must give notice and the timing of the notice, a district may use the notification *methods* set out in the district’s policy rather than using the notification methods included in the Business and Commerce Code.

To assist districts in creating such a policy, this update includes provisions that address notification methods in the event of a security breach. See CQ(LOCAL), below.

#### CQ (LOCAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

As described above at CQ(LEGAL), districts may establish their own policies addressing notification methods in the event of a breach of system security affecting sensitive personal information as long as the policies follow the disclosure and timing requirements found in the Business and Commerce Code. A district that establishes and follows its own notification procedures will be in compliance with the law if it notifies affected persons in accordance with its policy.

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While the district is not required to adopt a policy addressing notification methods to be used in the event of a breach of security, the recommended provisions included here simplify the Business and Commerce Code requirements and therefore should be beneficial in the event of a security breach. A district that chooses not to adopt local policy provisions would be required to comply with the more detailed notification procedures found in section 521.053 of the Business and Commerce Code.

The recommended text included at this update allows SECURITY BREACH NOTIFICATION to be made through several methods: written notice, e-mail, posting on the district's Web site, or through broadcast media.

If your district does not wish to add these notification procedures to local policy, please contact your policy consultant.

### CS (LEGAL) FACILITY STANDARDS

We have deleted from this policy, at RELOCATABLE EDUCATIONAL FACILITY, a repealed provision requiring inspection of portable, modular buildings purchased or leased between September 1, 2007, and December 31, 2009.

On page 8, we have revised the text on REPORTING LEAKS of LP-gas systems based on recent amendments to the relevant Administrative Code provisions, effective December 28, 2009. In the event of a leak, the district must still remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. However, if an employee of a school district performs the initial test, the rules prohibit a school employee from performing the subsequent test. New definitions have been added for "school district facility" and "school LP-gas system."

We have also added a citation to the testing procedures at REQUIREMENTS OF TEST on page 7 and updated citations throughout the policy.

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

Changes at TEXTBOOK VIOLATIONS, on page 3, reflect the expanded existing statute prohibiting the receipt of commissions, rebates, gifts, services, or favors related to textbook purchases to also apply to electronic textbooks, instructional materials, and technological equipment. This change is from the 81<sup>st</sup> Texas Legislative Session and was added at EFAA, Textbook Selection and Adoption, at Update 86.

### DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

Rewording of provisions at HEALTH-CARE SUPPLEMENT FOR SUPPORT STAFF, beginning on page 2, clarifies that the salary allotment funds that TEA distributes to districts for the annual health-care supplementation given to certain employees are in addition to wages a district would otherwise pay the employee during the school year and do not constitute an annual salary increase.

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Changes at FAIR LABOR STANDARDS ACT, beginning on page 4, incorporate existing law on BREAKS FOR NONEXEMPT EMPLOYEES and add new provisions requiring districts to provide BREAKS FOR BREASTFEEDING. A district must pay nonexempt employees for rest breaks, including coffee or snack breaks, of up to 20 minutes. Meal breaks of 30 minutes or more are unpaid as long as the employee is completely relieved of job duties during the break. The new breastfeeding provisions require districts to provide a nonexempt employee a reasonable break to express breast milk each time the employee needs to do so for up to one year after a child's birth. The district must make available to the employee a location, other than a bathroom, that is shielded from coworkers and the public. The district is not required to pay a nonexempt employee for a breastfeeding break. Exemptions from the provisions on breaks for breastfeeding apply to districts that employ fewer than 50 employees.

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

As a result of new Administrative Code rules, effective June 24, 2010, we have revised text on the DISTRICT AWARDS FOR TEACHER EXCELLENCE (DATE) program. Changes include:

- Clarification that principals are eligible for DATE awards.
- Revision of the text at EXCLUSION OF CERTAIN EMPLOYEES, allowing a district to exclude principals from the awards and to clarify that a teacher or principal who is no longer at a campus because the employee retired may not be excluded.
- Revision of the text regarding AWARD AMOUNTS to indicate that the district planning committee rather than the board makes exceptions to the minimum award amounts and to indicate that "educators" rather than "teachers" are eligible for awards.

As a result of new Administrative Code rules, effective February 15, 2010, on master technology teachers, we have revised the text at MASTER TEACHER GRANT PROGRAMS on page 2. Grant funds for certified master teachers may now be used to pay a stipend to a master teacher whose primary duties are to teach reading, mathematics, technology, or science.

### DEC (LOCAL) COMPENSATION AND BENEFITS LEAVES AND ABSENCES

As we reviewed your files in preparation for this update, we noticed that your district has not completed the *Leaves and Absences Starting Points*, for DEC(LOCAL), released by TASB Policy Service in spring 2009. This *Starting Points* focused on Family and Medical Leave Act changes resulting from the National Defense Authorization Act of 2008, which created leave related to military service, and comprehensive new FMLA regulations. The *Leaves and Absences Starting Points* incorporates changes from these new laws, state law, and editorial amendments that make the policy easier to read and administer. Please contact your policy consultant before completing the policy development worksheet, which is available in myTASB at [https://www.tasb.org/services/policy/mytasb/starting\\_points/leave/index.aspx](https://www.tasb.org/services/policy/mytasb/starting_points/leave/index.aspx).



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### DECA (LEGAL) LEAVES AND ABSENCES FAMILY AND MEDICAL LEAVE

The National Defense Authorization Act for Fiscal Year 2010, effective October 28, 2009, expands employee leave benefits for a qualifying exigency arising out of a relative's military service. Previously this type of leave was available only if the relative was serving in the reserves. Now it is available if the relative is on "covered active duty," which includes regular service in the armed forces if the relative is being deployed to a foreign country. See QUALIFYING REASONS FOR LEAVE, item 5, on page 2.

Throughout this policy we have added citations to the definitions of relevant terms for ease of use. In addition, we have added a DEFINITIONS section, beginning on page 3, with the definitions of NEXT OF KIN, PARENT, SON OR DAUGHTER, and SPOUSE, since these definitions are frequently needed for reference.

Minor editorial revisions have been made at PREGNANCY OR BIRTH on page 3, FAILURE TO PAY PREMIUMS on page 10, DESIGNATION NOTICE on page 13, and MEDICAL CERTIFICATION OF SERIOUS HEALTH CONDITION on page 15.

### DECB (LEGAL) LEAVES AND ABSENCES MILITARY LEAVE

In addition to several minor editorial changes to make the policy easier to read, we have added margin notes for REEMPLOYMENT after FEDERAL MILITARY LEAVE and for an EXCEPTION to reemployment. Also, the definition of "uniformed services" is now a separate paragraph.

### DH (LOCAL) EMPLOYEE STANDARDS OF CONDUCT

To ensure clear guidance on employee use of electronic media, we have included recommended text at this code, which addresses employee standards of conduct. This text was developed in conjunction with sample text on employee use of electronic media included in the TASB HR Services *Model Employee Handbook* for the 2010–11 school year, available to members of TASB HR Services at [http://www.tasb.org/services/hr\\_services/resources/3lp\\_meh.aspx](http://www.tasb.org/services/hr_services/resources/3lp_meh.aspx). If your district included text on use of electronic media in this year's employee handbook, you will need to be sure that the policy and handbook text are consistent.

The enclosed policy broadly defines ELECTRONIC MEDIA to include all forms of social media, such as text or instant messaging, e-mail, blogs, chat rooms, video-sharing sites, and posting editorial comments on Web sites. All forms of telecommunication, such as landlines, cell phones, and Web-based applications, are also included in the definition.

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The policy distinguishes between an employee's use of electronic media purely for personal use and when communicating with students. The included text allows for limited communications with students. In accordance with administrative regulations, a certified or licensed employee, or any other employee given specific approval, may communicate with currently enrolled students through electronic media about matters within the scope of the employee's professional responsibilities. For example, this might include communications about an assignment or project. All other employees are prohibited from communicating with students using electronic media. The detailed provisions included in the *Model Employee Handbook*, which may serve as the district's administrative regulations, address exceptions for family and social relationships established outside of the school environment, such as through a church or community group. In addition, the *Model Employee Handbook* text limits text messaging to use by a teacher, trainer, or other employee with extracurricular duties who needs to communicate about the extracurricular activity. Also included in the policy is a reminder about complying with the district's record retention policies.

In addition, the policy addresses employee use of electronic media for personal reasons. The intent is to reinforce that professional standards of conduct apply to any type of personal behavior, including the use of electronic media. If such use violates law or district policy or interferes with the employee's ability to effectively perform his or her job duties, the employee may be subject to disciplinary action. Detailed provisions on personal use of electronic media were also included in this year's *Model Employee Handbook*.

#### DL (LEGAL) WORK LOAD

For clarification, we have added two existing statutory provisions:

- At DUTY-FREE LUNCH, the implementation of the 30-minute duty-free lunch requirement may not result in a lengthened school day.
- At EXCEPTION, a classroom teacher or librarian may not be required to supervise students during lunch for more than one day per week, even in the event of exceptional circumstances.

Cross-references to DEA for the definitions of classroom teacher and librarian have also been added.

#### DMA (LEGAL) PROFESSIONAL DEVELOPMENT REQUIRED STAFF DEVELOPMENT

Revisions at STAFF DEVELOPMENT—TRAINING SPECIFICS are from Senate Bill 451 passed by the 81<sup>st</sup> Texas Legislature, effective June 19, 2009. The law requires the district to provide staff development relating to instruction of students receiving special education services. The training must be designed for educators who work primarily outside the area of special education, but the district only has to provide the training to educators who do not possess the knowledge and skills necessary to implement an individualized education program for one of their students.

An existing statutory provision addressing READING ACADEMIES has also been added, beginning on page 1. This provision requires certain middle school teachers who work at a campus that fails to meet a state performance standard on the state reading assessment instrument to attend a reading academy. Only a full-time teacher who teaches English language arts, reading, mathematics, science, or social studies for at least 50 percent of the teacher's instructional duties must attend. Teachers who attend an academy are entitled to a stipend.

Another existing statutory provision has been added on page 3, addressing the staff development training requirements for teachers of an ELECTIVE BIBLE COURSE. These teachers must complete the Commissioner-developed training.

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Clarification regarding the required EXTRACURRICULAR ACTIVITY SAFETY TRAINING, on page 4, is from revised Administrative Code rules, effective March 10, 2009. Trainers who have completed the educational requirements for licensure and continuing education requirements for a licensed athletic trainer do not have to complete the extracurricular safety training.

### DNA (LEGAL) PERFORMANCE APPRAISAL EVALUATION OF TEACHERS

We have deleted several detailed provisions specifically addressed in the *Professional Development System and Appraisal Teacher Manual* published by TEA and have made editorial changes throughout the policy. The *Manual* may be accessed at <http://www5.esc13.net/pdas/docs/PDASTeacherManual.pdf>.

Amended Administrative Code rules, effective February 17, 2010, resulted in the following policy changes:

- Districts are required to submit to their regional ESC a summary of the evaluation scoring from all campuses in the district. A pre-existing rule also requires each district to notify the ESC of the district's choice of appraisal system. See INFORMATION TO SERVICE CENTER, on page 2.
- At least three weeks before the first formal observation, districts must provide all teachers with an annual review of the district's teacher appraisal policy and of Administrative Code provisions addressing teacher appraisal. See ORIENTATION AND ANNUAL REVIEW, also on page 2.
- As reflected at APPRAISERS on page 3, a campus administrator who is a certified PDAS appraiser must conduct the appraisal, not necessarily "the teacher's supervisor."
- In several locations, the term "appraiser" has been changed to "certified appraiser."

In addition, we have added, on page 5, existing text from Administrative Code provisions addressing INTERVENTION PLANS. An intervention plan must be developed if, after an evaluation, a teacher is identified as a "teacher in need of assistance" and may be developed at any time if the appraiser has documentation that would potentially produce an evaluation rating of "below expectations" or "unsatisfactory."

### E (LEGAL) INSTRUCTION

We have revised the E section table of contents to add new code EEM, Juvenile Residential Facilities, and to retitle EHB, Career and Technical Education.

### EEM (LEGAL) INSTRUCTIONAL ARRANGEMENTS JUVENILE RESIDENTIAL FACILITIES

This new policy, providing an overview of instructional services to students in juvenile residential facilities is recommended for inclusion in the district's policy manual. The responsibility to educate these students stems from the general responsibility to educate district residents. Therefore, a district is obligated to provide educational services to these students if educational services are not otherwise being provided. Highlights of the policy include the following:

- Provisions on FUNDING for services provided to students in juvenile residential facilities have been moved unaltered from FODA(LEGAL).
- DEFINITIONS of relevant terms are included.

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- Detailed ENROLLMENT procedures have been included. These require the school district providing educational services in a facility to ensure on the first day of the student's arrival at the facility that the student is enrolled in the district or, by local agreement, in the student's locally assigned district.
- CLASS SIZE must not exceed one certified teacher to 24 students.
- The providing district must administer a PRE-ASSESSMENT to students in a post-adjudication secure correctional facility.
- CURRICULUM must provide students with the subjects and courses necessary to complete the Minimum High School Program.
- Students must be given the appropriate AWARD OF CREDIT for coursework completed in the facility.
- The LENGTH AND NUMBER OF SCHOOL DAYS are the same as for students not enrolled in a facility. Students in a facility must be provided at least five and one-half hours of required secondary curriculum per day.

### EFAA (LEGAL) INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION TEXTBOOK SELECTION AND ADOPTION

New Administrative Code rules, effective February 22, 2010, provide clarification on the requirement for each district to purchase a CLASSROOM SET OF TEXTBOOKS for each subject and grade level. A "classroom set" is defined as the total count of SBOE-adopted textbooks on the conforming or nonconforming list necessary to provide one copy to each student during the class period. Likewise, a classroom "kit" that includes materials for every student in the classroom also meets the definition of a classroom set. See page 2.

### EHAA (LEGAL) BASIC INSTRUCTIONAL PROGRAM REQUIRED INSTRUCTION (ALL LEVELS)

Consistent with terminology used in updated Administrative Code rules, effective April 21, 2010, we have revised the list of ENRICHMENT CURRICULUM subjects to change career and "technology" to career and "technical" education. See also the explanatory note for EHBF, below.

From amended Administrative Code rules on curriculum requirements, effective December 23, 2009, a PHYSICAL EDUCATION course must now offer students an opportunity to choose among many types of physical activity, offer both cooperative and competitive games, and be an enjoyable experience for students. On a weekly basis, at least half of a physical education class must be used for actual physical activity, which, to the extent practical, must be at a moderate or vigorous level. See page 3.

### EHAC (LEGAL) BASIC INSTRUCTIONAL PROGRAM REQUIRED INSTRUCTION (SECONDARY)

Changes to this policy are based on revised Administrative Code rules addressing curriculum, effective April 21, 2010, and include:

- A new provision allowing districts to offer flexible learning arrangements, including mixed-age programs, for students in GRADES 6–8;

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- Implementation information for the middle school FINE ARTS REQUIREMENT, which begins in fall 2010;
- At GRADES 9–12 COURSE OFFERINGS, deletion of the requirement for a student to take the Foundations of Personal Fitness course, making the course optional; and
- The addition of eight new career and technical education career clusters and revision of existing career clusters.

In addition, details on the ALCOHOL AWARENESS INSTRUCTION required as part of any health education course have been added, on page 6, as a result of amendments to Administrative Code provisions effective December 23, 2009.

### EHBC (LEGAL) SPECIAL PROGRAMS COMPENSATORY/ACCELERATED SERVICES

Text from existing Administrative Code provisions on the optional flexible school day program (OFSDP) was added on page 6 to clarify that:

- A student enrolled in an OFSDP may participate in a UIL activity only if the student meets all UIL eligibility criteria (see EXTRACURRICULAR PARTICIPATION); and
- Each district must conduct an ANNUAL PERFORMANCE REVIEW of student performance under the OFSDP disaggregated by race, ethnicity, gender, and socioeconomic status.

### EHBF (LEGAL) SPECIAL PROGRAMS CAREER AND TECHNICAL EDUCATION

We have revised the title of this policy from “Career and Technology Education” to “Career and *Technical* Education” to reflect new terminology in federal law and, effective June 7, 2010, in the Administrative Code. This new terminology appears in multiple places throughout the policy. However, because the Education Code still uses the phrase “career and technology,” provisions citing the Education Code have not been changed.

An existing statutory provision requiring the board to consider the state plan for career and technology education in developing a district career and technology program has been added along with a margin note, CAREER AND TECHNOLOGY PROGRAM, to page 1.

At STUDENT ORGANIZATIONS, on page 3, we have added a list of career and technical student organizations recognized by the U.S. Department of Education and TEA.

### EHBL (LEGAL) SPECIAL PROGRAMS HIGH SCHOOL EQUIVALENCY

We have made the following changes to reflect amended Administrative Code rules on high school equivalency, effective April 28, 2010:

- The first paragraph of the policy, describing the purpose of a High School Equivalency Program (HSEP), has been rephrased.
- The maximum hours of instruction a student may attend per day in an HSEP has been revised from six hours to ten hours (see OPERATION OF PROGRAM).

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- The previous requirements that the ANNUAL REVIEW progress report be submitted on a standard form and the results be disaggregated by ethnicity, age, gender, and socioeconomic status have been deleted.
- On page 2, the definition of a STUDENT AT RISK has been revised to eliminate from the definition certain students who left school before grade 9.
- At STATE ASSESSMENT, new references have been added to end-of-course exams for students who first enter grade 9 during or after the 2011–12 school year.

Finally, at EXTRACURRICULAR PARTICIPATION on page 3, we have added an existing Administrative Code provision prohibiting a student enrolled in an HSEP from participating in a UIL activity.

#### EIC (LEGAL) ACADEMIC ACHIEVEMENT CLASS RANKING

New Administrative Code provisions on AUTOMATIC ADMISSION TO AN INSTITUTION OF HIGHER EDUCATION, effective November 26, 2009, and May 26, 2010, are reflected throughout this policy. To be eligible for automatic admission, in addition to existing requirements, a student must submit an official transcript or diploma that, by the end of the student's junior year, indicates whether the student has satisfied the requirements regarding successful completion of the Recommended or Advanced/Distinguished Achievement graduation program. A cite to the relevant Administrative Code section provides more information on whether a student has successfully completed the graduation program. A student with a grade point average in the top ten percent of his or her class must also submit a completed application for admission in accordance with the institution of higher education's deadline.

Information on admission of students in the top 25 percent of their high school class to certain universities has been added to the eligibility requirements on page 1 and at CLASS RANK on page 3.

In providing information about automatic admission to junior and senior students, districts must now obtain written acknowledgment of receipt of the notification from the student and student's parent. See DISSEMINATION, beginning on page 2.

A change regarding the timing of the class rank calculation used for automatic admission decisions appears at CLASS RANK, on page 3. Under the new Administrative Code provisions, the admissions decision must be based on the most recent available class rank, which cannot be earlier than the end of grade 11. Previously, class rank was required to be based on the student's rank at the end of the eleventh grade, the middle of the twelfth grade, or at high school graduation, whichever was most recent at the time of the application deadline.

#### EIE (LEGAL) ACADEMIC ACHIEVEMENT RETENTION AND PROMOTION

We have made numerous changes to this policy as a result of major revisions to Administrative Code rules addressing retention and promotion, effective April 19, 2010. The Administrative Code revisions align the rules with Education Code provisions changed during the 81<sup>st</sup> Texas Legislative Session. Policy changes are as follows:

- We have added a new provision requiring districts to implement GRADE ADVANCEMENT REQUIREMENTS in accordance with the Administrative Code and TEA's Grade Placement Committee (GPC) Manual. We have revised the provision requiring notice to parents of the advancement requirements, which now must be provided at the beginning of the school year.

# Explanatory Notes

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- Consistent with statute, at PROMOTION beginning on page 1, a student who does not demonstrate proficiency may advance to the next grade only if (1) the student has completed all required accelerated instruction; (2) the district has considered the recommendation of the student's teacher, the student's grades, the student's assessment scores, and any other necessary academic information; and (3) the student is assigned to a highly qualified teacher in the subject of the failed assessment.
- A student is an ELIGIBLE STUDENT, and thus subject to grade advancement requirements, if the student is enrolled in a district on any day between January 1 and the first assessment date. A student who enrolls after the first assessment date is not subject to the grade advancement requirements, but the district must still provide the student with the opportunity to test and access to accelerated instruction. See page 2.
- As reflected on page 4, when a student demonstrates UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, accelerated instruction must be based on guidelines and strategies as outlined in the GPC manual. Details are no longer included in the Administrative Code.
- A student who demonstrates UNSATISFACTORY PERFORMANCE ON GRADE ADVANCEMENT TESTS must be provided the required accelerated instruction before the next assessment administration.
- At AFTER EARLY IDENTIFICATION OF AT-RISK STUDENTS on page 5, districts no longer need to consider the results of the reading inventory for students in grade 2 in identifying such students. Notice to parents must now include information about required accelerated instruction.
- We have added existing provisions requiring the superintendent to establish procedures for convening the GRADE PLACEMENT COMMITTEE and requiring the district to make a good faith effort to notify parents of the GPC meeting. Minor revisions to this section were made to align the text with changes to the Administrative Code.
- At RETENTION AND APPEAL, beginning on page 7, changes clarify that a student may be promoted only if the student has completed all required accelerated instruction. Likewise, the changes clarify that the GPC must follow the procedures in the GPC manual.
- We have deleted a specific statement requiring a district to determine a TRANSFER STUDENT'S testing history and accelerated instruction program, since it no longer appears in the Administrative Code. See page 9.
- We have added a reference to an exception from grade advancement testing for LIMITED ENGLISH PROFICIENT (LEP) STUDENTS.
- We have added a clarification that decisions regarding assessments for limited English proficient SPECIAL EDUCATION STUDENTS must be made by the ARD committee in conjunction with the language proficiency assessment committee.
- Throughout the policy, other minor conforming changes were made, and several provisions were reordered to be consistent with the Administrative Code provisions.

EIE (LOCAL) ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

As mentioned above at EIE(LEGAL), major revisions were made to the Administrative Code rules addressing retention and promotion, effective April 19, 2010. As a result, we have included several recommended changes to the district's local policy text.

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At ACCELERATED INSTRUCTION FOR GRADES 3–8, a new paragraph is recommended to address the requirement that any student in grades 3–8 who fails to demonstrate proficiency on a state-mandated assessment receive accelerated instruction. Students in grades 5 and 8 are also subject to the GRADE ADVANCEMENT TESTING requirements, previously referred to as the “student success initiative” in the margin notes and text of the policy.

At DEFINITION OF PARENT, we have indicated that an authorization agreement may also be used to designate responsibility for a student in all school-related matters.

The STANDARDS FOR PROMOTION UPON APPEAL previously listed in the policy are recommended for deletion as they no longer appear in the Administrative Code. The GPC must consider the standards listed at EIE(LLEGAL), RETENTION AND APPEAL, and any additional standards adopted by the board. A slight rephrasing of the provision addressing promotion after an appeal clarifies that a student may not be promoted unless the student has first completed the required accelerated instruction. On July 1, 2010, TEA released a “To the Administrator Addressed” letter explaining that districts can request a waiver to adjust the timeline for accelerated instruction required after the third failed assessment. The letter may be accessed at <http://ritter.tea.state.tx.us/taa/studassmt070910.html>.

### EK (LEGAL) TESTING PROGRAMS

At LOCAL ACHIEVEMENT TESTING, we have deleted several provisions based on amendments to the Administrative Code, effective April 21, 2010. Because the Education Code no longer requires a company or organization that scores an assessment instrument to report the results electronically to the district and to TEA, that requirement has been deleted from the Administrative Code and this policy. Likewise, a district that develops its own assessment instrument is no longer required to report the results electronically to TEA. Also removed is the previous prohibition on a district using the same form of an assessment instrument for more than three years.

### EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

We have updated this policy to reflect new terminology used in amended Administrative Code rules, effective December 23, 2009. Where appropriate, references to “test” have been replaced with “assessment.”

New material on the IMPLEMENTATION SCHEDULE of end-of-course assessments has been added from Administrative Code provisions, effective October 18, 2009, December 23, 2009, and February 22, 2010. See page 3.

At SPECIAL EDUCATION, on page 5, an existing statutory provision requiring each testing accommodation to be documented in the student’s IEP has been added.

Citations have been updated throughout this policy.

### EKBA (LEGAL) STATE ASSESSMENT LEP STUDENTS

Significant changes to the Administrative Code, effective February 22, 2010, and to this policy as a result, have been made to incorporate changes from House Bill 3 passed during the 81<sup>st</sup> Texas Legislative Session. In addition to reordering several provisions in this policy, we have:



## Explanatory Notes

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- Added new documentation requirements for the LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC) regarding assessment postponements and exemptions and exclusions of test results for limited English proficient (LEP) students;
- Deleted the DEFINITION of “recent immigrant”;
- Rephrased text at SUBSEQUENT YEARS, on page 2, to better match the statutory language;
- Added existing statutory detail at REFUSAL OF SERVICES to clarify that if a parent declines bilingual/ESL services, the student is not eligible for an exemption or postponement and the district may not exclude the test results;
- Amended the text at FEDERAL ACCOUNTABILITY TESTING on page 3 to delete the sentence providing that exempt students assessed only for federal accountability purposes are not subject to grade advancement provisions of the Student Success Initiative;
- Added a new provision at EXIT-LEVEL ASSESSMENT POSTPONEMENT that allows a postponement of the exit-level assessment during an LEP student’s first 12 months of enrollment in a U.S. school, unless the student would not have another opportunity to take the assessment before graduation;
- Added existing Administrative Code provisions regarding ASSESSMENT IN SPANISH;
- Added new provisions on page 4 regarding ASYLEE AND REFUGEE TEST RESULT EXCLUSION from the district’s accreditation and performance ratings;
- Added new documentation requirements regarding testing and exemptions of LEP STUDENTS IN SPECIAL EDUCATION; and
- Added a new provision on page 5 that subjects LEP students to GRADE ADVANCEMENT REQUIREMENTS, unless they are eligible for an exemption or exclusion.

#### FD (LEGAL) ADMISSIONS

We have rephrased the text at ILLEGAL ALIENS on page 4 to better match the holding of the U.S. Supreme Court case *Plyler v. Doe*. The text now reflects that denying enrollment “based upon immigration status” to children who are not legally admitted into the U.S violates the Equal Protection Clause.

We have added a link to the AUTHORIZATION AGREEMENT form published by the Department of Family and Protective Services that parents may use to authorize the nonparent relatives listed in the policy to perform certain acts in regard to their child.

Citations have also been adjusted.

#### FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

This policy was amended to reflect changes in Administrative Code rules, effective February 22, 2010, addressing allowable travel for certain excused absences. A student who is absent to complete paperwork regarding CITIZENSHIP PROCEEDINGS, to participate in a naturalization oath ceremony, or to serve as an ELECTION CLERK is allowed one day of excused absence for traveling to the site and one day of excused absence for traveling from the site. See pages 3 and 4.

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We have added an existing provision specifying that absences for HEALTH-CARE APPOINTMENTS should be supported by a document, such as a note from the health-care professional.

FEB (LEGAL) ATTENDANCE  
ATTENDANCE ACCOUNTING

Administrative Rules, revised effective February 22, 2010, require a student to be enrolled for at least two hours “of instruction” to be considered in attendance for one half day, and for at least four hours “of instruction” to be considered in attendance for one full day. See MINIMUM ENROLLMENT, on page 1.

As with FEA(LLEGAL), this policy was amended to reflect allowable travel time for excused absences to attend CITIZENSHIP PROCEEDINGS, to participate in a naturalization oath ceremony, or to serve as an ELECTION CLERK. These changes, reflected on page 3, are from Administrative Code rules, revised effective February 22, 2010.

FFAD (LEGAL) WELLNESS AND HEALTH SERVICES  
COMMUNICABLE DISEASES

In accordance with revised Administrative Code rules, effective January 1, 2010, we have made extensive revisions to this policy:

- A local school authority, defined as the superintendent or superintendent’s designee, must report in accordance with 25 Administrative Code 97.131–.135 a child who is attending school and is suspected, based on medical evidence, of having a sexually transmitted disease or who is an HIV-exposed infant. See SEXUALLY TRANSMITTED DISEASES (STD) AND HIV.
- If the local school authority fails to make a required report, another person, as listed in the policy, is required to do so.
- Knowingly failing to report a reportable disease or health condition is a class B misdemeanor. See PENALTIES.

Changes at READMITTANCE are from existing Administrative Code rules and have been made to better match the text of the rules—the Department of State Health Services regional director assists with readmittance issues if there is no local health authority, and certification of the student’s health may be made by an advanced nurse practitioner or physician assistant in addition to an attending physician.

In addition, at REPORTS, the reference to the Texas Board of Health has been updated to the Department of State Health Services and, at EXCLUSION, the reference to the Texas Board of Health has been updated to the commissioner of health.

We have also added, on page 2, a link to the DSHS Communicable Disease Chart for Schools and Child-Care Centers.

FOC (LEGAL) STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION  
SETTING

At CERTAIN ORGANIZATION AND GANG MEMBERSHIP AND SOLICITATION on page 3, we have added an existing Education Code provision that requires a board or educator to recommend DAEP placement for a student who commits the misdemeanor offense of being a member of, pledging to become a member of, or soliciting another person to join a public school fraternity, sorority, secret society, or gang. This provision also appears in FNCC(LLEGAL).

# Explanatory Notes

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Revisions at NOT GUILTY/INSUFFICIENT EVIDENCE/CHARGES DROPPED and APPEAL AFTER PLACEMENT UPHeld, on pages 7 and 8, have been made to better track the statutory language.

FODA (LEGAL) EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

As mentioned previously, the provisions on funding for services provided to students in juvenile residential facilities have been moved to the new code EEM(LEGAL).

GBA (LEGAL) PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

HB 3544, from the 81<sup>st</sup> Texas Legislature, creates an exception to the general rule that E-MAIL ADDRESSES used by a member of the public to communicate with a district are confidential. The exception provides that an e-mail address provided to a district for the purpose of receiving decisions from the district or to comment on or receive notices related to an application for a license are not confidential. For a school district, this might apply, for example, if a citizen provides his or her e-mail address to receive notice of board activity or information on a professional license or certificate. See page 4.

GBAA (LEGAL) INFORMATION ACCESS  
REQUESTS FOR INFORMATION

This policy has been revised, on page 8, regarding PREVIOUS DETERMINATIONS of the attorney general. Under current law, when the attorney general has issued a previous determination decision on information that is the subject of a request, the district may not request another attorney general decision on the SAME INFORMATION. A citation to the relevant open record decision, No. 673, has been added.

When the attorney general has issued a previous determination decision that a *category* of information is not subject to disclosure under the Public Information Act, a district may withhold information that falls within that category without first seeking an attorney general decision. Recently, the attorney general issued Open Record Decision 684 (2010), which provides a list of CATEGORIES OF INFORMATION for which the attorney general has issued a previous determination. If a district receives a request for information that falls within one of the categories, it may withhold the information without first seeking an attorney general decision. In addition to the categories addressed in ORD-684, the attorney general has previously determined that a district may withhold personally identifiable, non-directory information in "education records" as defined by FERPA. A citation to the relevant open record decision, No. 634, has been added.

# Explanatory Notes

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### GNC (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES COLLEGES AND UNIVERSITIES

This policy has been reworked to consolidate into one policy the relevant statutory text addressing various relationships with colleges and universities. For this purpose, we have duplicated provisions currently located in CX(LEGAL) addressing agreements between school districts and community colleges or institutions of higher education regarding educational complexes, instructional facilities, stadiums, and other athletic facilities. We have revised the text at COLLEGE COURSES IN DISTRICT FACILITIES to include a statement that either party may terminate a contract to provide such courses by giving the other party at least one year's notice.

We have also added provisions that are currently included in the *Community College Policy Reference Manual* but that have not been included in school districts' manuals. These provisions address INSTRUCTIONAL PARTNERSHIPS WITH COMMUNITY COLLEGE DISTRICTS, including a listing of the types of such partnerships and details on the various agreements. Provisions at PLAN TO INCREASE HIGHER EDUCATION ENROLLMENT were reordered and shortened.

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

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(LEGAL)

MAINTENANCE TAX	The Board may levy, assess, and collect annual ad valorem taxes for the maintenance of the District's schools. <i>Education Code 45.002</i>
TAX RATE CAP	<p>If authorized by a majority of qualified voters of the District voting at an election held for that purpose, the District may impose a maintenance tax rate at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per \$100 of taxable value adopted by the District may not exceed the rate equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by \$1.50.</p> <p>A rate that exceeds this maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.</p> <p>Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than \$1.50 per \$100 of taxable value in the District as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per \$100 of taxable value that is equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by the rate of the maintenance tax levied by the District for the 2005 tax year.</p> <p><i>Education Code 45.003(a), (d), (e), (f)</i></p>
APPRAISAL ROLL	<p>By August 1 or as soon thereafter as practicable, the District's tax assessor shall submit to the Board the District's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.</p> <hr/> <p><b>Note:</b> The Texas comptroller of public accounts annually publishes <i>Truth in Taxation: A Guide for Setting School District Tax Rates</i>. School districts should consult the <i>Truth in Taxation</i> guide, available in print form or through the comptroller's Web site, for detailed guidance on setting local property tax rates.</p> <hr/> <p>By August 1 or as soon thereafter as practicable, the District's tax collector shall certify to the Board the estimates and amounts required by law.</p> <p><i>Tax Code 26.04(b)</i></p>
CERTIFIED ESTIMATE	By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of District property. <i>Tax Code 26.01(e)</i>

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MEETING ON BUDGET AND PROPOSED TAX RATE	<p>The Board shall call a public meeting to discuss and adopt its budget and proposed tax rate. The Board must provide notice of the budget and proposed tax rate meeting, as described below. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. [See CE]</p>
PUBLISHED NOTICE	<p>The Board President shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the District. If no daily, weekly, or biweekly newspaper is published in the District, the President shall provide for publication of notice in at least one newspaper of general circulation in the county in which the District's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.</p>
FORM OF NOTICE	<p>The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law.</p> <p>The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.</p>
TAXPAYER INJUNCTION	<p>If the District has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the District is entitled to an injunction restraining the collection of taxes by the District. An action to enjoin the collection of taxes must be filed before the date the District delivers substantially all of its tax bills.</p>
DISTRICTS WITH JULY 1 FISCAL YEAR	<p>A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of District property in preparing the published notice if the District does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the District may not adopt a tax rate before the District receives the certified appraisal roll for the District.</p> <p>After receipt of the certified appraisal roll, the District must publish a revised notice and hold another public meeting before the District may adopt a tax rate that exceeds:</p> <ol style="list-style-type: none"><li>1. The rate proposed in the notice prepared using the estimate; or</li></ol>

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2. The District's rollback rate determined under Tax Code 26.08 using the certified appraisal roll.

*Education Code 44.004*

TAX RATE

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

The Board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The budget shall be adopted before the adoption of the tax rate. *Tax Code 26.05(b); Education Code 44.004(g)*

EXCEPTION

The District may adopt a budget after the District adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the District elects to adopt a tax rate before receiving the certified appraisal roll for the District. The Board may adopt a tax rate for the current tax year before receipt of the certified appraisal roll if the chief appraiser of the appraisal district in which the District participates has, by April 30, certified to the assessor for the District an estimate of the taxable value of property in the District as provided by Education Code 26.01(e). If the District adopts a tax rate before the adoption of the budget, the effective tax rate and the rollback tax rate of the District shall be calculated based on the certified estimate of taxable value. *Education Code 44.004(j); Tax Code 26.01(e), 26.05(g)*

EFFECTIVE TAX RATE

The vote on the ordinance setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate."

MAINTENANCE AND  
OPERATIONS TAX  
RATE

If the ordinance sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the Board must include in the ordinance in type larger than the type used in any other portion of the document the following statement: "THIS

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TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

INTERNET POSTING

The District shall also include on the home page of any Internet Web site operated by the District the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

*Tax Code 26.05(b)*

ELECTION TO RATIFY  
SCHOOL TAXES

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

*Tax Code 26.08(a)*

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

APPROVAL OF  
PROPOSITION

If a majority of votes cast in the District favor the proposition, the tax rate for the current year is the rate that was adopted by the Board. If the proposition is not approved, the Board may not adopt a tax rate for the current year that exceeds the District's rollback tax rate. *Tax Code 26.08(c), (d)*

CALL FOR  
ELECTION

A call for an election shall be made not later than the 62nd day before election day.



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EXCEPTIONS	<p>For an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day.</p> <p>An election under Tax Code 26.08 to ratify a tax rate adopted by the Board under Tax Code 26.05(g) shall be ordered not later than the 30th day before election day.</p> <p><i>Election Code 3.005 [See BBB]</i></p>
NOTICE TO COUNTY CLERK	<p>The Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day.</p>
EXCEPTION	<p>If the Board orders an election under Tax Code 26.08 to ratify a tax rate adopted by the Board under Tax Code 26.05(g), the Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 30th day before election day.</p> <p><i>Election Code 4.008</i></p>
PRECLEARANCE REQUIRED	<p>A rollback election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a rollback election or scheduling of events leading up to or following a rollback election is subject to the preclearance requirement. <i>28 CFR 51.17 [See BBB]</i></p>
DISCOUNTS	<p>The Board may adopt one or both of the following discount options for early payment of District taxes.</p>
OPTION 1	<p>If the Board adopts Option 1, the following apply regardless of the date on which the District mails its tax bills.</p> <ol style="list-style-type: none"><li>1. Three percent if the tax is paid in October or earlier.</li><li>2. Two percent if the tax is paid in November.</li><li>3. One percent if the tax is paid in December.</li></ol> <p><i>Tax Code 31.05</i></p> <p>This discount does not apply to taxes that are calculated too late for it to be available. <i>Tax Code 31.04(c)</i></p>
OPTION 2	<p>If the Board adopts Option 2, the following discounts apply only when the District mails its tax bills after September 30:</p> <ol style="list-style-type: none"><li>1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.</li></ol>

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(LEGAL)

2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

BOTH OPTIONS

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

*Tax Code 31.05*

SPLIT PAYMENT

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

*Tax Code 31.03, 31.04(c)*

IN CERTAIN  
COUNTIES

The board of a district located in a county having a population of 250,000 or more that borders a county having a population of 3.3 million or more and the Gulf of Mexico that has its taxes collected by another taxing unit that has adopted the split-payment option may provide that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit. *Tax Code 31.03(d)*

DISASTER AREA

Owners of certain property in a disaster area are permitted to pay taxes in installment payments. This option applies to:

1. Real property that:
  - a. Is the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units, or is owned or leased by a business entity that had not more than the amount calculated as provided by Tax Code 31.032(h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity; and
  - b. Is located in a disaster area and has been damaged as a direct result of the disaster;
2. Tangible personal property that is owned or leased by a business entity described above at number 1(a); and
3. Taxes that are imposed on the property by a taxing unit before the first anniversary of the disaster.

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

*Tax Code 31.032*

PERFORMING  
SERVICES IN LIEU OF  
PAYING TAXES

The Board may permit certain individuals or business entities to provide certain services to the District in lieu of paying the District property taxes. While performing services for the District, the individual is not an employee of the District and is not entitled to any benefit, including workers' compensation coverage, that the District provides to its employees.

PERSONS 65 AND  
OVER

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

*Tax Code 31.035*

TEACHING  
SERVICES BY  
INDIVIDUAL

Subject to the requirements contained in Tax Code 31.036, the Board by resolution may permit qualified individuals, who are not employed by the District, to perform teaching services for the District at a junior high school or high school of the District in lieu of paying taxes imposed by the District on property owned and occupied by the individual as a residence homestead. *Tax Code 31.036*

TEACHING  
SERVICES BY  
EMPLOYEE OF  
BUSINESS ENTITY

Subject to the requirements contained in Tax Code 31.037, the Board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the District in lieu of paying taxes imposed by the District on property owned by the business entity. *Tax Code 31.037*

INSTALLMENT  
PAYMENTS  
CERTAIN  
HOMESTEADS

An individual who is disabled or at least 65 and qualifies for a homestead exemption may pay taxes on the residence homestead property in installments. To do so, the individual must pay at least one-fourth of the taxes due before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in installments. The person may pay the remaining taxes without penalty or interest. The first installment must be paid before April 1, the second before June 1, and the third before August 1. *Tax Code 31.031*

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

PARTIAL PAYMENTS	<p>The tax collector may decide to accept partial payments of District property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of District taxes. <i>Tax Code 31.07(c)</i></p>
DELINQUENCY DATE	<p>Taxes are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below:</p> <ol style="list-style-type: none"><li>1. The District has provided for split payments. <i>Tax Code 31.03</i></li><li>2. The District's tax bills are mailed after January 10. <i>Tax Code 31.04(a)</i></li><li>3. The District's tax bills are mailed after September 30 and the Board has adopted discounts provided by <i>Tax Code 31.05(c)</i>. <i>Tax Code 31.04(d)</i></li></ol> <p><i>Tax Code 31.02</i></p>
DELINQUENT TAX COLLECTION	<p>The Board may contract with any competent attorney to represent the District to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. <i>Tax Code 6.30(c)</i></p>
ADDITIONAL PENALTIES	<p>If the District or the tax collector for the District has contracted with a private attorney for the collection of delinquent taxes, the Board may impose, by official action, an additional penalty on taxes that become delinquent on or after February 1 but not later than May 1 and remain delinquent on July 1 of the year in which they become delinquent. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall deliver notice to the property owner of the delinquency and the penalty 30 to 60 days before July 1. <i>Tax Code 33.07</i></p> <p>If the District or the tax collector for the District has imposed the penalty described above and has contracted with a private attorney for collection of delinquent taxes, the Board may impose, by official action, an additional penalty on all taxes that become delinquent on or after June 1 under <i>Tax Code 26.15(e)</i>, 31.03, 31.031, 31.032, or 31.04. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall send notice of the delinquency and the penalty to the property owner. The penalty is</p>

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

incurred on the first day of the first month that begins at least 21 days after the date the notice is sent. *Tax Code 33.08*

HOMESTEAD  
EXEMPTIONS

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

APPLICATION FOR  
EXEMPTION

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

PERSONS 65  
AND OVER OR  
DISABLED  
PERSONS

The District shall not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older, or on the residence homestead of an individual who is disabled as defined by Section 11.13 of the Tax Code, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for an applicable exemption. *Tax Code 11.26(a)*

OTHER  
LIMITATIONS

Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Tax Code 11.13(c) for the same homestead was the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed as provided by Tax Code 11.26(a-1). *Tax Code 11.26(a-1)*

Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Tax Code 11.13(c) for the same homestead was a tax year before the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed as provided by Tax Code 11.26(a-2). *Tax Code 11.26(a-2)*

Except as provided at IMPROVEMENTS, below, a limitation on tax increases provided by this section on a residence homestead computed under Tax Code 11.26(a-1) or (a-2) continues to apply to the homestead in subsequent tax years until the limitation expires. *Tax Code 11.26(a-3)*

IMPROVEMENTS

The District may increase the taxes if improvements are made to the property, but that tax amount is then frozen. *Tax Code 11.26(b)*

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

PORTABILITY OF LIMITATION	If an individual who receives the 65-and-over limitation on tax increases subsequently qualifies for a different resident homestead, the District may impose taxes on the subsequently acquired homestead only in accordance with Tax Code 11.26. <i>Tax Code 11.26(g), (h)</i>
HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE	If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land in accordance with Tax Code 11.135 and 11.26(n)–(o) and 34 Administrative Code 9.416. <i>Tax Code 11.135, 11.26(n)–(o); 34 TAC 9.416</i>
DISABLED VETERANS	A disabled veteran who receives from the U.S. Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran’s residence homestead. <i>Tax Code 11.131</i>
ADDITIONAL EXEMPTIONS	The Board may grant additional tax exemptions for homesteads, historic sites, certain tax-exempt corporations, and charitable organizations, as provided by law. <i>Tax Code 11.13, 11.184, 11.24; Tex. Const. Art. VIII, Sec. 1-b</i>
NATURAL DISASTER	If the District is located partly or entirely inside an area declared by the governor to be a natural disaster area, the Board may authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. <i>Tax Code 23.02(a)</i>
REINVESTMENT ZONES / TAX INCREMENT FINANCING	When a portion of the real property taxable by the District is proposed for inclusion in a municipal or county reinvestment zone, the Board shall be notified of a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The District may request additional information from the governing body of the municipality or county proposing to designate a reinvestment zone, and Board members may attend the formal presentation required of the governing body of the municipality or county. Within 15 days of receipt of the notice, the Board shall designate a representative to meet with the governing body of the municipality or county proposing to designate a reinvestment zone to discuss the project plan and the reinvestment zone financing plan and shall notify the municipality or county governing body of its designation. <i>Tax Code 311.003(e), (f), (g)</i>

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

BOARD OF  
DIRECTORS

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

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

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

COLLECTION AND  
DEPOSIT OF TAX  
INCREMENTS

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

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

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

A district whose taxable value is reduced under Government Code 403.302(d)(4) shall pay into the tax increment fund, in addition to the amount otherwise required to be paid, the amount by which the amount of taxes the District would have been required to pay into the fund in the current year if the District levied taxes at the rate the District levied in 2005 exceeds the amount the District is otherwise required to pay into the fund in the year of the reduction. *Tax Code 311.013(n)*

Notwithstanding the designation of a later termination date under Tax Code 311.017(a), a district that taxes real property located in the reinvestment zone is not required to pay any of its tax incre-

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

ment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the Board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.017(a-1)*

GOODS-IN-TRANSIT

A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit.

The Board may provide for the taxation of goods-in-transit exempt as set out above and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the Board must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. The goods-in-transit remain subject to taxation by the District until the Board rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed above will apply to that District.

*Tax Code 11.253*

REINVESTMENT  
ZONES

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

TAX ABATEMENT

DISTRICT  
DESIGNATED

Notwithstanding any other provision of Tax Code Chapter 312 to the contrary, the Board, in the manner required for official action and for purposes of Tax Code Chapter 313, Subchapter B or C [see TEXAS ECONOMIC DEVELOPMENT ACT, below], may designate an area entirely within the territory of the District as a reinvestment zone if the Board finds that, as a result of the designation and the granting of a limitation on appraised value, for property located in the reinvestment zone, the designation is reasonably likely to:

1. Contribute to the expansion of primary employment in the reinvestment zone; or
2. Attract major investment in the reinvestment zone that would:
  - a. Be a benefit to property in the reinvestment zone and to the District; and
  - b. Contribute to the economic development of the region of this state in which the District is located.

The Board may seek the recommendation of the commissioners court of each county and the governing body of each municipality



that has territory in the District before designating an area as a reinvestment zone.

*Tax Code 312.0025*

TEXAS ECONOMIC  
DEVELOPMENT ACT

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

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

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and
4. Advance the economic development goals of Texas as identified by the Texas Strategic Economic Development Planning Commission.

*Tax Code 313.004(3)*

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

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

CDB  
(LEGAL)

SALE OR EXCHANGE  
OF REAL PROPERTY

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

PUBLICATION OF  
NOTICE AND  
BIDDING  
REQUIREMENTS

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

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

*Local Gov't Code 272.001(a)*

EXCEPTIONS TO  
NOTICE AND  
BIDDING  
REQUIREMENTS

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

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

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

CDB  
(LEGAL)

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

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

*Local Gov't Code 272.001(b)–(d)*

EXCEPTION:  
HIGHER  
EDUCATION  
INSTITUTION

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

SALE OF  
INSTRUCTIONAL  
FACILITY FINANCED  
WITH STATE  
ALLOTMENT

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

LEASE OF PROPERTY  
TO A GOVERNMENTAL  
ENTITY

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

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

The District:

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

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

CDB  
(LEGAL)

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

*Local Gov't Code 272.005*

SALE OR LEASE OF  
MINERALS

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

PUBLICATION OF  
NOTICE — MINERAL  
LEASES

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

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

*Natural Resources Code 71.005*

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

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

A district subject to Civil Order 5281 shall notify the Commissioner whenever it intends to sell, lease, or otherwise convey any interest in real property. The District shall include in the instrument of conveyance the required restrictive covenants prohibiting racial discrimination. *United States v. Texas, 601 F.3d 354 (5th Cir. 2010); United States v. Texas, 321 F. Supp. 1043 (E.D. Tex. 1970), modified and supplemented, 330 F. Supp. 235 (E.D. Tex. 1971), aff'd in part, modified in part and remanded, 447 F.2d 441 (5th Cir. 1971) (Civil Order 5281)*

DONATION OF  
FORMER SCHOOL  
CAMPUS

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

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

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

CDB  
(LEGAL)

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

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

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

*Education Code 11.1541(a), (b)*

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

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ACCOUNTING  
FINANCIAL REPORTS AND STATEMENTS

CFA  
(LEGAL)

ACCOUNTING SYSTEM      The Board must adopt and install a standard school fiscal accounting system that meets the minimum requirements prescribed by the State Board of Education; is consistent with state financial laws; does not misrepresent the nature, scope, or duration of the financial activities of the state or the District; may follow the statutory standards in Government Code Chapter 2264 when other accounting bases conflict with state law; and conforms with generally accepted accounting principles. *Education Code 44.007(a), (b); Gov't Code 2266.002; 19 TAC 109.1, 109.41*

REPORT OF REVENUES AND EXPENDITURES      A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. The report shall include management, cost accounting, and financial information that will enable the State Board to monitor the funding process and determine educational costs by district, campus, and program. *Education Code 44.007(c), (d)*

FINANCIAL STATEMENT      The Board shall prepare an annual financial statement that shows the following for each fund subject to its authority during the fiscal year:

1.    The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived.
2.    The total disbursements of the fund, itemized by the nature of the expenditure.
3.    The balance in the fund at the close of the fiscal year.

*Local Gov't Code 140.005*

PUBLICATION      The Board President shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the District. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the District, the financial statement shall be published in a newspaper in each county in which the District or any part of the District is located. The statement shall be published in accordance with the accounting method required by TEA not later than the 150th day after the date the fiscal year ends. *Local Gov't Code 140.006*

ANNUAL FINANCIAL MANAGEMENT REPORT      The Commissioner shall develop a reporting procedure under which the District is required to prepare and distribute an annual financial management report. The annual financial management report prepared by the District must include a description of the District's financial management performance based on a compari-

son, provided by TEA, of the District's performance on the indicators in 19 Administrative Code 109.1002.

The public shall be given an opportunity to comment on the report at a hearing.

REPORT  
REQUIREMENTS

The report shall contain information on state-established standards and the District's financial management performance under each indicator for the current and previous years' financial accountability ratings, along with a description of the data submitted using the electronic-based program developed under Education Code 39.0822 and any descriptive information required by the Commissioner including:

1. A copy of the Superintendent's current employment contract. The District may publish the Superintendent's employment contract on the District's Internet site in lieu of publication in the annual financial management report;
2. A summary schedule for the fiscal year (12-month period) of total reimbursements received by the Superintendent and each Board member, including transactions resulting from use of the District's credit card(s) to cover expenses incurred by the Superintendent and each Board member. The summary schedule shall separately report reimbursements for meals, lodging, transportation, motor fuel, and other items but not reimbursements for supplies and materials that were purchased for the operation of the District;
3. A summary schedule for the fiscal year of the dollar amount of compensation and/or fees received by the Superintendent from another school district or any other outside entity in exchange for professional consulting and/or other personal services. The schedule shall separately report the amount received from each entity;
4. A summary schedule for the fiscal year of the total dollar amount received by the executive officers and Board members of gifts that had an economic value of \$250 or more in the aggregate in the fiscal year. This reporting requirement only applies to:
  - a. Gifts received by the District's executive officers and Board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, as a person related to another person within the first degree by consanguinity or affinity) from an outside entity that received payments from the District in the prior fiscal year, and



- b. Gifts from competing vendors that were not awarded contracts in the prior fiscal year.

This reporting requirement does not apply to reimbursement of travel-related expenses by an outside entity when the purpose of the travel is to investigate or explore matters directly related to the duties of an executive officer or Board member, or matters related to attendance at education-related conferences and seminars whose primary purpose is to provide continuing education; however, this exclusion does not apply to trips for entertainment-related purposes or pleasure trips. This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had an aggregate economic value of less than \$250 per executive officer or Board member; and

5. A summary schedule for the fiscal year of the dollar amount by Board member for the aggregate amount of business transactions with the District. This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by Board members; and
6. Any other information the Board of Trustees of the District determines to be useful.

PUBLIC HEARING

The Board shall hold a public hearing on the report. The public hearing shall be held in the District's facilities within two months of receipt of a final financial accountability rating.

The Board shall give notice of the hearing to property owners in the geographic boundaries of the District and to parents of District students.

In addition to other notice required by law, notice of the hearing must be provided to a newspaper of general circulation in the geographic boundaries of the District once a week for two weeks prior to holding the public meeting, providing the time and place where the hearing is to be held. The first notice in the newspaper may not be more than 30 days prior to or less than 14 days prior to the public meeting. If there is not a newspaper published in the county in which the District's central administration office is located, then the notice is to be published in the county nearest the county seat of the county in which the District's central administration office is located.

Notice of the hearing must also be provided through electronic mail to media serving the District.

At the hearing, the annual financial management report shall be disseminated to parents and taxpayers in attendance. The annual

ACCOUNTING  
FINANCIAL REPORTS AND STATEMENTS

CFA  
(LEGAL)

financial management report shall be retained in the District for at least a three-year period after the public hearing and shall be made available to parents and taxpayers upon request.

CORRECTIVE ACTION  
PLAN

A corrective action plan shall be filed with TEA by each school district that received a rating of Substandard Achievement or Suspended—Data Quality. The corrective action plan, prepared in accordance with the instructions from the Commissioner, is to be filed within one month after the District's public hearing.

DISSEMINATION

After the hearing, the report shall be disseminated in the District in the manner prescribed by the Commissioner.

*Education Code 39.083; 19 TAC 109.1005*

PROJECTED DEFICIT

If the review process under Education Code 39.0822 [see CFC] indicates a projected deficit for the District general fund within the following three school years, the District shall provide TEA interim financial reports, supplemented by staff and student count data, as needed, to evaluate the District's current budget status.

FINANCIAL PLAN

If the interim financial data substantiates the projected deficit, the District shall develop a financial plan and submit the plan to TEA for approval. TEA may approve the plan only if it determines the plan will permit the District to avoid the projected insolvency.

The Commissioner shall assign the District an accredited-warned status if:

1. The District fails to submit a financial plan;
2. The District fails to obtain approval from the agency for a financial plan;
3. The District fails to comply with a financial plan approved by TEA; or
4. TEA determines in a subsequent school year, based on financial data submitted by the District, that the approved plan for the District is no longer sufficient or is not appropriately implemented.

*Education Code 39.0823*

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**Note:** For provisions regarding selection and adoption of textbooks, see EFAA.

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TEXTBOOKS	Textbooks selected for use in the public schools shall be furnished without cost to the students attending those schools. All textbooks purchased in accordance with Education Code Chapter 31 are the property of the state of Texas. <i>Education Code 31.001, 31.102(a)</i>
DELEGATION OF POWER	The Board may delegate the power to requisition, distribute, and manage the inventory of books, consistent with Education Code Chapter 31. <i>Education Code 31.104(a)</i>
TEXTBOOK FUNDING	Annually, the State Board of Education (SBOE) shall set aside out of the available school fund an amount sufficient for districts to purchase and distribute the necessary textbooks for the use of the students of this state for the following school year. <i>Education Code 31.021(b)</i>
MAXIMUM COST	<p>The SBOE shall set a limit on the cost that may be paid from the state textbook fund for a textbook on the conforming or nonconforming list. <i>Education Code 31.025</i></p> <p>If the District selects instructional materials priced above the limit set by SBOE, the District is responsible for paying the publisher the portion of the cost above the state maximum. <i>19 TAC 66.104(b)</i></p> <p>The SBOE shall reduce the approved maximum cost for each nonconforming instructional material according to 19 Administrative Code 66.51(a)(11). For nonconforming instructional materials, the state shall be responsible for payment to the publisher in an amount only equal to the reduced maximum cost. A district ordering nonconforming instructional materials is responsible for the portion of the cost that exceeds the reduced state maximum cost. <i>19 TAC 66.104(q)</i></p>
NONADOPTED MATERIALS	<p>If the District selects a book for a course in the enrichment curriculum and grade level that is not on either the conforming or nonconforming lists, the state shall pay the District the lesser of:</p> <ol style="list-style-type: none"><li>1. Seventy percent of the total actual cost to the District of the books; or</li><li>2. Seventy percent of the limit set by SBOE for that book.</li></ol> <p><i>Education Code 31.101(b)</i></p> <p>Funds received from the state under this provision may be used only to purchase the nonadopted instructional materials selected and ratified by the Board. The minutes of the Board meeting at which such a selection is ratified shall reflect the District's agree-</p>

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ment to bear responsibility for the portion of the costs not eligible for payment by the state. *19 TAC 66.104(c)–(e)*

ELECTRONIC  
TEXTBOOK AND  
INSTRUCTIONAL  
MATERIALS LIST

If the District selects for a particular subject or grade level an electronic textbook or instructional material on the electronic textbook and instructional materials list, the state shall pay the District an amount equal to the cost of the electronic textbook or instructional material plus textbook credits [see TEXTBOOK CREDIT, below] under Education Code 31.1011 equal to 50 percent of the difference between that cost and the limitation established under Education Code 31.025 for a textbook for that subject and grade level, multiplied by the number of electronic textbooks or instructional materials the District or school needs for that subject and grade level. *Education Code 31.101(b-1)*

OPEN-SOURCE  
TEXTBOOK

If the District selects a state-developed open-source textbook instead of another textbook adopted under Education Code Chapter 31, Subchapter B, the difference between the cost determined by the Commissioner and the maximum price for a textbook in the same subject area, as determined by the SBOE, shall be allocated as follows:

1. Fifty percent of the amount shall be credited to the state textbook fund; and
2. Fifty percent of the amount shall be credited to the District for use as provided by Education Code 31.1011(c). [See TEXTBOOK CREDIT, below]

*Education Code 31.073(b); 19 TAC 66.102(c)*

LOCAL FUNDS

The District may use local funds to purchase any textbooks in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

REQUISITIONS, USE,  
AND DISTRIBUTION

Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for a school to the Superintendent. Not later than April 25, the Superintendent shall report the District's maximum attendance to the Commissioner of Education. Requisitions for textbooks for the following school year shall be based on the maximum attendance reports, plus an additional ten percent, except as otherwise provided, and shall be made no later than June 1 of each year. The District may requisition textbooks for grades above the grade level in which a student is enrolled, except that the total quantity requisitioned may not exceed the above limit. *Education Code 31.103; 19 TAC 66.104(l)* [See BJA]

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**DURATION OF SELECTION** Once instructional materials have been requisitioned and delivered, including nonadopted materials, the District shall continue to use those instructional materials during the contract period or periods of the materials. The District may not return copies of one title to secure copies of another title in the same subject. *19 TAC 66.104(f), (j)*

**EXCEPTION** A district that selects a subscription-based electronic textbook or instructional material on the conforming list or the electronic textbook and instructional materials list may cancel the subscription and subscribe to a new electronic textbook or instructional material on either list before the end of the state contract period if:

1. The District has used the electronic textbook or instructional material for at least one school year; and
2. TEA approves the change based on a written request to TEA by the District that specifies the reasons for changing the electronic textbook or instructional material used by the District.

*Education Code 31.101(e)*

**DISTRIBUTION** The Board, as legal custodian of the textbooks used in the District, shall distribute books to students as it may deem most effective and economical. *Education Code 31.102(c)*

**ORDER QUANTITIES** When placing orders for instructional materials, the District shall report enrollments as follows:

1. Annual orders for instructional materials: enrollments shall be reported based on the maximum number of students enrolled in the District during the previous school year and/or registered to attend the District during the next school year; and
2. Supplemental orders for instructional materials: enrollments shall be reported based on the actual number of students enrolled in the District when the order is submitted, adjusted for students reported as working above or below grade level.

*19 TAC 66.107(d)*

**SHORTAGE** If the District does not have a sufficient number of copies of a textbook for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified at TIME FOR DELIVERY, the District is entitled to:

1. Be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board rule, for the purchase of a sufficient number of used adopted textbooks; or

2. Return currently used textbooks to the Commissioner in exchange for sufficient copies, if available, of other textbooks to be used during the following school year.

*Education Code 31.1031*

TIME FOR  
DELIVERY

At the time an order for textbooks is acknowledged, a publisher or manufacturer shall provide to the District an accurate shipping date for textbooks that are back-ordered, and shall guarantee delivery of textbooks at least ten business days before the opening day of the school year for which the textbooks are ordered if they are ordered by a date specified in the sales contract. *Education Code 31.151(a)(7)–(8)*

SURPLUS

After the beginning of every school year, each school district shall determine if it has surplus instructional materials for any subject area/grade level, based on its current enrollment for the subject area/grade level. In accordance with the Educational Materials and Textbooks (EMAT) online ordering system, surplus is defined as follows:

For courses that use textbooks that are in the first year of adoption, any textbook in excess of 110 percent of enrollment shall be considered surplus. For courses that use textbooks that are in the second or later years of adoption, any textbook in excess of 120 percent of enrollment shall be considered surplus. Overages that exceed these definitions should be entered into the EMAT Online Adjust Surplus Screen, except that instructional materials that are needed for the following school year are not considered surplus and should not be entered into the Adjust Surplus Screen. Instructional materials determined by the District to be surplus-to-quota shall be reported to TEA by October 1 of each year in accordance with instructions provided by TEA. The District is entitled to retain surplus-to-quota instructional materials only when data approved by TEA indicate that students will be enrolled in the subject and a need for the surplus-to-quota instructional materials exists. *19 TAC 66.107(c)*

CHARGES FOR  
FAILURE TO  
RETURN SURPLUS

If the District orders instructional material in excess of its eligibility by reporting enrollments exceeding those described above, the District enters into a contract with the state to purchase the instructional materials supplied that exceed the District's eligibility for the subject area/grade level. The District may cancel the contract to purchase the excess instructional materials by immediately notifying TEA of the surplus and posting the surplus in accordance with instructions provided by TEA. If prior approval is received, surplus instructional materials may be returned to the publisher's approved depository or placed into statewide surplus inventory in accordance with instructions from TEA. A school district that fails to notify TEA

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of surplus instructional materials for more than six months after the beginning of the school year shall reimburse the state at the full price for the surplus instructional materials. *19 TAC 66.107(g)*

SUPPLEMENTAL  
TEXTBOOKS

The District may requisition a supplemental textbook only if the District:

1. Uses textbook credits received under Education Code 31.1011 to purchase the supplemental textbook; or
2. Instead of requisitioning a textbook on the conforming list under Education Code 31.023 for a course in the foundation curriculum under Education Code 28.002, requisitions the supplemental textbook along with other supplemental textbooks or textbooks on the nonconforming list under Education Code 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the District or school is requisitioning the supplemental textbooks.

*Education Code 31.035(d)*

If the total cost for the supplemental textbooks requisitioned by the District under Education Code 31.035(d)(2) for a course is greater than the limit on the cost under Education Code 31.025(a) for a single textbook on the conforming list for the course, the District or school may apply credits received under Education Code 31.1011 toward the difference for the supplemental textbooks. *Education Code 31.035(e), (f)*

AVAILABILITY OF  
OPEN-SOURCE  
TEXTBOOKS

A district that selects an open-source textbook shall requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the District or school provides to each student:

1. Electronic access to the textbook at no cost to the student; or
2. Printed copies of the portion of the textbook that will be used in the course.

*Education Code 31.103(d)*

CERTIFICATION

Prior to the beginning of each school year, the District shall certify to the SBOE and the Commissioner that, for each subject in the foundation and enrichment curriculum and each grade level, the District provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. The certification shall be submitted in a format approved by the Commissioner. *Education Code 31.004; 19 TAC 66.105*

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TEXTBOOK CREDIT	<p>The District is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a). <i>Education Code 31.1011(a); 19 TAC 66.102(a)</i></p> <p>The District is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a), only in the first year of implementation. <i>19 TAC 66.102(e)</i></p>
CALCULATION	<p>The credit is an amount equal to the difference between the price paid for a textbook and the cost limit for that textbook multiplied by the number of copies of that textbook the District purchases. <i>Education Code 31.1011(b); 19 TAC 66.102(b)</i></p> <p>If the total cost for the supplemental textbooks requisitioned by the District under Education Code 31.035(d)(2) for a course is less than the cost limit for a single textbook on the conforming list for the course, the District is entitled to receive credit under Section 31.1011 in the same manner as if the single textbook were selected. <i>Education Code 31.035(e)</i></p>
DISTRIBUTION	<p>Fifty percent of the total textbook credit of the District shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the District to apply toward the requisition of:</p> <ol style="list-style-type: none"><li>1. Additional textbooks or electronic textbooks that are on the conforming or nonconforming list under Education Code 31.023 or the components of such textbooks, including any electronic components;</li><li>2. Supplemental textbooks as provided by Education Code 31.035;</li><li>3. Electronic textbooks or instructional materials on the list adopted under Education Code 31.0231; or</li><li>4. Technological equipment under Education Code 31.021(f).</li></ol> <p><i>Education Code 31.1011(c); 19 TAC 66.102(d)</i></p>
NOTIFICATION TO TEA	<p>The District must notify TEA for the use of funds generated by textbook credits. The District must submit an itemized expenditure report to TEA. <i>19 TAC 66.102(f)–(g)</i></p>
BOOK OWNERSHIP AND COVERS	<p>All textbooks shall state that the book is the property of or is licensed to the state. Books, other than electronic textbooks or a printed copy of an open-source textbook, must be covered by the student under the direction of the teacher. Books must be returned to the teacher at the end of the school year or when the student withdraws from school, unless the textbook is an open-source textbook that the District does not intend to use for another student.</p>



The printed copy of the open-source textbook becomes the property of the student to whom it is distributed.

This section does not apply to an electronic copy of an open-source textbook.

*Education Code 31.104(c)*

RESPONSIBILITY FOR  
BOOKS AND  
EQUIPMENT

Each student or his or her parent or guardian shall be responsible for all books, including an electronic textbook, and all technological equipment not returned in an acceptable condition by the student, and any student failing to return in an acceptable condition all books, including electronic textbooks, and technological equipment shall forfeit the right to free textbooks, including electronic textbooks, and technological equipment until the books, including electronic textbooks, and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

Under circumstances determined by the Board, the District may waive or reduce the payment required if the student is from a low-income family. The District shall allow students to use textbooks, including electronic textbooks, and technological equipment at school during each school day.

If a book, including electronic textbooks, or technological equipment is not returned in an acceptable condition and payment is not made, the District may withhold the student's records, but shall not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. However, in accordance with policies FL and GBA, students have a right to copies of any and all District records that pertain to them.

*Education Code 31.104(d); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2) [See also EF]*

SALE OF BOOKS

The Board may sell books, other than electronic textbooks, to students or other schools at the state contract price. All money accruing from sales of textbooks shall be forwarded to the Commissioner of Education as directed, and deposited in the state textbook fund. *Education Code 31.105*

ANNUAL INVENTORY

The District shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the District. The results of the inventory shall be recorded in a District's files. Reimbursement and/or replacement shall be made for all instructional materials determined to be lost. *19 TAC 66.107(a)*

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LOCAL HANDLING  
EXPENSES

School districts shall not be reimbursed from state funds for expenses incurred in local handling of textbooks. *19 TAC 66.104(o)*

OUT-OF-ADOPTION  
TEXTBOOKS

The District may retain out-of-adoption instructional materials.

The District shall make out-of-adoption instructional materials (other than electronic instructional materials) available to libraries maintained by city and county jails, institutions within the Department of Corrections, and other state agency institutions. District officials may donate out-of-adoption instructional materials (other than electronic instructional materials) to students, adult education programs, and nonprofit organizations. Individuals and organizations making such requests shall be responsible for transporting the materials.

After all efforts to donate out-of-adoption instructional materials (other than electronic instructional materials) to organizations listed above have been exhausted, the District may donate those materials for recycling locally. Recycling means removing the bindings and shredding the textbooks for the purpose of producing new products from the processed materials.

Under no circumstances shall the District sell out-of-adoption instructional materials.

*19 TAC 66.131*

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PEIMS The District shall participate in the Public Education Information Management System (PEIMS) and through that system shall provide information required for the administration of the Foundation School Program and of other appropriate provisions of the Education Code. The PEIMS data standards, established by the Commissioner, shall be used by the District to submit information. *Education Code 42.006; 19 TAC 61.1025*

CHILDREN'S INTERNET PROTECTION ACT Under the Children's Internet Protection Act (CIPA), the District must, as a prerequisite to receiving universal service discount rates, implement certain Internet safety measures and submit certification to the Federal Communications Commission (FCC). *47 U.S.C. 254* [See UNIVERSAL SERVICE DISCOUNTS, below, for details]

Districts that do not receive universal service discounts but do receive certain federal funds under the Elementary and Secondary Education Act (ESEA) must, as a prerequisite to receiving these funds, implement certain Internet safety measures and submit certification to the Department of Education (DOE). *20 U.S.C. 6777* [See ESEA FUNDING, below, for details]

DEFINITIONS "Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

*47 U.S.C. 254(h)(7)(G); 20 U.S.C. 6777(e)(6)*

"Technology protection measure" means a specific technology that blocks or filters Internet access. *47 U.S.C. 254(h)(7)(I)*

UNIVERSAL SERVICE DISCOUNTS An elementary or secondary school having computers with Internet access may not receive universal service discount rates unless the District implements an Internet safety policy, submits certifications to the FCC, and ensures the use of computers with Internet access in accordance with the certifications. *47 U.S.C. 254(h)(5)(A); 47 CFR 54.520*

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“Universal service” means telecommunications services including Internet access, Internet services, and internal connection services and other services that are identified by the FCC as eligible for federal universal service support mechanisms. *47 U.S.C. 254(c), (h)(5)(A)(ii)*

INTERNET SAFETY  
POLICY

The District shall adopt and implement an Internet safety policy that addresses:

1. Access by minors to inappropriate matter on the Internet and the World Wide Web;
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
3. Unauthorized access, including “hacking,” and other unlawful activities by minors on-line;
4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
5. Measures designed to restrict minors’ access to materials harmful to minors.

*47 U.S.C. 254(l)*

As part of its Internet safety policy, the District must educate minors about appropriate online behavior, including interacting with other individuals on social networking Web sites and in chat rooms and cyberbullying awareness and response. *47 U.S.C. 254(h)(5)(B)(iii)*

PUBLIC HEARING

The District shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy. *47 U.S.C. 254(h)(5)(A), (l)(1)*

“INAPPROPRIATE  
FOR MINORS”

A determination regarding what matter is inappropriate for minors shall be made by the Board or designee. *47 U.S.C. 254(l)(2)*

TECHNOLOGY  
PROTECTION  
MEASURE

In accordance with the appropriate certification, the District shall operate a technology protection measure that protects minors against access to visual depictions that are obscene, child pornography, or harmful to minors; and protects adults against access to visual depictions that are obscene or child pornography. *47 U.S.C. 254(h)(5)(B), (C)*

MONITORED USE

In accordance with the appropriate certification, the District shall monitor the on-line activities of minors. *47 U.S.C. 254(h)(5)(B)*

CERTIFICATIONS TO  
THE FCC

To be eligible for universal service discount rates, the District shall certify to the FCC, in the manner prescribed at 47 CFR 54.520, that:

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1. An Internet safety policy has been adopted and implemented.
2. With respect to use by minors, the District is enforcing the Internet safety policy, educating minors about appropriate on-line behavior as part of its Internet safety policy, and operating a technology protection measure during any use of the computers.
3. With respect to use by adults, the District is enforcing an Internet safety policy and operating a technology protection measure during any use of the computers, except that an administrator, supervisor, or other person authorized by the District may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose.

*47 U.S.C. 254(h)(5); 47 CFR 54.520*

ESEA FUNDING

Federal funds made available under Title II, Part D of the ESEA for an elementary or secondary school that does not receive universal service discount rates may not be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet unless the District:

1. Has in place a policy of Internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and enforces the operation of the technology protection measure during any use by minors of its computers with Internet access; and
2. Has in place a policy of Internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with Internet access.

The District may disable the technology protection measure to enable access to bona fide research or for another lawful purpose.

CERTIFICATION TO  
DOE

The District shall certify its compliance with these requirements to the DOE as part of the annual application process for each program funding year under the ESEA.

*20 U.S.C. 6777*

TRANSFER OF  
EQUIPMENT TO  
STUDENTS

The District may transfer to a student enrolled in the District:

1. Any data processing equipment donated to the District, including equipment donated by a private donor, a state elee-

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mosynary institution, or a state agency under Government Code 2175.128;

2. Any equipment purchased by the District; and
3. Any surplus or salvage equipment owned by the District.

*Education Code 32.102(a)*

Before transferring data processing equipment to a student, the District must:

1. Adopt rules governing transfers, including provisions for technical assistance to the student by the District;
2. Determine that the transfer serves a public purpose and benefits the District; and
3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the District.

*Education Code 32.104*

DONATIONS

The District may accept:

1. Donations of data processing equipment for transfer to students; and
2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

*Education Code 32.102(b)*

USE OF PUBLIC FUNDS

The District may spend public funds to:

1. Purchase, refurbish, or repair any data processing equipment transferred to a student; and
2. Store, transport, or transfer data processing equipment under this policy.

*Education Code 32.105*

ELIGIBILITY

A student is eligible to receive data processing equipment under this policy only if the student does not otherwise have home access to data processing equipment, as determined by the District. The District shall give preference to educationally disadvantaged students. *Education Code 32.103*

RETURN OF EQUIPMENT

Except as provided below, a student who receives data processing equipment from the District under this policy shall return the equipment to the District not later than the earliest of:

1. Five years after the date the student receives the equipment;

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2. The date the student graduates;
3. The date the student transfers to another district; or
4. The date the student withdraws from school.

If, at the time the student is required to return the equipment, the District determines that the equipment has no marketable value, the student is not required to return the equipment.

*Education Code 32.106*

UNIFORM  
ELECTRONIC  
TRANSACTIONS ACT

The District may agree with other parties to conduct transactions by electronic means. Any such agreement or transaction must be done in accordance with the Uniform Electronic Transactions Act. *Business and Commerce Code Chapter 322*

SECURITY BREACH  
NOTIFICATION

TO STATE  
RESIDENTS

A district that owns or licenses computerized data that includes sensitive personal information shall disclose, in accordance with the notice provisions at Business and Commerce Code 521.053(e), any breach of system security, after discovering or receiving notification of the breach, to any resident of this state whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided at CRIMINAL INVESTIGATION EXCEPTION, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

TO THE OWNER OR  
LICENSE HOLDER

A district that maintains computerized data that includes sensitive personal information not owned by the District shall notify the owner or license holder, in accordance with Business and Commerce Code 521.053(e), of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

TO A CONSUMER  
REPORTING  
AGENCY

If the District is required to notify at one time more than 10,000 persons of a breach of system security, the District shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The District shall provide the notice without unreasonable delay.

CRIMINAL  
INVESTIGATION  
EXCEPTION

The District may delay providing the required notice to state residents or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.

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INFORMATION  
SECURITY POLICY

A district that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice described above complies with Business and Commerce Code 521.053 if the District notifies affected persons in accordance with that policy.

*Business and Commerce Code 521.053; Local Gov't Code 205.010*

DEFINITIONS

“Breach of system security” means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Business and Commerce Code 521.053(a)*

“Sensitive personal information” means:

1. An individual’s first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
  - a. Social security number;
  - b. Driver’s license number or government-issued identification number; or
  - c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual’s financial account; or
2. Information that identifies an individual and relates to:
  - a. The physical or mental health or condition of the individual;
  - b. The provision of health care to the individual; or
  - c. Payment for the provision of health care to the individual.

“Sensitive personal information” does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

*Business and Commerce Code 521.002(a)(2), (b)*



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The Superintendent or designee shall implement, monitor, and evaluate electronic media resources for instructional and administrative purposes.

AVAILABILITY OF  
ACCESS

LIMITED PERSONAL  
USE

Access to the District's electronic communications system, including the Internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with administrative regulations. Limited personal use of the system shall be permitted if the use:

1. Imposes no tangible cost on the District;
2. Does not unduly burden the District's computer or network resources; and
3. Has no adverse effect on an employee's job performance or on a student's academic performance.

ACCEPTABLE USE

The Superintendent or designee shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the District and with law and policy.

Access to the District's electronic communications system is a privilege, not a right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the system and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance may result in suspension of access or termination of privileges and other disciplinary action consistent with District policies. [See DH, FN series, FO series, and the Student Code of Conduct] Violations of law may result in criminal prosecution as well as disciplinary action by the District.

INTERNET SAFETY

The Superintendent or designee shall develop and implement an Internet safety plan to:

1. Control students' access to inappropriate materials, as well as to materials that are harmful to minors;
2. Ensure student safety and security when using electronic communications;
3. Prevent unauthorized access, including hacking and other unlawful activities;
4. Restrict unauthorized disclosure, use, and dissemination of personally identifiable information regarding students; and
5. Educate students about cyberbullying awareness and response and about appropriate online behavior, including inter-

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acting with other individuals on social networking Web sites and in chat rooms.

FILTERING

Each District computer with Internet access shall have a filtering device or software that blocks access to visual depictions that are obscene, pornographic, inappropriate for students, or harmful to minors, as defined by the federal Children's Internet Protection Act and as determined by the Superintendent or designee.

The Superintendent or designee shall enforce the use of such filtering devices. Upon approval from the Superintendent or designee, an administrator, supervisor, or other authorized person may disable the filtering device for bona fide research or other lawful purpose.

MONITORED USE

Electronic mail transmissions and other use of the electronic communications system by students and employees shall not be considered private. Designated District staff shall be authorized to monitor such communication at any time to ensure appropriate use.

INTELLECTUAL  
PROPERTY RIGHTS

Students shall retain all rights to work they create using the District's electronic communications system.

As agents of the District, employees shall have limited rights to work they create using the District's electronic communications system. The District shall retain the right to use any product created in the scope of a person's employment even when the author is no longer an employee of the District.

DISCLAIMER OF  
LIABILITY

The District shall not be liable for users' inappropriate use of electronic communication resources, violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. The District shall not be responsible for ensuring the accuracy, age appropriateness, or usability of any information found on the Internet.

SECURITY BREACH  
NOTIFICATION

Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law.

The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Electronic mail, if the District has electronic mail addresses for the affected persons.
3. Conspicuous posting on the District's Web site.
4. Publication through broadcast media.

FACILITY STANDARDS

CS  
(LEGAL)

APPLICABILITY OF  
STATE STANDARDS  
AFTER JANUARY 1,  
2004

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

DEFINITIONS

After January 1, 2004, a "major space renovation" means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration or function. *19 TAC 61.1036(a)(10)*

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

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

*19 TAC 61.1036(a)(2)*

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

teachers, other school campus staff, and District program staff in developing the educational specifications. The following information should be included in the educational specifications:

1. The instructional programs, grade configuration, and type of facility;
2. The spatial relationships—the desired relationships for the functions housed at the facility:
  - a. Should be developed by the District to support the District's instructional program;
  - b. Should identify functions that should be:
    - (1) Adjacent to, immediately accessible;
    - (2) Nearby, easily accessible; and
    - (3) Removed from or away from; and
  - c. Should relate to classroom/instructional functions, instructional support functions, building circulation, site activities/functions, and site circulation.
3. Number of students;
4. A list of any specialized classrooms or major support areas, noninstructional support areas, outdoor learning areas, outdoor science discovery centers, living science centers, or external activity spaces;
5. A schedule of the estimated number and approximate size of all instructional and instructional support spaces included in the facility;
6. Estimated budget for the facility project;
7. School administrative organization;
8. Provisions for outdoor instruction;
9. Hours of operation that include the instructional day, extracurricular activities, and any public access or use;
10. The safety of students and staff in instructional programs, such as science and vocational instruction; and
11. The overall security of the facility.

*19 TAC 61.1036(a)(3)*

FACILITY STANDARDS

CS  
(LEGAL)

APPLICABILITY OF  
STATE STANDARDS  
BEFORE JANUARY 1,  
2004

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

FIRE ESCAPES

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

SECURITY CRITERIA

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

READILY ACCESSIBLE  
PROGRAMS

No qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the District or be subject to discrimination. *42 U.S.C. 12132; 28 CFR 35.149; 29 U.S.C. 794; 34 CFR 104.21*

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

Compliance with these requirements may be achieved by:

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

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

*28 CFR 35.150; 34 CFR 104.22*

REVIEW OF PLANS

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

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

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

NOTICE

The District shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. *34 CFR 104.22(f)*

RELOCATABLE  
EDUCATIONAL  
FACILITY

In this section, "relocatable educational facility" means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site that is used primarily as an educational facility for teaching the curriculum required under Education Code 28.002.

A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to

industrialized buildings under Occupations Code Chapter 1202.  
*Occupations Code 1202.404; 19 TAC 61.1036(f)(3)*

PLAYGROUNDS

Public funds may not be used to purchase or install playground equipment if the equipment 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 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.

Public funds may not be used to purchase or install surfacing for the area under and around the 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 they do not comply with the applicable specifications described above.

*Health and Safety Code 756.061*

OUTDOOR LIGHTING  
FIXTURES

An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if the fixture meets the specific energy conservation and light pollution standards in Health and Safety Code Chapter 425.

EXCEPTIONS

The standards for state-funded outdoor lighting fixtures do not apply when:

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

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

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*Health and Safety Code 425.002*

TESTING OF NATURAL  
GAS PIPING

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

RAILROAD  
COMMISSION  
RULES

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

STANDARDS AND  
PROCEDURE

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

The pressure test shall determine whether the natural gas piping downstream of a District facility meter holds at least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be performed by a person qualified in accordance with the testing procedures established by Railroad Commission rules. At the District's request, the Railroad Commission shall assist the District in developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

NOTICE

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



FACILITY STANDARDS

CS  
(LEGAL)

TERMINATION OF SERVICE

The supplier shall terminate service to a District facility if:

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

*Utilities Code 121.505(a)*

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

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

*16 TAC 8.230(b)(2)*

REPORTING LEAKS

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

LP-GAS SYSTEMS TESTING

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

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

*Natural Resources Code 113.352; 16 TAC 9.41*

REQUIREMENTS OF TEST

The District shall perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the Railroad Commission. The leakage test must be conducted in accordance with Railroad Commission rules at 19 Administrative Code 9.41.

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

*Natural Resources Code 113.353; 19 TAC 9.41(c)-(d)*

FACILITY STANDARDS

CS  
(LEGAL)

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

DOCUMENTATION

The District shall retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed. The commission may review the District's documentation of each leakage test or other inspection conducted by the District.

*Natural Resources Code 113.354; 16 TAC 9.41(b)(2)–(3)*

TERMINATION OF SERVICE

A supplier shall terminate service to a District facility if:

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

*Natural Resources Code 113.355*

REPORTING LEAKS

An identified school LP-gas system leakage in a school district facility shall be reported to the Board. The District shall immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of the District performs the initial test, then the subsequent test may not be performed by a District employee. *Natural Resources Code 113.356; 16 TAC 9.41(b)(1)*

DEFINITIONS

“School district facility” means each building or structure operated by a school district and equipped with a school LP-gas system, in which students receive instruction or participate in school sponsored extracurricular activities, excluding maintenance or bus facilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students.

“School LP-gas system” means all piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility.

*16 TAC 9.41(a)(4)–(5)*

INTRASTATE PIPELINE EMERGENCY RESPONSE PLAN

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

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

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

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

*Natural Resources Code 117.012(k)-(m); 16 TAC 8.315*



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

RESTRICTION ON  
PUBLIC SERVANTS —  
PENAL CODE

“Public servant,” for purposes of the following Penal Code provisions, includes a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of government, even if the person has not yet qualified for office or assumed his or her duties. *Penal Code 1.07(a)(41)(A), (E)*

BRIBERY

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

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

*Penal Code 36.01(3), 36.02*

ILLEGAL GIFTS

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

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

EXCEPTIONS

“Illegal Gifts to Public Servants” does not apply to:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

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

*Penal Code 36.10*

HONORARIA AND  
EXPENSES

- 3. A public servant commits a Class A misdemeanor offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

the extent those services are more than merely perfunctory.  
*Penal Code 36.07*

ABUSE OF PUBLIC  
EMPLOYMENT

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

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

"Misuse" means to deal with property contrary to:

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

*Penal Code 39.01(2)*

TEXTBOOK  
VIOLATIONS  
COMMISSIONS

An administrator or teacher commits an offense if the person receives any commission or rebate on any textbooks, electronic textbooks, instructional materials, or technological equipment used in the schools with which the person is associated. *Education Code 31.152(a)*

CONFLICT

An administrator or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of a textbook, electronic textbook, instructional materials, or technological equipment; and
3. Could not be lawfully purchased with funds from the state textbook fund.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

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

*Education Code 31.152(b)–(d)*

PURCHASE AND  
DISTRIBUTION

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

HOLDING CIVIL  
OFFICE

No person shall hold or exercise at the same time more than one civil office of emolument, except for offices listed in the constitutional provision, unless otherwise specifically provided. *Tex. Const., Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 291 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993)*

Individuals who receive all or part of their compensation either directly or indirectly from funds of the state of Texas and who are not state officers shall not be barred from serving as members of the governing bodies of school districts (other than those in which they are employed), cities, towns, or other local governmental districts. Such individuals may not receive a salary for serving as members of such governing bodies. *Tex. Const., Art. XVI, Sec. 40(b); Atty. Gen. Op. DM-55 (1991)*

CONFLICT  
DISCLOSURE  
STATEMENT

The District may extend the requirements of Local Government Code 176.003 and 176.004 [see BBFA] to any employee of the District who has the authority to approve contracts on behalf of the District, including a person designated as the representative of the District for purposes of Local Government Code Chapter 271. The District shall identify each employee made subject to Sections 176.003 and 176.004 and shall provide a list of the identified employees on request to any person. The District may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with such requirements.

An employee commits a Class C misdemeanor if the employee knowingly violates the requirements. It is an exception to the application of the above penalty, however, that the employee filed the disclosure statement not later than the seventh business day after the person received notice from the District of the alleged violation.

*Local Gov't Code 176.005*

DEFINITION OF  
“CONTRACT”

“Contract” means a written agreement for the sale or purchase of real property, goods, or services. *Local Gov't Code 176.001(1-d)*



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

PERSONAL SERVICES  
PERFORMED BY  
SUPERINTENDENT

The Superintendent may not receive any financial benefit for personal services performed by the Superintendent for any business entity that conducts or solicits business with the District. Any financial benefit received by the Superintendent for performing personal services for any other entity, including a school district, open-enrollment charter school, regional education service center, or public or private institution of higher education, must be approved by the Board on a case-by-case basis in an open meeting. The receipt of reimbursement for a reasonable expense is not considered a financial benefit. *Education Code 11.201(e)*

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**Note:** See also CBB for requirements when federal funds are involved.

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COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

MINIMUM SALARY  
SCHEDULE —  
EDUCATORS

The District shall pay each classroom teacher, full-time librarian, full-time counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 Administrative Code 153.1021.

DEFINITIONS

'CLASSROOM  
TEACHER'

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from SBEC. Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

'LIBRARIAN'

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

'COUNSELOR'

"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

'NURSE'

"Nurse" means an educator employed to provide full-time nursing and health care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

'FULL-TIME'

"Full-time" means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081.

*19 TAC 153.1022(a)*

PLACEMENT ON  
SALARY SCHEDULE

The Commissioner's rules determine the experience for which a teacher, librarian, counselor, or nurse is to be given credit in placing the teacher, librarian, counselor, or nurse on the minimum salary schedule. The District shall credit the teacher, librarian, counselor, or nurse for each year of experience, whether or not the years are consecutive. *Education Code 21.402(a), 21.403(c); 19 TAC 153.1022*

SALARIES FOR  
2009–10 AND  
2010–11

For the 2009–10 and 2010–11 school years, the District shall increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, and full-time school nurse by the greater of:

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

1. \$80; or
2. The maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the District for social security coverage for the specified employees or by the District on behalf of the specified employees under Government Code 825.405 (TRS retirement fund contributions), may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the school during the 2009–10 school year.

The increase in salary does not include:

1. Any amount an employee would have received for the 2009–10 or 2010–11 school year, as applicable, under the District's salary schedule for the 2008–09 school year, if that schedule had been in effect for the 2009–10 or 2010–11 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2009–10 or 2010–11 school year; or
2. Any part of the salary to which an employee is entitled under the state minimum salary schedule.

These provisions expire September 1, 2011.

*Education Code 19.009(d-2), (d-3), 21.402(c-1)–(c-3)*

A classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, or full-time school nurse employed by the District in the 2010–11 school year is entitled to a salary that is at least equal to the salary the employee received for the 2010–11 school year, for as long as the employee is employed by the same district. *Education Code 21.402(d)*

EMPLOYEES  
FORMERLY ON  
CAREER LADDER

A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district.

In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to placement on the minimum salary schedule according to the guidelines at Education Code 21.403(d).

*Education Code 21.402(f), 21.403(d)*

HEALTH-CARE  
SUPPLEMENT FOR  
SUPPORT STAFF

Each year, TEA shall distribute staff salary allotment funds to districts for the purpose of making payments of health-care supplementation to eligible employees.

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

To be eligible, the employee must be a participating member of TRS, must not be a TRS retiree, and must have provided a written election of whether to designate a portion of the individual's compensation to be used as health-care supplementation. An administrator, a classroom teacher, a full-time librarian, a full-time counselor, or a full-time nurse subject to the minimum salary schedule under Education Code 21.402 is not eligible for health-care supplementation.

The amount of health-care supplementation shall be:

1. \$500, for full-time employees.
2. \$250, for part-time employees.

Such payment is in addition to wages the District would otherwise pay the employee during the school year.

For purposes of health care supplementation, a "full-time" employee is one who works for a school district, a participating open-enrollment charter school, an education service center, or a combination of such entities for 30 or more hours each week. A "part-time" employee is one who works for a school district, a participating open-enrollment charter school, an education service center, or a combination of such entities for fewer than 30 hours each week.

*Education Code 22.107; 19 TAC 61.1018*

PAY INCREASES

The District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53*

SALARY ADVANCES  
AND LOANS

The District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

DESIGNATION OF  
COMPENSATION FOR  
BENEFITS

An employee who is covered by a cafeteria plan or who is eligible to pay health care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 22.103*

USE

An employee may use the compensation designated for health care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care

COMPENSATION AND BENEFITS  
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premiums through a premium conversion plan. *Education Code 22.106*

ANNUAL ELECTION Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

DEFINITION For purposes of the designation of compensation as health care supplementation, "employee" means an active, contributing member of TRS who:

1. Is employed by the District;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the District as an independent contractor.

*Education Code 22.101(2)*

FAIR LABOR  
STANDARDS ACT

Unless an exemption applies, the District shall pay each of its employees not less than minimum wage for all hours worked. *29 U.S.C. 206(a)(1)*

MINIMUM WAGE  
AND OVERTIME

Unless an exemption applies, the District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of forty in any workweek. *29 U.S.C. 207(a)(1); 29 CFR pt. 778*

BREAKS FOR  
NONEXEMPT  
EMPLOYEES

Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods. *29 CFR 785.18*

Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his or her desk is working while eating. It is not necessary that an employee be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. *29 CFR 785.19*

COMPENSATION AND BENEFITS  
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BREAKS FOR  
BREASTFEEDING

The District shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. The District shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

The District is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

A district that employs fewer than 50 employees is not subject to these requirements if the requirements would impose an undue hardship by causing the District significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the District.

*29 U.S.C. 207(r)*

COMPENSATORY  
TIME

ACCRUAL

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

PAYMENT FOR  
ACCRUED TIME

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).

USE

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the District.

COMPENSATION AND BENEFITS  
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The Fair Labor Standards Act does not prohibit the District from compelling the use of accrued compensatory time.

*29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)*

EXEMPT  
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. *29 U.S.C. 213(a)(1)*

ACADEMIC  
ADMINISTRATORS

The term "employee employed in a bona fide administrative capacity" includes an employee:

1. Compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the District by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in the District or department or subdivision thereof.

"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. The Superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
2. The principal and any vice principals responsible for the operation of an elementary or secondary school;
3. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
4. Other employees with similar responsibilities.



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Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

*29 CFR 541.204*

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the District did not intend to pay exempt employees on a salary basis. *29 CFR 541.600, 541.602(a), 541.603*

PARTIAL-DAY  
DEDUCTIONS

A District employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a District employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

*29 CFR 541.710*

SAFE HARBOR  
POLICY

If the District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the District will not lose the deduction unless the District willfully violates the policy by con-

tinuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the District's intranet.

*29 CFR 541.603(d)*

TEACHERS

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an elementary or secondary school system by which the employee is employed. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include:

1. Regular academic teachers;
2. Teachers of kindergarten or nursery school pupils;
3. Teachers of gifted or disabled children;
4. Teachers of skilled and semi-skilled trades and occupations;
5. Teachers engaged in automobile driving instruction;
6. Home economics teachers; and
7. Vocal or instrumental music instructors.

Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for exemption,

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provided that such individual is employed as a teacher by the employing school or school system.

*29 CFR 541.303*

WAGE AND HOUR  
RECORDS

The District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. *29 CFR 516.2(a)*

TRS CONTRIBUTIONS  
FOR NEW HIRES

During each fiscal year, the District shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.

“New member” means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.

On a monthly basis, the District shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and
2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

The District must remit the amount required under this section to TRS at the same time the District remits the member’s contribution. In computing the amount required to be remitted, the District shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

*Gov’t Code 825.4041*

TRS SURCHARGE FOR  
REHIRED RETIREES

During each payroll period for which a retiree is reported, the District shall contribute to the retirement system for each retiree reported an amount based on the retiree’s salary equal to the sum of:

TRS FUND  
CONTRIBUTIONS

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

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2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

HEALTH  
INSURANCE  
CONTRIBUTIONS

In addition, each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers.

EXCEPTION

The District is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005.

*Gov't Code 825.4092; Insurance Code 1575.204*

NOTICE REGARDING  
EARNED INCOME TAX  
CREDIT

Not later than March 1 of each year, the District shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;
2. Electronically at the employee's last known e-mail address;
3. Through a flyer included, in writing or electronically, as a payroll stuffer; or
4. By first class mail to the employee's last known address.

The District may not satisfy this requirement solely by posting information in the workplace.

In addition, the District may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

*Labor Code 104.001-.003*

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INCENTIVE GRANTS— CONTRACT PROVISION	The District shall provide in employment contracts that qualifying employees may receive an incentive payment under the Educator Excellence Award Program/District Awards for Teacher Excellence (DATE) if the District participates in the program. The District shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. <i>Education Code 21.415</i>
DISTRICT AWARDS FOR TEACHER EXCELLENCE (DATE)	The DATE is an annual grant program under which the District may receive a grant for the purpose of providing awards to classroom teachers, principals, and other District employees. Funds from the program shall be distributed to each selected school district that submitted an approved local awards plan developed in accordance with Education Code 21.704 and 19 Administrative Code 102.1073(e)(2).
APPLICATION	The District must act pursuant to local Board policy for submitting a local awards plan and grant application to TEA. The local awards plan must meet the criteria set forth at 19 Administrative Code 102.1073(e).  The Board's decision to approve and submit its local awards plan and grant application may not be appealed to the Commissioner.
EXCLUSION OF CERTAIN EMPLOYEES	The District may choose to exclude a teacher or a principal on a selected campus from receiving an award, except involuntarily transferred teachers or principals, or teachers or principals no longer on the selected campus who retired at the end of the school year. The local awards plan must reflect the District policies with regard to such a teacher or principal at the program start date. A decision to exclude certain teachers or principals from receiving an award may not be appealed to the Commissioner.
NOTICE TO TEACHERS AND PRINCIPALS	A local awards plan must provide for notifying teachers and principals eligible to receive awards under the plan of the specific criteria and any formulas on which the awards will be based before the beginning of the period on which the awards will be based.
AWARD AMOUNTS	The District must use at least 60 percent of grant funds to directly award classroom teachers and principals who effectively improve student achievement as determined by meaningful, objective measures (Part I funds). The remaining funds may be used only for the purposes listed at Education Code 21.705.  Annual award amounts should be valued at \$3,000 or more, unless otherwise determined by the District planning committee. All eligible educators must have the opportunity to earn minimum awards valued at \$1,000 per educator identified under Part I. Local deci-

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sions regarding award amounts are final and may not be appealed to the Commissioner.

*Education Code Ch. 21, Subch. O; 19 TAC 102.1073*

MENTOR TEACHERS

The District may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by Commissioner's rules.

The Commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the Commissioner;
2. Complete a training program provided by the District; and
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance.

The District may apply to the Commissioner for funds for a mentor teacher program. The District may use the funds only for providing:

1. Mentor teacher stipends;
2. Scheduled time for mentor teachers to provide mentoring to assigned classroom teachers; and
3. Mentoring support through providers of mentor training.

*Education Code 21.458*

MASTER TEACHER  
GRANT PROGRAMS

The Commissioner shall establish master reading, mathematics, technology, and science teacher grant programs to encourage teachers to become certified as master teachers and to work with other teachers and students to improve student performance.

*Education Code 21.410-.413*

APPLICATION

The District may apply to the Commissioner for grants for each identified high-need campus to be used to pay year-end stipends to certified master teachers.

USE OF FUNDS

Grant funds may be used only for the purpose of paying a year-end stipend to a master teacher whose primary duties are to teach

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reading, mathematics, technology, or science and to serve as a reading, mathematics, technology, or science teacher mentor for the amount of time and in the manner established by the District.

PAYMENTS

The Commissioner shall reduce payments to the District proportionately to the extent a teacher does not meet the requirements for a master teacher for the entire school year.

If a teacher qualifies as a master teacher for a partial month, the District's written policy will determine how the District counts the partial month, for example, as no month served or as an entire month served. Only whole months shall be entered on the application by the District on the teacher's behalf.

Education Code sections 21.410-.413 do not create a property right to a grant or stipend. A master teacher stipend is not considered in determining whether the District is paying the teacher the minimum monthly salary under Education Code 21.402.

DESIGNATION OF  
TEACHER

A district that employs more certified master teachers than the number of grants available shall designate which certified master teacher(s) to assign the duties required to receive the state stipends. The designation is based on a written policy adopted by the Board. The District's decision is final and may not be appealed.

The District may not apportion among teachers a stipend paid with a grant the District receives under this program. The District may use local money to pay additional stipends in amounts determined by the District.

*Education Code 21.410-.413; 19 TAC Ch. 102, Subch. BB*

RETIREMENT  
INCENTIVES

The District may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

ATTENDANCE  
SUPPLEMENT

The District shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*





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**Note:** This policy summarizes the Family and Medical Leave Act (FMLA) and implementing regulations, including FML for an employee seeking leave because of a relative's military service. For provisions on leaves in general, see DEC. For provisions addressing leave for an employee's military service, see DECB.

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This introductory page outlines the contents of this policy on the Family and Medical Leave Act. See the following sections for statutory provisions on:

SECTION I	General Provisions	pages 2–5
	1. Applicability to districts	
	2. Employee eligibility	
	3. Qualifying reasons for leave	
	4. Definitions	
SECTION II	Leave Entitlement and Use	pages 5–12
	1. Amount of leave	
	2. Intermittent use of leave	
	3. Special rules for instructional employees	
	4. Use of paid leave	
	5. Continuation of health insurance	
	6. Reinstatement of employee	
SECTION III	Notices and Medical Certification	pages 12–18
	1. Notices to employee	
	2. Notice to employer regarding use of FML	
	3. Certification of leave	
SECTION IV	Miscellaneous Provisions	page 18–19
	1. Preservation of records	
	2. Prohibition against discrimination	

**SECTION I: GENERAL PROVISIONS**

**COVERED EMPLOYER** All public elementary and secondary schools are “covered employers” under the FMLA, without regard to the number of employees employed. The term “employer” includes any person who acts directly or indirectly in the interest of the District to any of the District’s employees. *29 U.S.C. 2611(4), 2618(a); 29 CFR 825.104(a)*

**ELIGIBLE EMPLOYEE** “Eligible employee” means an employee who:

1. Has been employed by the District for at least 12 months. The 12 months need not be consecutive;
2. Has been employed by the District for at least 1,250 hours of service during the 12-months immediately preceding the commencement of leave; and
3. Is employed at a worksite where 50 or more employees are employed by the District within 75 miles of that worksite.

*29 U.S.C. 2611(2); 29 CFR 825.110*

[A district that has no eligible employees must comply with the requirements at GENERAL NOTICE, below.]

**QUALIFYING REASONS FOR LEAVE** The District shall grant leave to eligible employees:

1. For the birth of a son or daughter, and to care for the newborn child;
2. For placement with the employee of a son or daughter for adoption or foster care [For the definitions of “adoption” and “foster care,” see 29 CFR 825.122];
3. To care for the employee’s spouse, son or daughter, or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee’s job [For the definition of “serious health condition,” see 29 CFR 825.113];
5. Because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to active duty) [For the definition of “covered military member,” see 29 CFR 825.126(b). For the definition of “covered active duty,” see 29 U.S.C. 2611(14)]; and
6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the

spouse, son, daughter, parent, or next of kin of the service-member. [For the definitions of “covered servicemember” and “serious injury or illness,” see 29 U.S.C. 2611(15), (18)]

*29 U.S.C. 2612(a); 29 CFR 825.112*

For provisions regarding treatment for substance abuse, see 29 CFR 825.119.

QUALIFYING  
EXIGENCY

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Additional activities provided that the District and employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

*29 CFR 826.126*

PREGNANCY OR  
BIRTH

Both the mother and father are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. The husband is entitled to FMLA leave if needed to care for his pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition. [For the definition of “needed to care for,” see 29 CFR 825.124] *29 CFR 825.120*

DEFINITIONS

“Next of kin of a covered servicemember” (for purposes of military caregiver leave) means:

NEXT OF KIN

1. The blood relative specifically designated in writing by the covered servicemember as his or her nearest blood relative

for purposes of military caregiver leave under the FMLA. The designated individual shall be deemed to be the covered servicemember's only next of kin; or

2. When no such designation has been made, the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority:
  - a. Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions,
  - b. Brothers and sisters,
  - c. Grandparents,
  - d. Aunts and uncles, and
  - e. First cousins.

If there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously.

*29 CFR 825.127(b)(3)*

PARENT

"Parent" (for purposes of family, medical, and qualifying exigency leave) means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents "in law." *29 CFR 825.122(b)*

For the definition of "parent of a covered servicemember" for purposes of military caregiver leave, see *29 CFR 825.127(b)(2)*.

SON OR DAUGHTER

"Son or daughter" (for purposes of family and medical leave) means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence. *29 CFR 825.122(c)*

For the definition of "son or daughter on active duty or call to active duty status" for purposes of qualifying exigency leave, see *29 CFR 825.126(b)(1)*.

For the definition of "son or daughter of a covered servicemember" for purposes of military caregiver leave, see *29 CFR 825.127(b)(1)*.

SPOUSE “Spouse” means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized. *29 CFR 825.122(a)*

**SECTION II: LEAVE ENTITLEMENT AND USE**

AMOUNT OF LEAVE Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

A husband and wife who are employed by the same district may be limited to a combined total of 12 weeks of FMLA leave during any 12-month period if leave is taken for the birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

*29 U.S.C. 2612(a), (f); 29 CFR 825.120(a)(3), .200, .201*

DETERMINING THE 12-MONTH PERIOD Except with respect to military caregiver leave, the District may choose any one of the following methods for determining the “12-month period” in which the 12 weeks of leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month “leave year,” such as a fiscal year or a year starting on an employee's “anniversary” date;
3. The 12-month period measured forward from the date any employee's first FMLA leave begins; or
4. A “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

*29 CFR 825.200(b)*

MILITARY CAREGIVER LEAVE In the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” is measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins, regardless of the method used by the District to determine the 12-month period for other FMLA leaves. During the “single 12-month period,” an eligible employee's FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason. *29 CFR 825.200(f), (g)*

A husband and wife who are employed by the same district may be limited to a combined total of 26 weeks of FMLA leave during the “single 12-month period” if leave is taken as military caregiver

LEAVES AND ABSENCES  
FAMILY AND MEDICAL LEAVE

DECA  
(LEGAL)

leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. *29 CFR 825.127(d)*

SUMMER VACATION  
AND OTHER  
EXTENDED BREAKS

If the District's activity temporarily ceases and employees generally are not expected to report for work for one or more weeks (e.g., a school closing for two weeks for the Christmas/New Year holiday), those days do not count against the employee's FMLA leave entitlement. Similarly, the period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. *29 CFR 825.200(h), .601(a)*

INTERMITTENT OR  
REDUCED LEAVE  
SCHEDULE

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. "Intermittent leave" is FMLA leave taken in separate blocks of time due to a single qualifying reason. A "reduced leave schedule" is a leave schedule that reduces an employee's usual number of working hours per work-week, or hours per workday.

For leave taken because of the employee's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the District agrees.

*29 U.S.C. 2612(b); 29 CFR 825.202*

TRANSFER TO  
ALTERNATIVE  
POSITION

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the District may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. *29 U.S.C. 2612(b)(2); 29 CFR 825.204*

CALCULATING  
LEAVE USE

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. The District must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that the District

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uses to account for use of other forms of leave, provided the increment is not greater than one hour. *29 CFR 825.205*

SPECIAL RULES FOR  
INSTRUCTIONAL  
EMPLOYEES

Special rules apply to certain employees of the District. These special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

“Instructional employees” are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

*29 CFR 825.600*

FAILURE TO  
PROVIDE NOTICE  
OF FORESEEABLE  
LEAVE

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, the District may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, the District may require the employee to delay the taking of leave until the notice provision is met. *29 CFR 601(b)*

20 PERCENT RULE

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered service-member, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the District may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

“Periods of a particular duration” means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for “periods of a particular duration” in the

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case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

*29 U.S.C. 2618(c); 29 CFR 825.601, .603*

LEAVE AT THE END OF  
A SEMESTER

As a rule, the District may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, the District may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of the FMLA.

If the District requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the District to the end of the semester is not counted as FMLA leave; however, the District shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

*29 U.S.C. 2618(d); 29 CFR 825.603*

MORE THAN FIVE  
WEEKS BEFORE  
END OF SEMESTER

The District may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

DURING LAST FIVE  
WEEKS OF  
SEMESTER

The District may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.



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DURING LAST THREE WEEKS OF SEMESTER	<p>The District may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.</p> <p><i>29 CFR 825.602</i></p>
SUBSTITUTION OF PAID LEAVE	<p>Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, the District may require the employee to do so. The term "substitute" means that the paid leave provided by the District, and accrued pursuant to established policies of the District, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the District's normal leave policy. <i>29 U.S.C. 2612(d); 29 CFR 825.207(a)</i></p>
COMPENSATORY TIME	<p>If an employee requests and is permitted to use accrued compensatory time to receive pay during FMLA leave, or if the District requires such use, the compensatory time taken may be counted against the employee's FMLA leave entitlement. <i>29 CFR 825.207(f)</i></p>
FMLA AND WORKERS' COMPENSATION	<p>A serious health condition may result from injury to the employee "on or off" the job. If the District designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor the District may require the substitution of paid leave. However, the District and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.</p> <p>If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the District's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the District may require the use of accrued paid leave.</p> <p><i>29 CFR 825.207(d)</i></p>
MAINTENANCE OF HEALTH BENEFITS	<p>During any FMLA leave, the District must maintain the employee's coverage under any group health plan on the same conditions as</p>

coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

*29 U.S.C. 2614(c); 29 CFR 825.209*

PAYMENT OF  
PREMIUMS

During FMLA leave, the employee must continue to pay the employee's share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates. *29 CFR 825.210*

FAILURE TO PAY  
PREMIUMS

Unless the District has an established policy providing a longer grace period, the District's obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, the District must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, the District must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

*29 CFR 825.212*

RECOVERY OF  
BENEFIT COST

If an employee fails to return to work after FMLA leave has been exhausted or expires, a District may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. The District may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave. *29 CFR 825.213*

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RIGHT TO  
REINSTATEMENT

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. *29 CFR 825.214(a), .216(a)*

MOONLIGHTING  
DURING LEAVE

If the District has a uniformly applied policy governing outside or supplemental employment, the policy may continue to apply to an employee while on FMLA leave. A district that does not have such a policy may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained. *29 U.S.C. 2618(e); 29 CFR 825.216(e)*

REINSTATEMENT  
OF SCHOOL  
EMPLOYEES

The District shall make the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave on the basis of established Board policies and practices. The "established policies" must be in writing, must be made known to the employee before the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA. For example, an employee may not be restored to a position requiring additional licensure or certification. *29 CFR 825.604*

PAY INCREASES  
AND BONUSES

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with the District's policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee

who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

*29 CFR 825.215(c)*

KEY EMPLOYEES

The District may deny job restoration to a key employee if such denial is necessary to prevent substantial and grievous economic injury to the operations of the District. *29 U.S.C. 2614(b); 29 CFR 825.217-.219*

**SECTION III: NOTICES AND MEDICAL CERTIFICATION**

EMPLOYER NOTICES  
GENERAL NOTICE

Every covered employer must post on its premises a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints with the Department of Labor's Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Covered employers must post this general notice even if no employees are eligible for FMLA leave.

If the District has any eligible employees, it shall also:

1. Include the notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, if such written materials exist; or
2. Distribute a copy of the general notice to each new employee upon hiring.

Electronic posting is sufficient if it meets the other requirements of this section.

If the District's workforce is comprised of a significant portion of workers who are not literate in English, the District shall provide the general notice in a language in which the employees are literate.

The District may use Department of Labor (DOL) form WHD 1420 or may use another format so long as the information provided includes, at a minimum, all of the information contained in that notice.

*29 CFR 825.300(a)*

ELIGIBILITY NOTICE

When an employee requests FMLA leave, or when the District acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the District must notify the employee of the employee's eligibility to take FMLA leave. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.

The District must provide the eligibility notice within five business days, absent extenuating circumstances. Notification of eligibility

may be oral or in writing. The District may use DOL form WH-381 to provide such notification to employees. The District shall translate the notice in any situation in which it is required to translate the general notice.

*29 CFR 825.300(b)*

RIGHTS AND  
RESPONSIBILITIES  
NOTICE

Each time the District provides an eligibility notice to an employee, the District shall also provide a written rights and responsibilities notice. The rights and responsibilities notice must include the information required by the FMLA regulations at 29 CFR 825.300(c)(1).

The District may use DOL form WH-381 to provide such notification to employees. The District may adapt the prototype notice as appropriate to meet these notice requirements. The notice may be distributed electronically if it meets the other requirements of this section. The District shall translate the notice in any situation in which it is required to translate the general notice.

*29 CFR 825.300(c)*

DESIGNATION  
NOTICE

When the District has enough information to determine whether leave is being taken for an FMLA-qualifying reason, the District must notify the employee whether the leave will be designated as FMLA leave. If the District determines that the leave will not be designated as FMLA-qualifying, the District must notify the employee of that determination. Absent extenuating circumstances, the District must provide the designation notice within five business days.

The District may use DOL form WH-382 to provide such notification to employees. If the leave is not designated as FMLA leave because it does not meet the requirements of the Act, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

The designation notice must include the information required by the FMLA regulations at 29 CFR 825.300(d)(1) (substitution of paid leave), (d)(3) (fitness for duty certification), and (d)(6) (amount of leave charged against FMLA entitlement). For further provisions on designation of leave, see 29 CFR 825.301.

*29 CFR 825.300(d)*

RETROACTIVE  
DESIGNATION

The District may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if the District's failure to timely designate leave does not cause harm or injury to the employee. In addition, the District and an employee may agree that leave will be retroactively designated as FMLA leave. *29 CFR 825.301(d)*

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EMPLOYEE NOTICE      An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, below. The employee does not need to expressly assert rights under the Act or even mention the FMLA. *29 CFR 825.301*

FORESEEABLE LEAVE      An employee must provide at least 30 days' advance notice before FMLA leave is to begin if the need for leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment of the employee, a family member, or a covered servicemember. If 30 days' notice is not practicable, the employee must give notice as soon as practicable. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with the District and make a reasonable effort to schedule the treatment so as not to disrupt unduly the District's operations, subject to the approval of the health-care provider.

*29 CFR 825.302*

UNFORESEEABLE LEAVE      When the approximate timing of leave is not foreseeable, an employee must provide notice to the District as soon as practicable under the facts and circumstances of the particular case. It generally should be practicable for the employee to provide notice of leave that is unforeseeable within the time prescribed by the District's usual and customary notice requirements applicable to such leave. *29 CFR 825.303*

COMPLIANCE WITH DISTRICT REQUIREMENTS      The District may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied. *29 CFR 825.302(d)–.303(c)*

CERTIFICATION OF LEAVE      The District may require that an employee's FMLA leave be supported by certification, as described below. The District must give notice of a requirement for certification each time certification is required. At the time the District requests certification, the District must advise the employee of the consequences of failure to provide adequate certification. *29 CFR 825.305(a)*

TIMING      In most cases, the District should request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. The District may re-

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quest certification at a later date if the District later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to the District within 15 calendar days after the District's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. *29 CFR 825.305(b)*

INCOMPLETE OR  
INSUFFICIENT  
CERTIFICATION

The District shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The District must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is "incomplete" if one or more of the applicable entries have not been completed. A certification is "insufficient" if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to the District is not considered incomplete or insufficient, but constitutes a failure to provide certification.

*29 CFR 825.305(c)*

MEDICAL  
CERTIFICATION OF  
SERIOUS HEALTH  
CONDITION

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, the District may require the employee to obtain medical certification from a health-care provider. The District may use DOL optional form WH-380-E when the employee needs leave due to the employee's own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. The District may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing the District with an authorization, release, or waiver allowing the District to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 CFR 825.125.

*29 CFR 825.306*

AUTHENTICATION  
AND CLARIFICATION

If an employee submits a complete and sufficient certification signed by the health-care provider, the District may not request additional information from the health-care provider. However, the District may contact the health-care provider for purposes of clarification and authentication of the certification after the District has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, the District must use a health-

care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

“Authentication” means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

“Clarification” means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. The District may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with the District by a HIPAA-covered health-care provider.

*29 CFR 825.307(a)*

SECOND AND THIRD  
OPINIONS

If the District has reason to doubt the validity of a medical certification, the District may require the employee to obtain a second opinion at the District's expense. If the opinions of the employee's and the District's designated health-care providers differ, the District may require the employee to obtain certification from a third health-care provider, again at the District's expense. *29 CFR 825.307(b), (c)*

FOREIGN MEDICAL  
CERTIFICATION

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the District shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide the District with a written translation of the certification upon request. *29 CFR 825.307(f)*

RECERTIFICATION

The District may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. The District must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, the District may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

*29 CFR 308*



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CERTIFICATION—  
QUALIFYING  
EXIGENCY LEAVE

The first time an employee requests leave because of a qualifying exigency, the District may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

The District may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). The District may use DOL optional form WH-384, or another form containing the same basic information, for this certification. The District may not require information beyond that specified in the regulations.

*29 CFR 825.309*

CERTIFICATION—  
MILITARY  
CAREGIVER LEAVE

When an employee takes military caregiver leave, the District may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, the District may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). The District may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

The District may use DOL optional form WH-385, or another form containing the same basic information, for this certification. The District may not require information beyond that specified in the regulations. The District must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("ITAs") issued to any family member to join an injured or ill servicemember at his or her bedside.

The District may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

*29 CFR 825.310*

INTENT TO RETURN  
TO WORK

The District may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The District's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

*29 CFR 825.311*

FITNESS FOR DUTY  
CERTIFICATION

As a condition of restoring an employee who took FMLA leave due to the employee's own serious health condition, the District may

have a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The District may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. *29 CFR 825.312*

FAILURE TO  
PROVIDE  
CERTIFICATION

If the employee fails to provide the District with a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, the District may deny the taking of FMLA leave. This provision applies in any case where the District requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient. *29 CFR 825.305*

For failure to provide timely certification of foreseeable leave, see 29 CFR 825.313(a). For failure to provide timely certification of unforeseeable leave, see 29 CFR 825.313(b). For failure to provide timely recertification, see 29 CFR 825.313(c). For failure to provide timely fitness-for-duty certification, see 29 CFR 825.313(d).

**SECTION IV: MISCELLANEOUS PROVISIONS**

RECORDS

The District shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. The District shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the DOL upon request.

If the District is preserving records electronically, the District must comply with 29 CFR 825.500(b). A district that has eligible employees must maintain records with the data set forth at 29 CFR 825.500(c). A district that has no eligible employees must maintain just the data at 29 CFR 825.500(c)(1). For districts in a joint employment situation, see 29 CFR 825.500(e).

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements [see 29 CFR 1630.14(c)(1)], except as set forth in this section of the regulations.

*29 CFR 825.500*

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PROHIBITION AGAINST  
DISCRIMINATION AND  
RETALIATION

The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. *29 U.S.C. 2615; 29 CFR 825.220*



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**Note:** This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA.

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FEDERAL MILITARY  
LEAVE

REEMPLOYMENT

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to the District (unless notice is precluded by military necessity or is otherwise unreasonable or impossible);
2. The cumulative length of the absence and of all previous absences from a position of employment with the District does not exceed five years; and
3. The person reports to or submits an application for reemployment to the District and complies with the appropriate procedural requirements that apply under the circumstances.

For purposes of federal military leave, "uniformed services" means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President in time of war or emergency.

A person who is reemployed under USERRA is entitled to the seniority, and other rights and benefits determined by seniority, that the person had on the date of the commencement of uniformed service, plus the additional seniority, rights, and benefits that such person would have attained if the person had remained continuously employed.

EXCEPTION

The District is not required to reemploy a person if:

1. The District's circumstances have so changed as to make reemployment impossible or unreasonable;
2. The reemployment of such person would impose an undue hardship on the District; or

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(LEGAL)

3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

*38 U.S.C. 4301, et. seq.*

STATE LEAVE FOR  
MEMBER OF MILITARY  
OR RESCUE TEAM  
SHORT TERM

All employees of the District who are members of the state military forces, a reserve component of the United States Armed Forces, or a member of a state or federally authorized Urban Search and Rescue team shall be granted a paid leave of absence from their duties without loss of time, efficiency rating, vacation time, personal time, sick leave, or salary on all days during which they are engaged in authorized training or duty ordered or authorized by proper authority. Such leave shall not exceed 15 workdays in a federal fiscal year. *Gov't Code 431.005(a), (b)*

CALLED TO DUTY

A member of the state military forces who is ordered to active state duty by the governor or other proper authority under state law is entitled to the same benefits and protections provided to persons performing service in the uniformed services under 38 U.S.C. 4301–4313 and 4316–4319 (USERRA) and to persons in the military service of the United States under 50 App. U.S.C. 501–536, 560, and 580–594, as those laws existed on April 1, 2003. *Gov't Code 431.017*

LONG TERM

Any employee, other than a temporary employee, who leaves a position with the District to enter active military service is entitled to be reemployed by the District in the same position held at the time of the induction, enlistment, or order, or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position. *Gov't Code 613.001(3), 613.002*

An employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in the District in a position that the employee can perform and that has like seniority, status, and pay as the former position, or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

To be reemployed, a veteran of the military must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. Application must be made in writing to the Superintendent and have attached to it evidence of the veteran's discharge, separation, or release

LEAVES AND ABSENCES  
MILITARY LEAVE

DECB  
(LEGAL)

from military service under honorable conditions. *Gov't Code 613.004*

A person reemployed after active military service shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

"Military service" means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard, or the Texas State Guard. *Gov't Code 613.001(2)*

USE OF PERSONAL  
LEAVE

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. This provision applies to any personal or sick leave available under former law or provided by local policy.

The District may adopt a policy providing for paid leave for active military service as part of the consideration of employment.

*Education Code 22.003(d), (e)*





EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

All District employees shall perform their duties in accordance with state and federal law, District policy, and ethical standards. [See DH(EXHIBIT)]

All District employees shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

VIOLATIONS OF  
STANDARDS OF  
CONDUCT

Employees shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as District employees. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DCD and DF series]

ELECTRONIC MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing Web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and Web-based applications.

USE WITH  
STUDENTS

In accordance with administrative regulations, a certified or licensed employee, or any other employee designated in writing by the Superintendent or a campus principal, may use electronic media to communicate with currently enrolled students about matters within the scope of the employee's professional responsibilities. All other employees are prohibited from using electronic media to communicate directly with students who are currently enrolled in the District. The regulations shall address:

1. Exceptions for family and social relationships;
2. The circumstances under which employees may use text messaging to communicate with students; and
3. Other matters deemed appropriate by the Superintendent or designee.

An employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic media. [See CPC]

PERSONAL USE

Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee's use of electronic media violates state or

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY  
REQUIREMENTS

All employees shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

HARASSMENT OR  
ABUSE

Employees shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees. [See DIA]
2. Students. [See FFH; see FFG regarding child abuse and neglect]

While acting in the course of their employment, employees shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

RELATIONSHIPS WITH  
STUDENTS

Employees shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]

TOBACCO USE

Employees shall not use tobacco products on District premises, in District vehicles, or at school or school-related activities. [See also GKA]

ALCOHOL AND DRUGS

Employees shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while at school or at school-related activities during or outside of usual working hours:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

EXCEPTIONS	An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee's personal use shall not be considered to have violated this policy.
NOTICE	<p>Each employee shall be given a copy of the District's notice regarding drug-free schools. [See DI(EXHIBIT)]</p> <p>A copy of this policy, a purpose of which is to eliminate drug abuse from the workplace, shall be provided to each employee at the beginning of each year or upon employment.</p>
ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS	<p>An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:</p> <ol style="list-style-type: none"><li>1. Crimes involving school property or funds;</li><li>2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;</li><li>3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or</li><li>4. Crimes involving moral turpitude, which include:<ul style="list-style-type: none"><li>• Dishonesty; fraud; deceit; theft; misrepresentation;</li><li>• Deliberate violence;</li><li>• Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;</li><li>• Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;</li><li>• Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period; or</li><li>• Acts constituting abuse under the Texas Family Code.</li></ul></li></ol>
DRESS AND GROOMING	The dress and grooming of District employees shall be clean, neat, in a manner appropriate for their assignments, and in accordance with any additional standards established by their supervisors and approved by the Superintendent.



WORK LOAD

DL  
(LEGAL)

PLANNING AND  
PREPARATION

Each classroom teacher is entitled to at least 450 minutes in each two-week period for instructional preparation including parent-teacher conferences, evaluating students' work, and planning. A planning and preparation period may not be less than 45 minutes within the instructional day. During that time, a teacher may not be required to participate in any other activity. *Education Code 21.404* [See DEA(LEGAL) for definition of classroom teacher]

DUTY-FREE LUNCH

Each classroom teacher or full-time librarian is entitled to at least a 30-minute lunch period free from all duties and responsibilities connected with the instruction and supervision of students. The implementation of this requirement may not result in a lengthened school day. *Education Code 21.405* [See DEA(LEGAL) for definitions of classroom teacher and librarian]

EXCEPTION

If necessary because of a personnel shortage, extreme economic conditions, or unavoidable or unforeseen circumstances, the District may require a classroom teacher or librarian to supervise students during lunch. A classroom teacher or librarian may not be required to supervise students under this exception more than one day in any school week. *Education Code 21.405*

In determining whether an exceptional circumstance exists, the District shall use the following guidelines:

1. A personnel shortage exists when, despite reasonable efforts to use nonteaching personnel or the assistance of community volunteers to supervise students during lunch, no other personnel are available.
2. Extreme economic conditions exist when the percentage of a local tax increase, including the cost of implementing duty-free lunch requirements, would place the District in jeopardy with respect to a potential roll-back election.
3. Unavoidable or unforeseen circumstances exist when, because of illness, epidemic, or natural or man-made disaster, the District is unable to find individuals to supervise students during lunch.

*19 TAC 153.1001*



PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

STAFF DEVELOPMENT	Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee [see BQB].
TRAINING SPECIFICS	<p>The staff development provided by the District must be conducted in accordance with standards developed by the District and designed to improve education in the District.</p> <p>The staff development must include training, based on scientifically based research, that relates to the instruction of students with disabilities and is designed for educators who work primarily outside the area of special education. The District is required to provide such training only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. The District may determine the time and place at which the training is delivered. In developing or maintaining such training, the District must consult persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified District personnel, and any other persons identified as qualified by the District.</p> <p>The staff development may include:</p> <ol style="list-style-type: none"><li>1. Training in technology, conflict resolution, and discipline strategies, including classroom management, District discipline policies, and the Student Code of Conduct; and</li><li>2. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.</li></ol> <p><i>Education Code 21.451</i></p> <p>The District may use District-wide staff development that has been developed and approved through the District-level decision process. <i>Education Code 21.452(c)</i></p>
SPECIAL PROGRAMS TRAINING	A district that receives assistance under Title I shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the state content standards, to enable all children to meet the state's student performance standards; and shall meet the requirements of federal law. <i>20 U.S.C. 6320(a), 7801(34)</i>
TITLE I STAFF DEVELOPMENT	
READING ACADEMIES	A teacher shall attend a reading academy under 19 Administrative Code 102.1101 if:

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

1. The teacher teaches at a campus that fails to satisfy any performance standard under Education Code 39.054(d) [see AIA] on the basis of student performance on the state reading assessment instrument administered to students in any grade level at the campus; and
2. The teacher teaches in general education, special education, or English as a second language for students in grade 6, 7, or 8, and:
  - a. The teacher is a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50 percent of the teacher's instructional duties; or
  - b. The teacher is a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50 percent of the teacher's instructional duties.

From funds appropriated for this purpose, a teacher who attends a reading academy is entitled to a stipend in the amount determined by the Commissioner. The stipend shall not be considered in determining whether the District is paying the teacher the state minimum monthly salary [see DEA].

*Education Code 21.4551(c), (e); 19 TAC 102.1101(b)*

GIFTED AND  
TALENTED  
EDUCATION

The District shall ensure that:

1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.
2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.
3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

*19 TAC 89.2*



PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

ELECTIVE BIBLE COURSE	A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religious or biblical studies. The teacher must successfully complete the staff development training developed by the Commissioner with respect to Bible elective courses. <i>Education Code 28.011(f)</i>
ADULT EDUCATION	<p>All adult education staff shall receive at least 12 clock hours of professional development annually. All staff new to adult education shall receive six clock hours of preservice professional development before they begin work in an adult education program. <i>19 TAC 89.25(1), (2)</i></p> <p>Directors, teachers, counselors, and supervisors who do not have valid Texas teacher certification must attend 12 clock hours of in-service professional development annually in addition to the 12 hours required above until they have completed either six clock hours of adult education college credit or attained two years of adult education experience. <i>19 TAC 89.25(4)(B)</i></p>
EXCEPTIONS	The in-service professional development requirements may be reduced by local programs in individual cases where exceptional circumstances prevent employees from completing the required hours of in-service professional development. Documentation justifying such circumstances must be kept. Requests for exemption in individual cases may be submitted to TEA for approval in the application for funding and must include justification and proposed qualification. <i>19 TAC 89.25(5)</i>
VOLUNTEERS	The above requirements also apply to volunteers who generate student contact time that is accrued by the adult education program and reported to TEA for funding purposes. <i>19 TAC 89.25(7)</i>
RECORDS	Records of staff qualifications and professional development shall be maintained by the District and must be available for monitoring. <i>19 TAC 89.25(6)</i>
AUTOMATED EXTERNAL DEFIBRILLATORS	<p>The District shall annually make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).</p> <p>The instruction provided in the use of AEDs must meet guidelines for approved AED training under Health and Safety Code 779.002. Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the Commissioner, and each student who serves as an athletic trainer, must:</p>

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

1. Participate in the instruction;
2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

*Education Code 22.902*

EXTRACURRICULAR  
ACTIVITY SAFETY  
TRAINING

The following persons must satisfactorily complete the extracurricular safety training program developed by the Commissioner:

1. A coach or sponsor for an extracurricular athletic activity;
2. A trainer, unless the trainer has completed the educational requirements for licensure as a licensed athletic trainer set forth at 22 Administrative Code 871.7 and the continuing education requirements at 22 Administrative Code 871.12;
3. A physician who is employed by the District or who volunteers to assist with an extracurricular athletic activity, unless the physician attends a continuing medical education course that specifically addresses emergency medicine; and
4. A director responsible for a school marching band.

The training may be conducted by the District, the American Red Cross, the American Heart Association, or a similar organization, or by the UIL.

*Education Code 33.202(b), (f); 19 TAC 76.1003*

RECORDS

The Superintendent shall maintain complete and accurate records of the District's compliance and the District shall make available to the public proof of compliance for each person employed by or volunteering for the District who is required to receive safety training.

A campus that is determined by the Superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

*Education Code 33.206; 19 TAC 76.1003(e)*

STEROIDS

The District shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the University Interscholastic League (UIL) complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the District or a private entity with relevant expertise.

*Education Code 33.091(c-1)*

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

RESOURCES FOR  
STAFF DEVELOPMENT

If the District receives resources from the Commissioner's staff development account, it must pay to the Commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the District. *Education Code 21.453*



PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

FREQUENCY Except as provided below, each teacher must be appraised at least once during each school year. *Education Code 21.203, 21.352(c); 19 TAC 150.1003(a)*

EXCEPTION A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years. *Education Code 21.352(c)*

For purposes of the Professional Development and Appraisal System (PDAS), an area of deficiency is a domain. A teacher must be rated as at least proficient for each domain (that is, for all domains) to be eligible for less frequent appraisals.

District policy may stipulate:

1. Whether the exception is to be made available to all teachers;
2. Whether the exception is to be adopted Districtwide or is to be campus specific;
3. If the appraisal accompanying a teacher new to the District or campus meets the requirements for the exception, whether the appraisal is to be accepted or whether that teacher is to be appraised by the new campus administrator; and
4. Whether a certified appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies documented by cumulative data, including third-party information.

The District may choose annually to review the written agreement with the teacher. However, at the end of the school year, the District may modify exceptions through Board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous years.

*19 TAC 150.1003(l)*

ROLE OF  
EXTRACURRICULAR  
ACTIVITIES

A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the basis of classroom teaching performance and not on performance in connection with extracurricular activities. *Education Code 21.353*

ACCESS TO  
EVALUATIONS

The District shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file.

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

Each teacher is entitled to receive a written copy of the evaluation on its completion. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.

*Education Code 21.352(c)*

CONFIDENTIALITY

A document evaluating the performance of a teacher is confidential. *Education Code 21.355*

CHOICE OF  
APPRAISAL  
METHOD

The District shall use one of the following methods to appraise teachers:

1. The appraisal process and performance criteria developed by the Commissioner [see STATE METHOD, below]; or
2. A locally developed appraisal process and performance criteria [see DISTRICT OPTION and CAMPUS OPTION, below].

*Education Code 21.352(a); 19 TAC 150.1001(a)*

SELECTION OF  
APPRAISAL  
METHOD

The Superintendent, with the approval of the Board, may select the state appraisal method. Each district or campus wanting to select or develop an alternative teacher-appraisal system must follow the requirements set forth below at DISTRICT OPTION or CAMPUS OPTION. *19 TAC 150.1001(c)*

INFORMATION TO  
SERVICE CENTER

The Superintendent shall notify the executive director of the District's regional education service center of the District's choice of appraisal system(s), by a time designated by the Commissioner.

The District shall submit annually to its service center, in a manner prescribed by the Commissioner, a summary of the evaluation scoring from all campuses in the District.

*19 TAC 150.1010*

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**Note:** The following provisions apply to teacher appraisal using the state appraisal method.

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STATE METHOD  
(PDAS)

The state appraisal method is the Professional Development and Appraisal System. The foundation for the PDAS is the teacher proficiencies described in *Learner-Centered Schools for Texas: A Vision of Texas Educators*. *19 TAC 150.1001(b), 150.1002(a)*

ORIENTATION AND  
ANNUAL REVIEW

The District shall ensure that all teachers are provided with an orientation to the PDAS. The orientation shall be provided no later than the final day of the first three weeks of school and at least three weeks before the first observation. Additional orientations shall be provided any time substantial changes occur in the PDAS.

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

The orientation shall include materials approved by the Commissioner.

In addition, at least three weeks before the first formal observation, all teachers to be appraised shall be provided an annual review of District policy regarding teacher appraisal and of 19 Administrative Code Chapter 150, Subchapter AA (Teacher Appraisal).

*19 TAC 150.1007*

APPRAISERS

The teacher appraisal process requires at least one certified appraiser.

A campus administrator who is a certified PDAS appraiser and approved by the Board shall conduct a teacher's appraisal. For the purposes of PDAS, a "campus administrator" includes a principal, an assistant principal, or other supervisory staff designated as an administrator who holds a comparable administrator/supervisor certificate established by the State Board for Educator Certification. Only in the event of the circumstances described below at SAME CAMPUS may an individual other than a campus administrator act as a certified appraiser.

SAME CAMPUS

A certified appraiser who is a classroom teacher may not appraise another classroom teacher at the same campus unless it is impractical because of the number of campuses or unless the appraiser is the chair of a department or grade-level whose job description includes classroom observation responsibilities.

CERTIFICATION

Before conducting appraisals, an appraiser must be certified by having satisfactorily completed uniform appraiser training. Periodic recertification and training shall be required.

*Education Code 21.351(c); 19 TAC 150.1006*

APPRAISAL  
CALENDAR

The District shall establish a calendar for teacher appraisals. The appraisal period for each teacher must include all of the days of the teacher's contract.

Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.

The calendar shall:

1. Exclude observations in the three weeks after the day of completion of the PDAS orientation in the school years when an orientation is required;

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

2. Exclude observations in the three weeks after the day of completion of the PDAS orientation for teachers new to the PDAS;
3. Exclude observations in the first three weeks of instruction in the school years when the PDAS orientation is not required;
4. Prohibit observations on the last day of instruction before any official school holiday or on any other day deemed inappropriate by the Board; and
5. Indicate a period for summative annual conferences that ends no later than 15 working days before the last day of instruction for students.

*19 TAC 150.1003(d)*

A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required. *Education Code 21.352(d); 19 TAC 150.1003(c)*

APPRAISAL PROCESS

The annual appraisal shall include:

1. At least one classroom observation of a minimum of 45 minutes, with additional walk-throughs and observations conducted at the discretion of the appraiser;
2. Completion of Section I of the Teacher Self-Report Form that shall be presented to the principal;
3. Cumulative data of written documentation collected regarding job-related teacher performance, in addition to formal classroom observations; and
4. A written summative annual appraisal report and a summative annual conference, described below.

*19 TAC 150.1003(b)*

SUMMATIVE REPORT

A written summative annual appraisal report shall be shared with the teacher no later than five working days before the summative conference and no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period. *19 TAC 150.1003(h)*

SUMMATIVE  
CONFERENCE

Unless waived in writing by the teacher, a summative conference shall be held within a time frame specified on the District calendar and no later than 15 working days before the last day of instruction for students. The summative conference shall focus on the written summative report and related data sources. *19 TAC 150.1003(i)*



PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

TEACHER RESPONSE      A teacher may submit a written response or rebuttal after receiving a written observation summary, summative annual appraisal report, and/or any other documentation associated with the teacher's appraisal. The rebuttal is to be attached to the evaluation in the teacher's personnel file. *Education Code 21.352(c); 19 TAC 150.1005(a)*

REQUEST FOR  
SECOND APPRAISAL      A teacher may request a second appraisal by another certified appraiser after receiving a written observation summary and/or a written summative annual appraisal report. *Education Code 21.352(c); 19 TAC 150.1005(c)*

The District shall adopt written procedures for determining the selection of second appraisers. The procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed. *19 TAC 150.1005(g)*

INTERVENTION PLAN      A teacher whose performance meets one of the following circumstances will be designated a "teacher in need of assistance":

1. A teacher who is evaluated as unsatisfactory in one or more domains; or
2. A teacher who is evaluated as below expectations in two or more domains.

When a teacher is designated as in need of assistance, the certified appraiser and the teacher's supervisor shall, in consultation with the teacher, develop an intervention plan. A teacher who has not met all requirements of the intervention plan by the time specified may be considered for separation from the assignment, campus, and/or District.

An intervention plan may be developed at any time at the discretion of the certified appraiser when the certified appraiser has documentation that would potentially produce an evaluation rating of "below expectations" or "unsatisfactory."

*19 TAC 150.1004*

APPEALS      The District shall adopt written procedures for a teacher to present grievances and receive written comments in response to the written annual report. *19 TAC 150.1005(g)*

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**Note:** The following provisions apply to teacher appraisal using the District-developed appraisal method.

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DISTRICT OPTION      A district that does not want to use the PDAS must develop its own teacher-appraisal system supported by locally adopted policy and procedures and by the processes outlined below.

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

The Texas Teacher Appraisal System (TTAS) is no longer a state-recommended system. However, the TTAS may be used as a local option governed by the process outlined below. If adopted as a local option, the TTAS must be modified to comply with Education Code 21.351(a)(1) and (2). [See APPRAISAL PROCESS, below]

DEVELOPMENT  
OF APPRAISAL  
SYSTEM

The District-level planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Consult with the campus-planning and decision-making committee on each campus in the District.

APPRAISAL  
PROCESS

The appraisal process shall include:

1. At least one appraisal each year;
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
  - a. Teachers' implementation of discipline management procedures; and
  - b. Performance of the teachers' students.

BOARD  
ACCEPTANCE

The District-level planning and decision-making committee shall submit the appraisal process and criteria to the Superintendent, who shall submit the appraisal process and criteria to the Board with a recommendation to accept or reject.

The Board may accept or reject, with comments, the appraisal process and performance criteria, but may not modify the process or criteria.

*Education Code 21.352(a)(2), (b); 19 TAC 150.1009(a)*

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**Note:** The following provisions apply to teacher appraisal using the campus-developed appraisal method.

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CAMPUS OPTION

A campus within the District may choose to develop a local appraisal system.

DEVELOPMENT OF  
APPRAISAL SYSTEM

The campus planning and decision-making committee shall:

1. Develop an appraisal process;

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Submit the process and criteria to the District-level planning and decision-making committee.

APPRAISAL  
PROCESS

The appraisal process shall include:

1. At least one appraisal each year;
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
  - a. Teachers' implementation of discipline management procedures; and
  - b. Performance of the teachers' students.

BOARD  
ACCEPTANCE

Upon submission of the appraisal process and criteria to the District-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the Superintendent.

The Superintendent shall submit to the Board:

1. The recommended campus appraisal process and criteria;
2. The District-level planning and decision-making committee's recommendation; and
3. The Superintendent's recommendation.

The Board may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

*Education Code 21.352(a)(2), (b); 19 TAC 150.1009(b)*



**Please Note:** This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

## SECTION E: INSTRUCTION

EA	INSTRUCTIONAL GOALS AND OBJECTIVES
EB	SCHOOL YEAR
EC	SCHOOL DAY
ED	ORGANIZATION OF INSTRUCTION
EE	INSTRUCTIONAL ARRANGEMENTS
EEA	Grouping for Instruction
EEB	Class Size
EEC	Scheduling for Instruction
EED	Student Schedules
EEH	Homebound Instruction
EEJ	Individualized Learning
EEJA	Credit by Examination With Prior Instruction
EEJB	Credit by Examination Without Prior Instruction
EEJC	Correspondence Courses
EEL	Contracts with Outside Agencies
EEM	Juvenile Residential Facilities
EEP	Lesson Plans
EF	INSTRUCTIONAL RESOURCES
EFA	Instructional Materials Selection and Adoption
EFAA	Textbook Selection and Adoption
EFB	Library Media Programs
EFC	Community Instructional Resources
EFD	Field Trips
EFE	Copyrighted Material
EFF	Instructional Television
EG	CURRICULUM DEVELOPMENT
EGA	Innovative and Magnet Programs
EH	CURRICULUM DESIGN
EHA	Basic Instructional Program
EHAA	Required Instruction (All Levels)
EHAB	Required Instruction (Elementary)
EHAC	Required Instruction (Secondary)
EHAD	Elective Instruction
EHB	Special Programs
EHBA	Special Education
EHBAA	Identification, Evaluation, and Eligibility
EHBAB	ARD Committee and Individualized Education Program

**Please Note:** This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

## **SECTION E: INSTRUCTION**

EHBAC	Students in Non-District Placement
EHBAD	Transition Services
EHBAE	Procedural Requirements
EHBB	Gifted and Talented Students
EHBC	Compensatory/Accelerated Services
EHBD	Federal Title I
EHBE	Bilingual Education/ESL
EHBF	Career and Technical Education
EHBG	Prekindergarten
EBBH	Other Special Populations
EHBI	Adult and Community Education
EHBK	Other Instructional Initiatives
EHBL	High School Equivalency
EHD	Extended Instructional Programs
EHDA	Summer School
EHDB	Travel Study
EHDC	Honors
EHDD	College Course Work/Dual Credit
EHDE	Distance Learning
EI	<b>ACADEMIC ACHIEVEMENT</b>
EIA	Grading/Progress Reports to Parents
EIAA	Examinations
EIAB	Makeup Work
EIB	Homework
EIC	Class Ranking
EID	Honor Rolls
EIE	Retention and Promotion
EIF	Graduation
EJ	<b>ACADEMIC GUIDANCE PROGRAM</b>
EK	<b>TESTING PROGRAMS</b>
EKB	State Assessment
EKBA	LEP Students
EKC	Reading Assessment
EKD	Mathematics Assessment
EL	<b>CHARTER CAMPUS OR PROGRAM</b>
EM	<b>MISCELLANEOUS INSTRUCTIONAL POLICIES</b>
EMA	Academic Freedom
EMB	Teaching About Controversial Issues
EMD	Ceremonies and Observances
EMG	Animals in the School
EMI	Study of Religion

INSTRUCTIONAL ARRANGEMENTS  
JUVENILE RESIDENTIAL FACILITIES

EEM  
(LEGAL)

FUNDING

If the District provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board, the District is entitled to count those students in the District's average daily attendance.

If a district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between:

1. The average Foundation School Program costs per student of the district providing education services; and
2. The sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

*Education Code 37.0061*

OPERATIONS  
DEFINITIONS

A "pre-adjudication secure detention facility" is a secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and is used for the temporary placement of any juvenile or other individual who is accused of having committed an offense and is awaiting court action, an administrative hearing, or other transfer action.

A "post-adjudication secure correctional facility" is a secure facility administered by a governing board or the Texas Youth Commission that includes construction and fixtures designed to physically restrict the movements and activities of the residents and is intended for the treatment and rehabilitation of youth who have been adjudicated. A post-adjudication secure correctional facility does not include any non-secure residential program operating under the authority of a juvenile board as defined by Family Code 51.12(j).

A "resident" is a juvenile or other individual who has been admitted into a pre-adjudication secure detention facility or a post-adjudication secure correctional facility.

"Residential facility" means:

1. A facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the

INSTRUCTIONAL ARRANGEMENTS  
JUVENILE RESIDENTIAL FACILITIES

EEM  
(LEGAL)

person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and

2. Any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under item 1.

A "school district" is the educational service provider in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility. For the purposes of this section addressing OPERATIONS, the definition of school district includes open-enrollment charter school.

*Education Code 5.001(8); 19 TAC 89.1801(a)*

ENROLLMENT

PRE-  
ADJUDICATION  
SECURE  
DETENTION  
FACILITY

The school district providing the education services in a pre-adjudication secure detention facility shall ensure that a student is enrolled in its district or, by local agreement, in the student's locally assigned school district on the first school day after the student's arrival at the facility unless it is confirmed that the student will return to a different district within ten school days. The district that maintains a student's enrollment is responsible for ensuring that appropriate education services are provided to each of its students while in the facility.

POST-  
ADJUDICATION  
SECURE  
CORRECTIONAL  
FACILITY

The school district providing the education services in a post-adjudication secure correctional facility shall ensure that a student is enrolled in its district or, by local agreement, in the student's locally assigned district on the student's first school day in the facility as a court-committed juvenile.

ACADEMIC  
RECORDS

The school district in the facility shall coordinate with the student's previous locally assigned campus to ensure that appropriate academic records are received within ten school days of the student's enrollment.

*19 TAC 89.1801(b)*

CLASS SIZE

The school district shall ensure that the classroom ratio does not exceed one certified educator to 24 students per class period.  
*19 TAC 89.1801(c)*

PRE-ASSESSMENT

The school district shall ensure that a pre-assessment is administered to students in a post-adjudication secure correctional facility. The pre-assessment shall:

1. Be administered within ten school days from the student's first day of enrollment; and



INSTRUCTIONAL ARRANGEMENTS  
JUVENILE RESIDENTIAL FACILITIES

EEM  
(LEGAL)

2. At a minimum, evaluate the student's basic reading and mathematics skills in relation to the student's current grade level.

*19 TAC 89.1801(d)*

CURRICULUM

Each school district shall, at a minimum, provide students with the subjects and courses necessary to complete the Minimum High School Program, as specified in 19 Administrative Code 74.62. The school district shall ensure that the educational services of the students consist of curriculum that is aligned with the requirements described in Education Code 28.002 and the Texas Essential Knowledge and Skills (TEKS).

PRE-  
ADJUDICATION

Each school district in a pre-adjudication secure detention facility shall ensure that a student is provided courses that afford an opportunity of continued progress toward the completion of the Minimum High School Program.

POST-  
ADJUDICATION

Each school district in the post-adjudication secure correctional facility shall, at a minimum, provide a student curriculum that enables the student the opportunity to complete the requirements of the Minimum High School Program. The school district shall provide students, ages 15–18 and identified as appropriate candidates, the opportunity and resources to prepare for the five general educational development examinations.

*19 TAC 89.1801(e)*

AWARD OF CREDIT

The school district shall grant credits for coursework completed to ensure that high school credit is awarded to students for the successful completion of required courses while enrolled in educational services at the facility. *19 TAC 89.1801(f)*

LENGTH AND  
NUMBER OF  
SCHOOL DAYS

The school district shall, at a minimum, provide a seven-hour school day that consists of at least five and one-half hours of required secondary curriculum to students in the facility. For each school year, each school district must operate so that the facility provides for at least 180 days of instruction for students.

STUDENTS WITH  
DISABILITIES

The school district shall ensure that students with disabilities are provided instructional days commensurate with those provided to students without disabilities in accordance with requirements contained in 19 Administrative Code 89.1075(d).

*19 TAC 89.1801(g)*



INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LEGAL)

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**Note:** For provisions regarding inventory and requisition of textbooks, see CMD.

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STATE TEXTBOOK AND INSTRUCTIONAL MATERIALS LISTS	For each subject and grade level, the State Board of Education (SBOE) shall adopt two lists of textbooks: conforming and nonconforming:
CONFORMING LIST	1. The conforming list includes each textbook that meets applicable physical specifications and contains material covering each element of the essential knowledge and skills of the subject and grade level.
NONCONFORMING LIST	2. The nonconforming list includes each textbook that meets the applicable physical specifications and contains material covering at least half, but not all, of the elements of the essential knowledge and skills.
	<i>Education Code 31.023</i>
OPEN-SOURCE TEXTBOOKS	The SBOE shall place an open-source textbook for a secondary-level course submitted for adoption by an eligible institution on a conforming or nonconforming list if it satisfies the requirements described in Education Code 31.0241. <i>Education Code 31.0241(b)</i>
ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST	The Commissioner, with input from the SBOE, shall adopt a list of: <ol style="list-style-type: none"><li>1. Electronic textbooks; and</li><li>2. Instructional material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade 5.</li></ol>
	<i>Education Code 31.0231</i>
SUPPLEMENTAL TEXTBOOK LIST	The SBOE may adopt supplemental textbooks that are not on the conforming or nonconforming lists. A supplemental textbook contains material covering one or more primary focal points or primary topics of a subject in the required curriculum but is not designed to serve as the sole textbook for a full course. <i>Education Code 31.035(a), (b)</i>
LOCAL SELECTION	Each year, during a period established by the SBOE, the Board shall select textbooks for subjects in the foundation and enrichment curricula. <i>Education Code 31.101(a)</i>
POLICY	The Board shall adopt a policy for selecting instructional materials. Final selections must be recorded in Board minutes. <i>19 TAC 66.104(a)</i>

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LEGAL)

FOUNDATION  
TEXTBOOKS

The Board shall select textbooks for a subject in the foundation curriculum from among the textbooks on the appropriate conforming list or the nonconforming list, including the electronic textbook and instructional materials list. *Education Code 31.101(a)(1)*

The Board may select a supplemental textbook adopted by the SBOE, as set forth at Education Code 31.035. If the Board selects a supplemental textbook for a course in the foundation curriculum, the District shall certify to TEA that the supplemental textbook, in combination with any other textbooks or supplemental textbooks used by the District, cover the essential knowledge and skills for the course. *Education Code 31.035(d), (f)*

ENRICHMENT  
TEXTBOOKS

The Board may select textbooks for courses in the enrichment curriculum from among the textbooks on the appropriate conforming list or the nonconforming list, including the electronic textbook and instructional materials list, or it may select books that do not appear on either list (nonadopted materials). *Education Code 31.101(a)(2)*

BRAILLE / LARGE-  
TYPE

The District is responsible for providing Braille and/or large-type versions of nonadopted enrichment materials. *19 TAC 66.104(d)*

CLASSROOM SET  
OF TEXTBOOKS

Notwithstanding any other provision of Education Code Chapter 31, the District must purchase a classroom set of textbooks adopted by the SBOE on the conforming or nonconforming list or the supplemental textbook list for each subject and grade level in the foundation and enrichment curriculum. *Education Code 31.101(c-1); 19 TAC 66.104(r)*

A classroom set is defined as the total count of SBOE-adopted textbooks on the conforming or nonconforming list necessary to provide one copy to each student during the class period. A classroom kit that includes materials for every student in the classroom is considered to be a classroom set. *19 TAC 66.104(s)*

SPECIAL  
EDUCATION

Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. *19 TAC 66.104(m)*

DURATION OF  
SELECTION

Once instructional materials have been requisitioned and delivered, including nonadopted materials, the District shall continue to use those materials during the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the materials are used. *Education Code 31.101(d); 19 TAC 66.104(f), (j)*

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LEGAL)

EXCEPTION	<p>A district that selects a subscription-based electronic textbook or instructional material on the conforming list or the electronic textbook and instructional materials list may cancel the subscription and subscribe to a new electronic textbook or instructional material on either list before the end of the state contract period if:</p> <ol style="list-style-type: none"><li>1. The District has used the electronic textbook or instructional material for at least one school year; and</li><li>2. TEA approves the change based on a written request to TEA by the District that specifies the reasons for changing the electronic textbook or instructional material used by the District.</li></ol> <p><i>Education Code 31.101(e)</i></p>
REPORT	<p>By April 1 of each year, the District shall transmit a report to TEA listing the instructional materials selected for use in the District. Selections certified to TEA are final and, therefore, not subject to reconsideration during the original contract period or readoption contract periods covering the instructional materials selected.</p> <p><i>19 TAC 66.104(g), (h)</i></p>
CRIMINAL OFFENSE	<p>A Trustee, administrator, or teacher commits an offense if the person receives any commission or rebate on any textbooks, electronic textbooks, instructional materials, or technological equipment used in the schools with which the person is associated.</p> <p>A Trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:</p> <ol style="list-style-type: none"><li>1. Is given to the person or the person's school;</li><li>2. Might reasonably tend to influence the person in the selection of a textbook, electronic textbook, instructional material, or technological equipment; and</li><li>3. Could not be lawfully purchased with funds from the state textbook fund.</li></ol> <p>"Gift, favor, or service" does not include:</p> <ol style="list-style-type: none"><li>1. Staff development, in-service, or teacher training; or</li><li>2. Instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.</li></ol> <p><i>Education Code 31.152</i></p>
ANCILLARY MATERIALS	<p>Selection and use of ancillary materials is at the discretion of the Board. <i>19 TAC 66.104(p)</i></p>

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LEGAL)

HUMAN SEXUALITY  
MATERIALS

Course materials relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall be selected by the Board with the advice of the local school health advisory council. *Education Code 28.004(e)* [See EHAA]

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

PURPOSE

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. The District shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, the District shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

The District shall ensure that all children in the District participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

REQUIRED  
CURRICULUM

A district that offers kindergarten through grade 12 shall offer the following as a required curriculum:

FOUNDATION  
CURRICULUM

1. A foundation curriculum that includes:
  - a. English Language Arts and reading;
  - b. Mathematics;
  - c. Science; and
  - d. Social studies, consisting of Texas, United States, and world history; government; and geography.

*Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)*

ENRICHMENT  
CURRICULUM

2. An enrichment curriculum that includes:
  - a. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the District may offer an elective course in the language;
  - b. Health, with emphasis on the importance of proper nutrition and exercise;
  - c. Physical education;

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

- d. Fine Arts;
- e. Economics, with emphasis on the free enterprise system and its benefits;
- f. Career and technical education;
- g. Technology applications; and
- h. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.

*Education Code 28.002(a)(2); 19 TAC 74.1(a)(2)*

LOCAL CREDIT

The District may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.004(f); 19 TAC 74.1(b)*

LOCAL  
INSTRUCTIONAL PLAN

The District's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. The District is encouraged to exceed minimum requirements of law and State Board rule. *Education Code 28.002(g)*

COORDINATED  
HEALTH PROGRAMS

TEA shall make available to the District one or more coordinated health programs or allow the development of District programs designed to prevent obesity, cardiovascular disease, and type 2 diabetes in elementary, middle, and junior high school students. Each program must provide for coordinating:

- 1. Health education;
- 2. Physical education and physical activity;
- 3. Nutrition services; and
- 4. Parental involvement.

*Education Code 38.013; 19 TAC 102.1031(a)*

The District shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the District. *Education Code 38.014*

Coordinated school health programs that are developed by the District and that meet TEA criteria may be approved and made available as approved programs. The District must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*



BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

PHYSICAL EDUCATION The District shall establish specific objectives and goals the District intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and
3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

STUDENT/TEACHER  
RATIO

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the District to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If the District establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the District shall specifically identify the manner in which the safety of the students will be maintained.

*Education Code 25.114, 28.002(d); 19 TAC 74.37*

CLASSIFICATION FOR  
PHYSICAL EDUCATION

The District shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
  - a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

- b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

*19 TAC 74.31*

SCHOOL HEALTH  
ADVISORY COUNCIL

The Board shall establish a local school health advisory council to assist the District in ensuring that local community values are reflected in the District's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of council and FFA regarding federal wellness requirements]

DUTIES

The council's duties include recommending:

1. The number of hours of instruction to be provided in health education;
2. Curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, and type 2 diabetes through coordination of health education, physical education and physical activity, nutrition services, parental involvement, and instruction to prevent the use of tobacco;
3. Appropriate grade levels and methods of instruction for human sexuality instruction; and
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:
  - a. School health services;
  - b. Counseling and guidance services;
  - c. A safe and healthy school environment; and
  - d. School employee wellness.

*Education Code 28.004(c)*

CONTENT OF HUMAN  
SEXUALITY  
INSTRUCTION

The Board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the ad-

vice of the local school health advisory council. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

*Education Code 28.004(e)*

CONDOMS

The District may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

SEPARATE CLASSES

If the District provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FBA regarding single-sex classes under Title IX]

NOTICE TO PARENTS

Before each school year, the District shall provide written notice to a parent of each student enrolled in the District of the Board's decision regarding whether the District will provide human sexuality instruction to District students. If instruction will be provided, the notice must include:

1. A summary of the basic content of the District's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
2. A statement of the parent's right to:
  - a. Review curriculum materials as provided by Education Code 28.004(j); and
  - b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action,

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

academic penalty, or other sanction imposed by the District or the student's school; and

- c. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council.

A parent may use the grievance procedure at FNG concerning a complaint of a violation of notice requirements.

*Education Code 28.004(i), (i-1)*

AVAILABILITY OF  
MATERIALS

The District shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFAA regarding selection of curriculum materials for human sexuality instruction]

STEROID NOTICE AND  
EDUCATION

The District shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*

Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(EXHIBIT)]. *Education Code 38.008*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

Courses in the foundation and enrichment curriculum in grades 6–12 must be provided in a manner that allows all grade promotion and high school graduation requirements to be met in a timely manner. The District is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 Administrative Code 74.3. *19 TAC 74.3(c)*

GRADES 6–8

A district that offers grades 6–8 must provide instruction in the required curriculum as specified in 19 Administrative Code 74.1, relating to essential knowledge and skills. The District must ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English. The District may provide instruction in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade level standards. *19 TAC 74.3(a)(1)*

PHYSICAL ACTIVITY  
REQUIREMENTS

The District shall require students in grades 6–8 to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the District's physical education curriculum.

The District may as an alternative require a student enrolled in a grade level for which the District uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks.

EXEMPTIONS

The District must provide an exemption for:

1. A student who is unable to participate in the required physical activity because of illness or disability; and
2. A student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity and meets the requirements for extracurricular activity as defined at 19 Administrative Code 76.1001.

The District may allow an exemption for a student on a middle or junior high school campus participating in a school-related activity or an activity sponsored by a private league or club only if that activity meets each of the following requirements:

1. The activity must be structured;
2. The Board must certify the activity; and

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

3. The student must provide proof of participation in the activity.

A “structured activity” is an activity that meets, at a minimum, each of the following requirements:

1. The activity is based on the grade appropriate movement, physical activity and health, and social development strands of the essential knowledge and skills for physical education specified in 19 Administrative Code Chapter 116; and
2. The activity is organized and monitored by school personnel or by appropriately trained instructors who are part of a program that has been certified by the Board.

*Education Code 28.002(l), (l-1); 19 TAC 103.1003*

FINE ARTS  
REQUIREMENT

The District must ensure that, beginning with students who enter grade 6 in the 2010–11 school year, each student completes one Texas Essential Knowledge and Skills-based fine arts course in grade 6, grade 7, or grade 8. *Education Code 28.002(c-1); 19 TAC 74.3(a)(2)*

HIGH SCHOOL  
COURSES AT EARLIER  
GRADES

The District may offer courses designated for grades 9–12 in earlier grade levels. *19 TAC 74.26(b)*

GRADES 9–12  
COURSE OFFERINGS

A district that offers grades 9–12 shall provide instruction in the required curriculum as specified in 19 Administrative Code 74.1. The District shall ensure that sufficient time is provided for teachers to teach and for students to learn the subjects in the required curriculum. *19 TAC 74.3(b)(1)*

The District shall offer the courses listed below in grades 9–12 and shall maintain evidence that students have the opportunity to take these courses:

1. English language arts — English I, II, III, IV.
2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.
3. Science — Integrated Physics and Chemistry, Biology, Chemistry, and Physics. Science courses shall include at least 40 percent hands-on laboratory investigations and field work using appropriate scientific inquiry.
4. Social studies — United States History Studies Since Reconstruction, World History Studies, United States Government, and World Geography Studies.
5. Economics — Economics with Emphasis on the Free Enterprise System and Its Benefits.

The District shall incorporate instruction in personal financial literacy into any course meeting a requirement for an economics credit, using materials approved by the State Board of Education. The District may add elements at its discretion, but must include the areas of instruction listed at 19 Administrative Code 74.34(b). *Education Code 28.0021; 19 TAC 74.34*

6. Physical education — at least two of the following:

- a. Foundations of Personal Fitness;
- b. Adventure/Outdoor Education;
- c. Aerobic Activities; or
- d. Team or Individual Sports;

7. Health education — Health I.

The District shall use the parenting and paternity awareness program developed by the State Board of Education in its high school health curriculum. In high schools that do not have a family violence prevention program, the program must address skills relating to the prevention of family violence [see PARENTING AWARENESS PROGRAM, below]. *Education Code 28.002(p)*

8. Fine arts — courses selected from at least two of the four fine arts areas (art, music, theatre, and dance) as follows:

- a. Art I, II, III, IV;
- b. Music I, II, III, IV;
- c. Theatre I, II, III, IV; or
- d. Dance I, II, III, IV.

9. Career and technical education [see EEL] — coherent sequences of courses selected from at least three of the following 16 career clusters:

- a. Agriculture, Food, and Natural Resources;
- b. Architecture and Construction;
- c. Arts, Audio/Video Technology, and Communications;
- d. Business Management and Administration;
- e. Education and Training;
- f. Finance;

- g. Government and Public Administration;
  - h. Health Science;
  - i. Hospitality and Tourism;
  - j. Human Services;
  - k. Information Technology;
  - l. Law, Public Safety, Corrections, and Security;
  - m. Manufacturing;
  - n. Marketing;
  - o. Science, Technology, Engineering, and Mathematics;  
and
  - p. Transportation, Distribution, and Logistics.
10. Languages other than English — Levels I, II, and III or higher of the same language.
11. Technology applications — at least four courses selected from Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, or Independent Study in Technology Applications.
12. Speech — Communications Applications.

*19 TAC 74.3(b)(2)*

The District must provide each student the opportunity each year to select courses in which he or she intends to participate from a list that includes all courses listed above. If the District will not offer all required courses every year, but intends to offer particular courses only every other year, it must notify all enrolled students of that fact. *19 TAC 74.3(b)(4)*

The District shall teach any course a student is required to take for graduation or any course in which ten or more students indicate they will participate. For those courses in which fewer than ten students indicate that they will participate, the District shall either teach the course or use alternate delivery systems, as described in 19 Administrative Code Chapter 74, Subchapter C, to provide the course and shall maintain evidence thereof. *19 TAC 74.3(b)(4)*

The District may offer additional courses from the complete list of courses approved by the State Board of Education to satisfy graduation requirements. *19 TAC 74.3(b)(3)*



BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

APPLIED COURSES	The District may offer the foundation curriculum required by the Recommended and Advanced/Distinguished Achievement High School Programs in an applied manner. The courses must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument. <i>Education Code 28.025(b-4)</i>
RESEARCH WRITING COMPONENT	For students entering grade 9 beginning with the 2007–08 school year, districts must ensure that one or more courses offered in the required curriculum for the Recommended and Advanced/Distinguished Achievement High School Programs include a research writing component. <i>19 TAC 74.3(b)(5)</i>
PARENTING AWARENESS PROGRAM HIGH SCHOOL	The District shall use the parenting and paternity awareness program developed by the State Board of Education (SBOE) in its high school health curriculum.
MIDDLE AND JUNIOR HIGH SCHOOL	The District may use the program in the District's middle or junior high school curriculum.
PROGRAM REQUIREMENTS	Implementation of this requirement shall comply with the requirement that the Board establish a local school health advisory council to assist the District in ensuring that local community values are reflected in the District's health education instruction.  The District may add elements at its discretion but must include the following areas of instruction: <ol style="list-style-type: none"><li>1. Parenting skills and responsibilities, including child support;</li><li>2. Relationship skills, including money management, communication, and marriage preparation; and</li><li>3. Skills relating to the prevention of family violence, only if the District's middle, junior high, or high schools do not have a family violence program.</li></ol> At the discretion of the District, a teacher may modify the suggested sequence and pace of the program at any grade level.
LOCAL PROGRAMS AND MATERIALS	The District may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed by the SBOE. The programs and curriculum materials may provide instruction in: <ol style="list-style-type: none"><li>1. Child development;</li><li>2. Parenting skills, including child abuse and neglect prevention; and</li></ol>

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

3. Assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

PARENT  
PERMISSION

A student under 14 years of age may not participate in the program without the permission of the student's parent or person standing in parental relation to the student.

*Education Code 28.002(p); 19 TAC 74.35(a)*

ALCOHOL  
AWARENESS  
INSTRUCTION

The District shall incorporate instruction in the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning into any course meeting a requirement for a health education credit.

The District shall choose an evidence-based alcohol awareness program to use in the District's middle school, junior high school, and high school health curriculum from a list of programs approved by the Commissioner for this purpose.

"Evidence-based alcohol awareness program" means a program, practice, or strategy that has been proven to effectively prevent or delay alcohol use among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

*Education Code 28.002(r); 19 TAC 74.35(b)*

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

COMPENSATORY  
EDUCATION  
ALLOTMENT

The District is entitled to an annual compensatory education allotment for each student:

1. Who is educationally disadvantaged; or
2. Who does not have a disability and resides in a residential placement facility in the district in which the student's parent or legal guardian does not reside.

The number of educationally disadvantaged students is determined by the formula set forth at Education Code 42.152(b).

*Education Code 42.152(a)-(b)*

USE

The District shall use its compensatory education allotment to fund supplemental programs and services designed to eliminate any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at-risk of dropping out of school, as defined below, and all other students.

Specifically, the District may use the funds, other than an indirect cost allotment established by State Board rule, to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code 29.081, a disciplinary alternative education program under Education Code 37.008, or to support a Title I program, at a campus at which at least 40 percent of the students are educationally disadvantaged.

The District may also use allocated funds for:

1. A mentoring services program under Education Code 29.089;
2. An accelerated reading instruction program under Education Code 28.006(g);
3. A program for treatment of students who have dyslexia or a related disorder, as required by Education Code 38.003; and
4. A program under Education Code 29.081 specifically designed to serve students at risk of dropping out of school.

*Education Code 42.152(c), (c-1), (c-2)*

LIMIT ON DAEP  
EXPENDITURES

The District may not use more than 18 percent of its compensatory education allotment for disciplinary alternative education programs.

The Commissioner may waive this limitation upon an annual petition, by the District's Board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs.

*Education Code 42.152(c)(1)-(2)*

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

DROPOUT  
PREVENTION  
STRATEGIES

A district with a high dropout rate, as determined by the Commissioner, shall submit a plan to the Commissioner describing the manner in which the district intends to use its compensatory education and high school allotments for developing and implementing research-based strategies for dropout prevention.

If the District is required to submit both a dropout prevention strategy plan and a plan to increase college enrollment [see GNC], the District must describe in its dropout prevention strategy plan how the activities identified in both plans will be coordinated. If a district is required to submit both a school improvement plan, due to failure to meet the required performance standard regarding dropout rates or completion rates, as well as a dropout prevention strategy plan, the District may request that its school improvement plan be used to satisfy both requirements.

The District shall submit the plan not later than December 1 of each school year preceding the school year in which the District will receive the compensatory education or high school allotment to which the plan applies. The plan must meet the requirements at 19 Administrative Code 89.1701(e).

The District may not spend or obligate more than 25 percent of the District's compensatory or high school allotment unless the Commissioner approves the plan.

*Education Code 29.918; 19 TAC 89.1701*

DEFINITION OF AT-  
RISK STUDENT

"Student at risk of dropping out of school" includes each student who is under 21 years of age and who:

1. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
2. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;
4. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year

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subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

5. Is pregnant or is a parent;
6. Has been placed in a disciplinary alternative education program in accordance with Education Code 37.006 during the preceding or current school year;
7. Has been expelled during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. Is a student of limited English proficiency, as defined by Section 29.052;
11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the District, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

*Education Code 29.081(d)-(d-1)*

LOCAL ELIGIBILITY  
CRITERIA

In addition to students described above, a student who satisfies local eligibility criteria adopted by a Board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the District during the preceding school year. *Education Code 29.081(g)*

COMPENSATORY,  
INTENSIVE, AND  
ACCELERATED  
INSTRUCTION

The District shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the District's schools that enable

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

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	<p>the students to perform at grade level at the conclusion of the next regular school term. <i>Education Code 29.081(a)</i></p>
ACCELERATED INSTRUCTION	<p>The District shall provide accelerated instruction to enrolled students who have not performed satisfactorily on each section of the secondary exit-level assessment instrument or who are at risk of dropping out of school. <i>Education Code 29.081(b)</i></p>
EFFECTIVENESS	<p>The District shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other District students. <i>Education Code 29.081(c)</i></p>
DROPOUT RECOVERY EDUCATION PROGRAMS	<p>The District may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must meet the criteria set forth at Education Code 29.081(e)(1)–(5).</p> <p>Students in attendance at a dropout recovery education program shall be included in the District’s average daily attendance for funding purposes.</p> <p><i>Education Code 29.081(f)</i></p>
COMMUNITIES IN SCHOOLS (CIS)	<p>An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least 10 percent of the number of students in average daily attendance at the school, as determined by TEA. <i>Education Code 33.157</i></p>
OPTIONAL EXTENDED-YEAR PROGRAM (OEYP)	<p>The District may set aside an amount from its compensatory education allotment or may apply to TEA for funding of an extended-year program, for a period not to exceed 30 instructional days for students:</p> <ol style="list-style-type: none"><li>1. In kindergarten through grade 11, who are identified as not likely to be promoted to the next grade level for the succeeding school year; or</li><li>2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year.</li></ol> <p>A student who does not demonstrate proficiency in a subject area as determined by the District is also eligible for services.</p> <p>An optional extended year program (OEYP) may extend the day, the week, or the year to provide additional support and instruction</p>

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	<p>for eligible students. The program shall be conducted beyond the required instructional year, which may include intercessions for year round programs.</p>
POLICY	<p>If the District provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.</p>
PROGRAM CRITERIA	<p>An OEYP must meet the requirements set forth at Education Code 29.082 and 19 Administrative Code 105.1001.</p>
PROMOTION OF STUDENT	<p>A student who attends at least 90 percent of the program days and who satisfies the requirements for promotion at Education Code 28.021 shall be promoted or retained in accordance with Education Code 29.082(e).</p>
TRANSPORTATION	<p>The District shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services. [See EIE and FDC]</p> <p><i>Education Code 29.082; 19 TAC 105.1001</i></p>
OPTIONAL FLEXIBLE YEAR PROGRAM (OFYP)	<p>The District may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.</p>
PROGRAM CRITERIA	<p>An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 Administrative Code 129.1029.</p> <p><i>Education Code 29.0821; 19 TAC 129.1029</i></p>
OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM (OFSDP)	<p>Notwithstanding Education Code 25.081 (school year) or 25.082 (school day) [see EB and EC], the District may apply to the Commissioner to provide a flexible school day program (OFSDP) for students, in accordance with 19 Administrative Code 129.1027.</p>
PROGRAM CRITERIA	<p>A district that meets application requirements may:</p> <ol style="list-style-type: none"><li>1. Provide flexibility in the number of hours each day a student attends;</li><li>2. Provide flexibility in the number of days each week a student attends; or</li><li>3. Allow a student to enroll in less than or more than a full course load.</li></ol> <p>Except in the case of a course designed for a student who will be denied credit as a result of attendance requirements, a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course of-</p>

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ferred in a program that meets the required minimum number of instructional days under Education Code section 25.081 and the required length of school day under Education Code section 25.082.

STUDENT  
ELIGIBILITY

The District may provide an OFSDP for students who:

1. Have dropped out of school or are at risk of dropping out of school, as defined above at DEFINITION OF AT-RISK STUDENT;
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the Commissioner; or
3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

A student who will be denied credit for one or more classes as a result of attendance requirements may enroll in a course in a OFSDP offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

EXTRACURRICULAR  
PARTICIPATION

A student enrolled in an OFSDP may participate in a competition or activity sanctioned by the University Interscholastic League (UIL) only if the student meets all UIL eligibility criteria.

FUNDING

Funding for an optional flexible school day program shall be based on the number of instructional days in the District calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required shall be proportionately reduced for funding purposes. The Commissioner may limit funding for the attendance of a student who will be denied credit as a result of attendance requirements to funding only for the attendance necessary for the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

ANNUAL  
PERFORMANCE  
REVIEW

Annually, the District shall review its progress in relation to the performance indicators required by 19 Administrative Code 129.1027(h). Progress should be assessed based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status.

*Education Code 29.0822; 19 TAC 129.1027*



SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

TUTORIAL SERVICES      The District may provide tutorial services at District schools. If the District provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials.

The District may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

*Education Code 29.084*

BASIC SKILLS  
PROGRAMS

The District may apply to the Commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the Commissioner.

With the consent of a student's parent or guardian, the District may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

*Education Code 29.086*

AFTER-SCHOOL AND  
SUMMER INTENSIVE  
MATHEMATICS AND  
SCIENCE PROGRAMS

The District may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the District.

Before providing a program, the Board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
  - a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
  - b. Provides for considering teacher recommendations in determining eligibility;
2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

3. Ensuring that eligible students are encouraged to attend the program;
4. Ensuring that the program is offered at one or more locations in the District that are easily accessible to eligible students; and
5. Measuring student progress on completion of the program.

*Education Code 29.088, 29.090; 19 TAC 102.1041*

MENTORING  
SERVICES PROGRAM

The District may provide a mentoring services program to students at risk of dropping out of school. The Board may arrange for any public or nonprofit community-based organization to come to the District's schools and implement the program.

The Board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

*Education Code 29.089*

ACCELERATED  
READING  
INSTRUCTION  
PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The District shall determine the form, content, and timing of the program.

The District shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

LIMITATION

The District may implement an accelerated reading instruction program only if the Commissioner certifies that funds have been appropriated during a school year for administering the program.

*Education Code 28.006(f), (g), (g-1), (k)*

INTENSIVE PROGRAM  
OF INSTRUCTION  
STATE  
ASSESSMENTS

The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument.

The program shall be designed to:

1. Enable the student to:
  - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

- b. Attain a standard of annual growth specified by the District and reported by the District to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211.

GRADUATION  
REQUIREMENTS

The District shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

NO CAUSE OF  
ACTION

The District's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

*Education Code 28.0213*



SPECIAL PROGRAMS  
CAREER AND TECHNICAL EDUCATION

EHBF  
(LEGAL)

CAREER AND  
TECHNOLOGY  
PROGRAM

Each public school student shall master the basic skills and knowledge necessary for managing the dual roles of family member and wage earner and for gaining entry-level employment in a high-skill, high-wage job or continuing the student's education at the post-secondary level. *Education Code 29.181*

The Board may conduct and supervise career and technology classes and other educational programs for students and for other persons of all ages and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the Board shall consider the state plan for career and technology education. *Education Code 29.183* [See EEL]

DISTINGUISHED  
ACHIEVEMENT IN  
CAREER AND  
TECHNOLOGY  
EDUCATION

The Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum [see EHAA] and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards;
2. Obtain from the District an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this section is not in lieu of a diploma or certificate of coursework completion. [See EI]

In developing the program, the Board shall consider the state plan for career and technology education. The Board must submit the proposed program to the Commissioner of Education in accordance with criteria established by the Commissioner.

CONTRACTS WITH  
OTHER ENTITIES

The Board may contract with an entity listed in Education Code 29.184(a) [see EEL] for assistance in developing the program or providing instruction to District students participating in the program. The Board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area.

INSURANCE

The Board may provide insurance to protect a business that contracts with the District under this provision. [See CRB]

*Education Code 29.187*

APPLICABILITY

The following provisions apply only to districts receiving federal career and technical education funds. *19 TAC 75.1021*

SPECIAL PROGRAMS  
CAREER AND TECHNICAL EDUCATION

EHBF  
(LEGAL)

PROGRAM EVALUATION	The District shall annually evaluate its career and technical education programs. <i>19 TAC 75.1025</i>
SPECIAL POPULATIONS	Members of special populations shall be provided career and technical services in accordance with all applicable federal and state laws, regulations, and rules.
DEFINITION	<p>In this policy, a "member of a special population" includes:</p> <ol style="list-style-type: none"><li>1. An individual with a disability;</li><li>2. An individual from an economically disadvantaged family, including a foster child;</li><li>3. An individual preparing for nontraditional training and employment;</li><li>4. A single parent, including single pregnant women;</li><li>5. A displaced homemaker; and</li><li>6. An individual with other barriers to educational achievement, including an individual with limited English proficiency.</li></ol> <p><i>20 U.S.C. 2302(29)</i></p>
STUDENTS WITH DISABILITIES	<p>A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (IDEA) of 2004 and its implementing regulations, state statutes, and rules of the SBOE and the Commissioner.</p> <p>A student with a disability shall be instructed in accordance with the student's individualized education program (IEP), in the least restrictive environment, as determined by the admission, review, and dismissal (ARD) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as career and technical education for students with disabilities (CTED). [See EHBA]</p> <p>A student with a disability identified in accordance with IDEA of 2004 is an eligible participant in career and technical education when the following requirements are met:</p> <ol style="list-style-type: none"><li>1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;</li></ol>

SPECIAL PROGRAMS  
CAREER AND TECHNICAL EDUCATION

EHBF  
(LEGAL)

2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;
3. The District shall monitor to determine if the instruction being provided a student with a disability in career and technical education classes is consistent with the student's IEP;
4. The District shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. The District shall help fulfill the transitional service requirements of the IDEA of 2004 and implementing regulations, state statutes, and rules of the Commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses.
6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition plan, the IEP, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA of 2004 and its implementing regulations.

*19 TAC 75.1023*

STUDENT  
ORGANIZATIONS

The District may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. A student shall not, however, be required to join a career and technical student organization. Student participation in career and technical student organizations shall be governed in accordance with 19 Administrative Code Chapter 76 (relating to extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. FFA;

SPECIAL PROGRAMS  
CAREER AND TECHNICAL EDUCATION

EHBF  
(LEGAL)

5. Family, Career, and Community Leaders of America (FCCLA);
6. Health Occupations Students of America (HOSA);
7. Technology Student Association (TSA); and
8. Skills USA.

*19 TAC 75.1024 [See FM]*



SPECIAL PROGRAMS  
HIGH SCHOOL EQUIVALENCY

EHLB  
(LEGAL)

	<p>The purpose of a High School Equivalency Program (HSEP) approved by the Commissioner is to prepare eligible students to take the high school equivalency examination. <i>19 TAC 89.1401</i></p>
AUTHORIZATION FOR PROGRAM	<p>The District may apply for authorization to operate an HSEP. The Board must hold a public hearing concerning the proposed application before applying to operate an HSEP. <i>Education Code 29.087(b), (k)(1); 19 TAC 89.1405(a), 89.1407</i></p> <p>A cooperative of districts may apply for permission to operate a cooperative HSEP if it operates pursuant to a written agreement. The fiscal agent of a cooperative HSEP is responsible for complying with the requirements of 19 Administrative Code Chapter 89, Subchapter DD. <i>19 TAC 89.1405(b)</i></p> <p>A district authorized by the Commissioner on or before August 31, 2003, to operate an HSEP may continue to operate the program. <i>Education Code 29.087(b-1); 19 TAC 89.1417(b), (e)</i></p>
OPERATION OF PROGRAM	<p>A student enrolled in an HSEP must be offered, at a minimum, a seven-hour school day and a 180-day instructional year calendar. However, a student may attend the HSEP a maximum of 600 minutes, or ten hours of instruction per day. A student may be enrolled in only an HSEP or may be enrolled in an HSEP in combination with regular attendance and/or special program attendance during the school day. <i>Education Code 29.087(c); 19 TAC 89.1411(a), (d), 89.1417(d)</i></p> <p>Enrollment in an HSEP may not exceed by more than five percent the total number of students enrolled in a similar program operated by the District during the 2000–01 school year. <i>19 TAC 89.1417(c)</i></p>
ANNUAL REVIEW	<p>The Board must hold a public hearing annually to review the performance of the HSEP.</p> <p>HSEPs shall be required to submit annually one progress report as instructed by the General Educational Development Testing Service (GEDTS) to TEA.</p> <p><i>Education Code 29.087(k)(2); 19 TAC 89.1407, 89.1417(a)</i></p>
STUDENT ELIGIBILITY	<p>A student is eligible to participate in the HSEP if:</p>
COURT-ORDERED	<ol style="list-style-type: none"><li>1. The student has been ordered by a court under Code of Criminal Procedure 45.054, or by the Texas Youth Commission, to:<ol style="list-style-type: none"><li>a. Participate in a preparatory class for the high school equivalency examination; or</li><li>b. Take the high school equivalency examination administered under Education Code 7.111; or</li></ol></li></ol>

- STUDENT AT RISK
2. The following conditions are satisfied:
    - a. The student is at least 16 years of age at the beginning of the school year or semester;
    - b. The student is a student at risk of dropping out of school [see EHBC];
    - c. The student and the student's parent or guardian agree in writing to the student's participation; and
    - d. At least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one-third of the credits required to graduate under the minimum graduation requirements of the District.

*Education Code 29.087(d); 19 TAC 89.1403*

STATE ASSESSMENT A student enrolling in an HSEP must take:

1. Prior to entering the program, the following assessments, as applicable:
  - a. If the student first enters grade 9 prior to the 2011–12 school year, the student must take the grade 9 Texas Assessment of Knowledge and Skills (TAKS) assessment in reading and mathematics; or
  - b. If the student first enters grade 9 during or after the 2011–12 school year, the student must take the end-of-course (EOC) assessments for Algebra I and English I. Released grade 9 TAKS assessments may be used until the applicable EOC has been released. The District shall be responsible for scoring the released assessment.

If the student took a higher grade level assessment before enrollment, the student has met this requirement;

2. Each TAKS or EOC assessment instrument required to be administered during the student's enrollment in the HSEP; and
3. The assessments listed above before taking the high school equivalency examination.

A student entering an HSEP by order of the court or the Texas Youth Commission is exempt from these assessment requirements.

*Education Code 29.087(f); 19 TAC 89.1409(a)–(b) [See EKB]*

SPECIAL PROGRAMS  
HIGH SCHOOL EQUIVALENCY

EHLB  
(LEGAL)

GED TESTING

The District must inform each student who has completed the program of the time and place at which the student may take the high school equivalency examination. A district wanting to serve as a General Education Development (GED) testing center must obtain authorization from TEA, pursuant to 19 Administrative Code 89.42(a).

The District must present to the GED testing center, on a form provided by the TEA, proof that a student has been administered the assessment instruments.

*19 TAC 89.1409(c), (d)*

EXTRACURRICULAR  
PARTICIPATION

A student enrolled in an HSEP may not participate in a competition or activity sanctioned by the University Interscholastic League. *Education Code 29.087(g); 19 TAC 89.1415*



ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LEGAL)

AUTOMATIC  
ADMISSION TO  
INSTITUTION OF  
HIGHER EDUCATION

Each general academic teaching institution [see Education Code 61.003(3)] shall admit an applicant for admission as an undergraduate student if the applicant:

1. Graduated:
  - a. With a grade point average in the top ten percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and submitted a complete application defined by the institution before the expiration of the institution's established deadline; or
  - b. In the top 25 percent of the student's high school class, to the extent the governing board of a general academic teaching institution has adopted such an admission policy;

[See CLASS RANK, below]

2. Graduated from a public high school in Texas accredited by a generally recognized accrediting organization;
3. Successfully completed the Recommended or Advanced/Distinguished Achievement High School Program as described in 19 Administrative Code 5.5(c), or satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent; and
4. Submitted an official high school transcript or diploma that, not later than the end of the student's junior year, indicates whether the student has satisfied the requirements outlined above regarding successful completion of the Recommended or Advanced/Distinguished Achievement High School Program.

*Education Code 51.803(a); 19 TAC 5.5(b)*

EXCEPTION

Beginning with admissions for the 2011–12 academic year, the University of Texas at Austin (UT) is not required to offer admission to applicants who qualify for automatic admission in excess of the number required to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year.

If the number of applicants who apply to UT for admission in the next academic year and who qualify for automatic admission exceeds 75 percent of UT's enrollment capacity, UT shall, not later than September 15, provide to each district, for dissemination to

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LEGAL)

high school juniors and their parents, notice of which percentile ranks of high school seniors who qualify for automatic admission are anticipated to be offered admission during the next school year.

*Education Code 51.803(a-1)–(a-2)*

CURRICULUM  
REQUIREMENTS

An applicant who does not satisfy the curriculum requirements for the Recommended or Advanced/Distinguished Achievement High School Program is considered to have satisfied those requirements if the student completed the portion of the Recommended or Advanced curriculum that was available to the student but was unable to complete the remainder solely because the necessary courses were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control. A student's transcript or diploma must, not later than the student's junior year, indicate the student's progress toward satisfying the curriculum requirements [see EI]. *Education Code 51.803(b), (c)*

SIGNS TO BE  
POSTED

The Board shall require each high school in the District to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of the automatic admission provisions above. *Education Code 28.026*

DISSEMINATION

To assist in dissemination of information regarding the automatic admissions program, the District shall:

1. Require that each high school counselor and class advisor be provided a detailed explanation of the substance of the program;
2. Provide each student, at the time the student first registers for one or more classes required for high school graduation, with a written notification, using the appropriate form adopted by the Commissioner, of the substance of the program;
3. Require that each high school counselor and senior class advisor explain to eligible students the substance of the program;
4. Require that, at the beginning of grades 10 and 11, a certified counselor explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class [see EJ]; and
5. Not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system, provide each eligible senior

student and each junior student who has a grade point average in the top ten percent of the student's high school class, and the student's parent or guardian, with a written notification, using the appropriate form adopted by the Commissioner, of the student's eligibility with a detailed explanation in plain language of the substance of the program. The District shall obtain written acknowledgment of receipt of the notification from each eligible student and the student's parent or guardian.

*Education Code 28.026, 33.007(c); 19 TAC 61.1201*

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**Note:** The Notification of Eligibility for Automatic College Admission, intended to satisfy the requirement at item 5 above, is available at <http://info.sos.state.tx.us/fids/201001908-1.pdf>.

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CLASS RANK

High school rank for students seeking automatic admission to a general teaching institution on the basis of their class rank is determined and reported as follows:

1. Most recent available class rank, based on a point in time no earlier than the end of the 11th grade, shall be used for admission decision-making.
2. The top ten percent and top 25 percent of a high school class shall not contain more than ten percent and top 25 percent, respectively, of the total class size.
3. The student's rank shall be reported by the applicant's high school or District as a specific number out of a specific number total class size.
4. Class rank shall be determined by the Texas school or district from which the student graduated or is expected to graduate.

*19 TAC 5.5(f)*

CERTAIN  
PROGRAMS

If the program meets the requirements of Education Code 51.8045, the Board may treat a high school magnet program, academy, or other special program conducted by the District at a high school attended by high school students who are not in the special program as an independent high school with its own graduating class for purposes of Education Code 51.803 and 51.804 only (top ten and top 25 percent rule). *Education Code 51.8045*





ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

GRADE  
ADVANCEMENT  
REQUIREMENTS

The District shall implement grade advancement requirements in accordance with 19 Administrative Code Chapter 101, Subchapter BB and the TEA procedures outlined in the official Grade Placement Committee (GPC) Manual, published annually by TEA.

NOTICE

As specified in 19 Administrative Code 101.9, the Superintendent shall notify parents or guardians of the grade advancement requirements at the beginning of the school year. *19 TAC 101.2001(a), .2009(a)*

PROMOTION

A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level. *Education Code 28.021(a)* [See EI]

In determining promotion, the District shall consider:

1. The recommendation of the student's teacher;
2. The student's grade in each subject or course;
3. The student's score on an assessment instrument administered under Education Code 39.023(a), (b), or (l); and
4. Any other necessary academic information, as determined by the District.

*Education Code 28.021(c)*

In addition to local policy relating to grade advancement, students in grades 5 and 8 must demonstrate proficiency by meeting the passing standard on the appropriate assessment instrument listed at GRADE ADVANCEMENT TESTING or on a state-approved alternate assessment.

A student who does not demonstrate proficiency may advance to the next grade only if:

1. The student has completed the required accelerated instruction under 19 Administrative Code 101.2006;
2. The student's GPC determines by unanimous decision, in accordance with the standards for promotion established by the Board, that the student is likely to perform at grade level at the end of the next year given additional accelerated instruction. In accordance with Education Code 28.021, to determine grade promotion, the District is required to consider:
  - a. The recommendation of the student's teacher,
  - b. The student's grades,
  - c. The student's assessment scores, and

- d. Any other necessary academic information; and
3. In accordance with Education Code 28.0211(n), the District will ensure that a student who is promoted by a GPC under 19 Administrative Code 101.2007 shall be assigned in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Education Code 28.0211(a), to a teacher who meets all state and federal qualifications to teach that subject and grade.

*19 TAC 101.2001(b)*

A student does not have a property interest in promotion. *Education Code 28.0211(e)*

NOTICE

By the start of the school year, the District shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(e)*

RETENTION

The District is not precluded from retaining, in accordance with state law or Board policy, a student who performs satisfactorily on a grade advancement test. *Education Code 28.0211(g)*

Students who have been retained in grade 8 in accordance with the grade advancement testing requirements may earn course credit for high school graduation during the next school year in subject areas other than the required courses in the subject area which caused the student to be retained. *19 TAC 101.2019(a)*

GRADE  
ADVANCEMENT  
TESTING

The District shall test eligible students in accordance with the grade advancement requirements set forth below.

ELIGIBLE  
STUDENTS

An eligible student is subject to all grade advancement requirements, including automatic retention, if the student is enrolled in a district or charter school on any day between January 1 and the date of the first administration of the grade advancement assessments.

An eligible student who does not meet the criteria specified above but enrolls in the District at any time after the date of the first administration of the grade advancement assessments is not subject to the grade advancement requirements.

The District must provide the student the opportunity to test and access to accelerated instruction.

*19 TAC 101.2003(b), (c)*

REQUIRED  
ASSESSMENT

A student may not be promoted to:

1. The sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily

on the fifth grade mathematics and reading assessment instruments; or

2. The ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments. This applies to the assessment instrument administered to students in eighth grade beginning with the 2007–08 school year.

*Education Code 28.0211(a); 19 TAC 101.9*

TEST SCHEDULE

TEA shall provide three opportunities per year for the tests required for grade advancement. The Superintendent shall establish procedures to ensure that:

1. Each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate accelerated instruction as warranted on an individual basis; and
2. Each eligible student who is absent or does not receive a test score for all three test opportunities and is consequently retained shall receive other appropriate means of evaluation, including an alternate assessment, so that the GPC has sufficient evidence for its review upon appeal by a parent or guardian.

*19 TAC 101.2005(b)–(c)*

The District must accommodate the request of an out-of-District student to participate in the third administration of a test required for grade advancement if the District is testing one or more local students on the applicable test and if the out-of-District student has registered to take the test by a date determined by TEA. *19 TAC 101.2005(d)*

NOTICE OF GRADE  
ADVANCEMENT  
TESTING  
REQUIREMENTS

The Superintendent shall be responsible for:

1. Notifying each student and the student's parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in the District, of the testing requirements for grade advancement;
2. Notifying each student in grades 1–8 who is new to the District and the student's parent or guardian in writing of the testing requirements for grade advancement; and
3. Notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

*19 TAC 101.13(b)*

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

UNSATISFACTORY  
PERFORMANCE ON  
ASSESSMENT  
INSTRUMENTS

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade [see EKB], the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area.

Accelerated instruction shall be based on, but not limited to, guidelines on research-based best practices and effective strategies as outlined in the GPC manual, published annually by TEA, which districts may use for developing accelerated instruction.

Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

The District must accommodate the request of an out-of-District student to participate in any established, on-campus summer accelerated instruction program, provided the student is living away from his or her home district and the program matches the accelerated instruction prescribed by the student's GPC.

*Education Code 28.0211(a-1); 19 TAC 101.2001(c), .2006(a)-(d)*

UNSATISFACTORY  
PERFORMANCE  
ON GRADE  
ADVANCEMENT TESTS

The District shall provide to a student who initially fails to perform satisfactorily on a grade advancement test at least two additional opportunities to take the assessment instrument. *Education Code 28.0211(b)*

ACCELERATED  
INSTRUCTION

Each time a student fails to perform satisfactorily on a grade advancement test, the District shall provide the student with accelerated instruction in the applicable subject area. A student who fails to perform satisfactorily on a grade advancement test shall be provided accelerated instruction before the next administration of the applicable assessment. An accelerated instruction group for students who have failed an assessment may not have a ratio of more than ten students for each teacher per class. The accelerated instruction must satisfy the standards found in 19 Administrative Code 101.2006. [See UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, above] *Education Code 28.0211(c); 19 TAC 101.2006(e)(1)*

If a student fails to perform satisfactorily on a grade advancement test after three attempts, the accelerated instruction shall be provided during the next school year according to an educational plan developed for the student by the student's GPC. The District shall provide the instruction regardless of whether the student has been promoted or retained. The educational plan shall be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

shall be monitored to ensure the student is progressing in accordance with the plan. The District shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the District regularly administers the assessment instrument for that school year. *Education Code 28.0211(f)*

NOTICE TO  
PARENTS OF  
PERFORMANCE  
AND ACCELERATED  
INSTRUCTION

In addition to providing the accelerated instruction, the District shall notify the student's parent or guardian of:

1. The student's failure to perform satisfactorily on the assessment instrument;
2. The accelerated instruction program to which the student is assigned; and
3. The possibility that the student might be retained at the same grade level for the next school year.

Whenever the District is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, the District shall make a good-faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to understand, and is written in English or in the parent or guardian's native language.

*Education Code 28.0211(d), (h)*

AFTER EARLY  
IDENTIFICATION OF  
AT-RISK STUDENTS  
NOTICE

The District shall provide early notice to parents or guardians of students identified in a preceding grade to be at risk of failure on the first administration of the assessment required for grade advancement the next year. The Superintendent shall establish the instruments/procedures to be used to make this determination. This notice shall include accelerated instruction participation requirements as stipulated by 19 Administrative Code 101.2006 and be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*

AFTER FIRST  
TESTING  
OPPORTUNITY  
NOTICE

The District shall establish procedures to notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement assessment. This notification should be made within five working days of the District's receipt of student assessment results from this administration. This notice shall include the student's assessment results, a description of the District's grade advancement policy, the required accelerated instruction to which the student has been assigned, and the possibility that the student might be retained at the same grade level for the next school year. In addition, the notice shall encourage parents or guardians to meet immediately with the student's teacher to outline mutual responsibilities to support the student during accelerated instruction. *19 TAC 101.2009(c)*

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

AFTER SECOND  
TESTING  
OPPORTUNITY  
NOTICE

Within five working days of the District's receipt of student assessment results for the second administration of the assessment required for grade advancement, the District shall notify the campus principal of student assessment results for each student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the assessment results. This notice shall include a description of the purpose and responsibilities of a GPC and the time and place for the first meeting of the GPC. *19 TAC 101.2007(c)*

GRADE  
PLACEMENT  
COMMITTEE

After a student fails to perform satisfactorily on an assessment instrument a second time, a GPC shall be established to prescribe the accelerated instruction the student is to receive before the assessment instrument is administered the third time. The Superintendent shall establish procedures for convening the GPC.

In accordance with 19 Administrative Code 101.2006(d), decisions by the GPC shall be made on an individual student basis, address required participation of the student in accelerated instruction, and ensure the most effective instruction to support the student's academic achievement on grade level.

The GPC shall be composed of the principal or the principal's designee, the student's parent or guardian, and the student's teacher of the subject of the grade advancement assessment on which the student failed to perform satisfactorily. If this teacher is unavailable, the principal shall designate to serve on the committee a teacher certified in the subject of the assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

If more than one parent or guardian has the authority to make educational decisions regarding the student, a good faith effort must be made to notify both parents, but participation of any one parent or guardian is sufficient. Either parent or only one guardian may initiate an appeal. If both parents or guardians serve on the GPC but do not agree, either may agree to promote the student if the remaining members of the GPC also agree to the promotion. The District may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. The District may accept a parent's or guardian's written and signed waiver of participation in the GPC and designation of the remaining members of the GPC as the decision-making entity for all purposes.

If a parent or guardian or designee is unable to attend a meeting, the District may use other methods to ensure parent participation, including individual or conference telephone calls. The District may designate another person to act on behalf of the student in place of a parent, guardian, or designee if no such person can be located.

A surrogate parent named to act on behalf of a student with a disability shall be considered a parent for this purpose. The District shall make a good faith effort to notify a parent or guardian to attend the GPC. If the parent or guardian is unavailable, the remaining members of the GPC must convene as required by law and take all necessary actions required.

*Education Code 28.0211(c); 19 TAC 101.2007(a), (b)*

ALTERNATE  
ASSESSMENT

For the third testing opportunity, the Board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument. If the Board adopts such a policy, the District shall select from a list provided annually by the Commissioner only one test for each applicable grade and subject. The alternate assessment must be given during the period established by the Commissioner in the assessment calendar to coincide with the date of the third administration of the statewide assessment.  
*19 TAC 101.2011(a)-(b)*

PARENTAL  
WAIVER

The Superintendent shall establish a waiver process by which a parent or guardian may request that a student not participate in the third test opportunity due to potential harm to the student. The waiver must provide documentation of potential harm, student need, and other appropriate information. If a parental waiver is granted, the student must still participate in all required accelerated instruction and is subject to retention based on the failure on the second test administration. *19 TAC 101.2015*

AFTER THIRD  
TESTING  
OPPORTUNITY  
NOTICE

The GPC must convene again if a student fails to demonstrate proficiency on the third administration of an assessment required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student assessment results for this administration, the District shall notify the campus principal of the assessment results for each eligible student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the time and place for the GPC to hold a meeting. This notice shall inform the parent or guardian of the opportunity to appeal the automatic retention of the student. The District shall establish a procedure to ensure a good faith effort is made toward securing the parent's or guardian's receipt of the retention notification. *19 TAC 101.2007(e)*

RETENTION AND  
APPEAL

A student who fails to perform satisfactorily after at least three attempts on one of the grade advancement tests shall be retained at the same grade level for the next school year. The parent or guardian may appeal the retention by submitting a request to the GPC within five working days of receipt of the retention notification.  
*Education Code 28.0211(e); 19 TAC 101.2007(e)*

The GPC may not agree to promote a student unless a parent, guardian, or designee has appealed. *19 TAC 101.2007(b)(2)*

If an appeal is initiated by the parent or guardian, the GPC may decide in favor of promotion only if the GPC concludes, upon review of all facts and circumstances, and in accordance with standards adopted by the Board, that the student is likely to perform on grade level given additional accelerated instruction during the next school year. A student may be promoted only if the decision of the GPC is unanimous and the student has completed all required accelerated instruction.

The review and decision of the GPC must be appropriately documented as meeting the standards adopted by the Board and made in conformance with procedures specified in the GPC manual and as required by 19 Administrative Code 101.2001(b). These standards must include consideration of the following:

1. The recommendation of the student's teacher;
2. The student's grades;
3. The student's assessment scores; and
4. Any other necessary academic information as determined by the District.

*19 TAC 101.2007(f)*

The placement decision by the GPC shall be made before the start of the next school year, or if applicable, upon re-enrollment of the student after this date. *19 TAC 101.2007(g)*

The committee's decision regarding placement is final and may not be appealed. *Education Code 28.0211(e)*

A student who is promoted to the next grade level must complete accelerated instruction required under Education Code 28.0211(a-1) [see UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, above] before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted. *Education Code 28.0211(a-2); 19 TAC 101.2006(e)(2)*

In each subject in which the student failed to perform satisfactorily on the grade advancement test, a student who is promoted by the GPC must be assigned to a teacher who meets all state and federal qualifications to teach that subject and grade. *Education Code 28.0211(n)*



ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

TRANSFER STUDENTS	A student who has been promoted upon completion of a school year in a school other than a Texas public school may be enrolled in that grade without regard to whether the student has successfully completed a grade advancement test. This does not limit the District's ability to appropriately place such a student. <i>19 TAC 101.2007(h)</i> [See FDA]
LIMITED ENGLISH PROFICIENT (LEP) STUDENTS	The language proficiency assessment committee (LPAC) shall determine appropriate assessment and accelerated instruction for a limited English proficient (LEP) student who is administered a grade advancement test in English or Spanish, except as provided by 19 Administrative Code 101.1011. The GPC for a LEP student shall make its decisions in consultation with a member of the student's LPAC. <i>19 TAC 101.2003(e)</i>
SPECIAL EDUCATION STUDENTS	A student who is receiving special education services, including a LEP student, who is enrolled in grade 5 or 8, and who is receiving instruction in the essential knowledge and skills in reading or mathematics is eligible for grade advancement testing as outlined in the official GPC manual. The student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and accelerated instruction for the student. Decisions regarding assessments for LEP students who receive special education services shall be made by the ARD committee in conjunction with the LPAC. <i>Education Code 28.0211(i); 19 TAC 101.2003(d), (f)</i>
DYSLEXIC STUDENTS	In measuring the academic achievement or proficiency of a student who is dyslexic, the student's potential for achievement or proficiency in the area must be considered. <i>Education Code 28.021(b); 19 TAC 101.2003(g)</i> [See policies at EHB, EKB, and FB]
AGE-APPROPRIATE ASSIGNMENT	The Board may establish a policy that provides for the placement of retained students in an age-appropriate learning environment. In accordance with local grade configurations for elementary, middle, and high school campuses, the Board may specify the age by which a retained student should be placed on the next level campus even though not yet promoted to the grade of that campus. <i>19 TAC 101.2019(b)</i>
TRANSPORTATION TO ACCELERATED INSTRUCTION PROGRAMS	The District shall provide students required to attend the accelerated programs described above with transportation to those programs if the programs occur outside of regular school hours. <i>Education Code 28.0211(j); 19 TAC 101.2006(b)</i>
OPTIONAL EXTENDED-YEAR PROGRAM	A student who does not meet District standards or policies for promotion on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level shall

be eligible for services under the optional extended-year program.  
*19 TAC 105.1001(c)* [See EHBC]

A student who attends at least 90 percent of the extended-year program days and who satisfies the requirements for promotion (academic achievement or demonstrated proficiency of the subject matter of the course or grade level) shall be promoted to the next grade level at the beginning of the next school year. However, if the student's parent presents a written request to the school principal asking that the student not be promoted, the principal shall hold a formal meeting with the parent, the teacher, and the counselor, as soon as practicable after receiving such a request. During the meeting, the principal, teacher, or counselor shall explain the possible effects of not promoting a student. If the parent withdraws the request after the meeting, the student shall be promoted, and the District shall continue to use innovative practices to ensure that the student is successful in school in succeeding school years.

If the District provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

*Education Code 29.082(e), (f)* [See EHBC]

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LOCAL)

CURRICULUM MASTERY	Promotion and course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory/accelerated services. [See EHBC]
STANDARDS FOR MASTERY	In addition to the factors in law that must be considered for promotion, mastery shall be determined as follows: <ol style="list-style-type: none"><li>1. Course assignments and unit evaluation shall be used to determine student grades in a subject. An average of 70 or higher shall be considered a passing grade.</li><li>2. Mastery of the skills necessary for success at the next level shall be validated by assessments that may either be incorporated into unit or final examinations or may be administered separately. Mastery of at least 70 percent of the objectives shall be required.</li></ol>
GRADES 1–8	In grades 1–8, promotion to the next grade level shall be based on an overall average of 70 on a scale of 100 based upon course-level, grade-level standards (essential knowledge and skills) for all subject areas and a grade of 70 or above in language arts, reading, and mathematics.
GRADES 9–12	Grade-level advancement for students in grades 9–12 shall be earned by course credits. [See EI]
STUDENTS WITH DISABILITIES	Promotion standards and appropriate assessment and acceleration options, as established by individualized education programs (IEP) or grade-level classification of students eligible for special education, shall be determined by the ARD committee.
LIMITED ENGLISH PROFICIENT STUDENTS	In assessing students of limited English proficiency for mastery of the essential knowledge and skills, the District shall be flexible in determining methods to allow the students to demonstrate knowledge or competency independent of their English language skills in the following ways: <ol style="list-style-type: none"><li>1. Assessment in the primary language.</li><li>2. Assessment using ESL methodologies.</li><li>3. Assessment with multiple varied instruments. [See EHBE]</li></ol>
ACCELERATED INSTRUCTION FOR GRADES 3–8	If a student in grades 3–8 fails to demonstrate proficiency on a state-mandated assessment, the student shall be provided accelerated instruction in accordance with state law. Additionally, students in grades 5 and 8 shall be subject to all provisions of GRADE ADVANCEMENT TESTING below.

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LOCAL)

GRADE  
ADVANCEMENT  
TESTING

In addition to local standards for mastery and promotion, students in grades 5 and 8 must meet the passing standard on an applicable assessment instrument in the subjects required under state law in order to be promoted to the next grade.

DEFINITION OF  
'PARENT'

For purposes of this policy and decisions related to grade advancement requirements, a student's "parent" shall be defined to include either of the student's parents or guardians; a person designated by the parent, by means of a Power of Attorney or an authorization agreement as provided in Section 34 of the Family Code, to have responsibility for the student in all school-related matters [see FD]; a surrogate parent acting on behalf of a student with a disability; a person designated by the parent or guardian to serve on the grade placement committee (GPC) for all purposes; or in the event that a parent, guardian, or designee cannot be located, a person designated by the Superintendent or designee to act on behalf of the student. [See EIE(LEGAL)]

NO ALTERNATE  
ASSESSMENT  
INSTRUMENT

The District shall use only the statewide assessment instrument for the third testing opportunity.

STANDARDS FOR  
PROMOTION UPON  
APPEAL

If a parent initiates an appeal of his or her child's retention following the student's failure to demonstrate proficiency after the third testing opportunity, the GPC shall review all facts and circumstances in accordance with law.

The student shall not be promoted unless:

1. All members of the GPC agree that the student is likely to perform on grade level if given additional accelerated instruction during the following school year in accordance with the educational plan developed by the GPC; and
2. The student has completed required accelerated instruction in the subject area for which the student failed to demonstrate proficiency.

Whether the GPC decides to promote or to retain a student in this manner, the committee shall determine an accelerated instruction plan for the student for the following school year, providing for interim reports to the student's parent and opportunities for the parent to consult with the teacher or principal as needed. The principal or designee shall monitor the student's progress during the following school year to ensure that he or she is progressing in accordance with the plan.

TRANSFER  
STUDENTS

When a student transfers into the District having failed to demonstrate proficiency on applicable assessment instruments after two testing opportunities, a GPC shall convene for that student. The

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LOCAL)

GPC shall review any available records of decisions regarding testing and accelerated instruction from the previous district and determine an accelerated instruction plan for the student.

If a parent initiates an appeal for promotion when a student transfers into the District having failed to demonstrate proficiency after three testing opportunities, the GPC shall review any available records of decisions regarding testing, accelerated instruction, retention, or promotion from the previous district and issue a decision in accordance with the District's standards for promotion.

ASSIGNMENT OF  
RETAINED STUDENTS

In the event a student is not promoted to the next grade level, the District shall nevertheless assign the student to an age-appropriate campus, unless:

1. The student's parent requests that the student be assigned to the same or a similar campus setting; or
2. The student's GPC determines that it would be in the student's best interest to be assigned to the same or a similar campus setting. Criteria to be considered for this decision may include:
  - a. Recommendations from the student's teachers.
  - b. Observed social and emotional development of the student.

REDUCING STUDENT  
RETENTION

The District shall establish procedures designed to reduce retaining students at a grade level, with the ultimate goal being elimination of the practice of retaining students. [See EHBC]



TESTING PROGRAMS

EK  
(LEGAL)

LOCAL ACHIEVEMENT  
TESTING

In addition to the state-administered assessment instruments, the District may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, "assessment instrument" means a District-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to the Board) in the aggregate.

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

The District shall follow procedures for test security and confidentiality set forth in 19 Administrative Code Chapter 101, Subchapter C. [See EKB]

*Education Code 39.026, 39.032; 19 TAC 101.101*

In any subject area for which a state assessment is administered, the District may not administer locally required assessments designed to prepare students for state assessments to any student on more than ten percent of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to ten percent or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*

COLLEGE  
PREPARATION  
ASSESSMENTS

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

Each school year, and at state cost, the District shall administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade, for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade, for the purpose of measuring a student's progress toward readiness for college and the workplace.

TESTING PROGRAMS

EK  
(LEGAL)

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

TEA shall:

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

*Education Code 39.0261*

HOME-SCHOOLED  
STUDENTS

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

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

"Home-schooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

FEES

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

NOTICE

The District shall post on an Internet Web site maintained by the District the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice must state that the PSAT/NMSQT or the advanced placement test is available for home-schooled students eligible to attend school in the District and describe the procedures for a home-schooled student to register for the test.

A district that does not maintain an Internet Web site must publish the notice in a newspaper in the District. If a newspaper is not published in the District, the District shall provide for the publication of notice in at least one newspaper in the county in which the District's central administrative office is located.



TESTING PROGRAMS

EK  
(LEGAL)

The required notice must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a District school.

*Education Code 29.916*



TESTING PROGRAMS  
STATE ASSESSMENT

EKB  
(LEGAL)

STATE ASSESSMENT  
OF ACADEMIC SKILLS

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see ALL STUDENTS, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5(a)*

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

LIMITED ENGLISH  
PROFICIENT (LEP)  
STUDENTS

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with Commissioner's rules at 19 Administrative Code 101.5 and 19 Administrative Code Chapter 101, Subchapter AA. *19 TAC 101.5(c)* [See EKBA]

ADMINISTRATION

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

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

*19 TAC 101.25, 101.27*

SCHEDULE

The Commissioner shall specify the schedule for testing. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

*19 TAC 101.25*

ALTERNATE TEST  
DATES

The Commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates will only be allowed if the campus or District is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect the District's or cam-

pus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause the District or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit the District or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the District, campus, and students.

*19 TAC 101.5003*

NOTICE TO PARENTS  
AND STUDENTS

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

GRADE  
ADVANCEMENT  
TESTING

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing.

Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the District, and no later than the beginning of the student's first-grade year for all other students. The Superintendent shall also provide such notice for students in grades 1–8 who are new to the District.

GRADUATION  
TESTING

2. The testing requirements for graduation and the dates, times, and locations of the testing.

Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The Superintendent shall also provide such notice for students in grades 7–12 who are new to the District. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

*19 TAC 101.13*

TESTING PROGRAMS  
STATE ASSESSMENT

EKB  
(LEGAL)

ALL STUDENTS

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

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grades 8 through 11 with the aid of technology on any assessment instruments that include algebra;
2. Reading, annually in grades 3–9;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. English language arts in grade 10;
5. Social studies in grades 8 and 10; and
6. Science in grades 5, 8, and 10.

*Education Code 39.023(a)*

ACCOMMODATIONS

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by the Board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

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

*19 TAC 101.29; Education Code 39.023(n)*

EXIT-LEVEL  
ASSESSMENT

A student may not receive a high school diploma until the student has performed satisfactorily on the secondary TAKS exit-level assessment for English language arts, mathematics, social studies, and science. A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level assessment requirement. *Education Code 39.025(a)–(a-2); 19 TAC 101.5(d)*

IMPLEMENTATION  
SCHEDULE

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

Students who were enrolled in grade 8 or a lower grade on January 1, 2001, must fulfill testing requirements for graduation with the

exit-level Texas Assessment of Knowledge and Skills (TAKS) tests, as required by Education Code 39.023(c), as that section existed before amendment by Senate Bill 1031, 80th Texas Legislature, 2007. [See ALL STUDENTS, above]

Beginning with the 2011–12 school year, students first enrolled in grade 9 or lower must fulfill testing requirements for graduation with the end-of-course assessment instruments as required by Education Code 39.023, as amended by Senate Bill 1031, 80th Texas Legislature, 2007.

*19 TAC 101.7(a)–(b), 101.3003*

ALTERNATIVE  
ASSESSMENTS

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

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

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

VERIFICATION OF  
ELIGIBILITY

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

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

1. Verify the student's score on the alternative assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

*Education Code 39.025(c-1); 19 TAC 101.4001, 101.4003, 101.4005*

RETAKES

An eligible student or out-of-school individual who has not met graduation requirements may retest on a schedule determined by the Commissioner. A student who has been denied a diploma be-

TESTING PROGRAMS  
STATE ASSESSMENT

EKB  
(LEGAL)

cause the student failed to meet standards of performance on any sections of the instrument may retake the sections each time the instrument is administered. *Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)*

SPECIAL EDUCATION

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. Each testing accommodation shall be documented in the student's IEP. *Education Code 39.023(b); 19 TAC 101.5(b)*

MILITARY  
DEPENDENTS

If the student is a military dependent, the District shall accept:

1. Exit or end-of-course exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a Commissioner's substitute passing standard shall apply.

SUBSTITUTE  
PASSING  
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

*Education Code 162.002 art. VII, §§ B–C [See FDD]*

REPORTING RESULTS  
TO THE PUBLIC

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and District, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The in-

formation shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

TO THE BOARD

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

TO PARENTS AND STUDENTS

The District shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. [See BQ series, FD, and FL]

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

PARENTAL ACCESS

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, 26.006(a)(2)*

SECURITY

The statewide assessment program is a secure testing program. Procedures for maintaining security shall be specified in the appropriate test administration materials. Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials. *19 TAC 101.61*

CONFIDENTIALITY

The contents of each test booklet and answer document are confidential in accordance with state and federal law. Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b); 19 TAC 101.63* [See FL and GBA]

PENALTIES

Violation of security or confidential integrity of any test shall be prohibited. A person who engages in prohibited conduct may be subject to sanction of credentials.

Procedures for maintaining the security and confidential integrity of a test shall be specified in the appropriate test administration materials. Conduct that violates the security and confidential integrity of a test is defined as any departure from the test administration procedures established by the Commissioner. Conduct of this nature may include the following acts and omissions:

1. Duplicating secure examination materials;
2. Disclosing the contents of any portion of a secure test;



3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
4. Changing or altering a response or answer of an examinee to a secure test item or prompt;
5. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
6. Encouraging or assisting an individual to engage in the conduct described in 1–5 above; or
7. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in 1–6 above.

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

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

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

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

*19 TAC 101.65*



STATE ASSESSMENT  
LEP STUDENTS

EKBA  
(LEGAL)

LANGUAGE  
PROFICIENCY  
ASSESSMENT  
COMMITTEE (LPAC)

The language proficiency assessment committee (LPAC) [see EHBE] shall select the appropriate assessment option for each limited English proficient (LEP) student. The LPAC assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA.

The LPAC must document in the student's permanent record file the reason for:

1. A postponement authorized in 19 Administrative Code 101.1005;
2. An exemption authorized in 19 Administrative Code 101.1007; and
3. An exclusion of the student's test results from the determination of District accreditation and performance ratings authorized in 19 Administrative Code 101.1010.

The District shall make a reasonable effort to determine a student's previous testing history.

*19 TAC 101.1003*

ENGLISH LANGUAGE  
PROFICIENCY TESTS

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

EXEMPTIONS,  
POSTPONEMENTS,  
AND TESTING  
ALTERNATIVES

"Immigrant" is defined as a student who has resided outside the 50 United States for at least two consecutive years. *19 TAC 101.1007(b)*

DEFINITIONS

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. *Education Code 39.027(g)*

"Unschooled asylee or refugee" means a student who:

1. Initially enrolled in a school in the United States as:
  - a. An asylee as defined by 45 CFR 400.41; or
  - b. A refugee as defined by 8 U.S.C. 1101;
2. Has a visa issued by the United States Department of State with a Form I-94 Arrival/Departure record, or a successor

document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and

3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the LPAC established under Education Code 29.063.

*Education Code 39.027(a-1); 19 TAC 101.1010(a)*

GENERALLY  
FIRST YEAR

An LEP student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an LEP student. *Education Code 39.027(a)(1)*

SUBSEQUENT  
YEARS

An LEP student granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or
2. An additional four years if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student's academic progress in a valid, reliable manner.

*Education Code 39.027(a)(1)–(2), (a-1), (g)*

REFUSAL OF  
SERVICES

An LEP student whose parent or guardian has declined bilingual education/ESL services is not eligible for an exemption, an exit-level test postponement, or an exclusion of test results from the determination of District accreditation and performance ratings for unschooled asylees or refugees under 19 Administrative Code 101.1010. The student shall take the assessments of academic skills in English and the English language proficiency assessments required by 19 Administrative Code Chapter 101, Subchapter AA. *19 TAC 101.1007(d)*

EXEMPTIONS

Certain immigrant LEP students who have had inadequate schooling outside the United States may be eligible for an exemption from the assessment during a period not to exceed their first three school years of enrollment in United States schools. *19 TAC 101.1007(b)*

The immigrant student may be granted an LEP exemption if the LPAC determines that the student has not had the schooling outside the United States necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed. *19 TAC 101.1007(b)(2)*

In grades 2–12, an immigrant LEP student who achieves a rating of advanced high on the state-administered English language proficiency assessment in reading during the student's first school year of enrollment in United States schools is not eligible for an exemption in the second or third school year of enrollment in United States schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in United States schools is not eligible for an exemption in the third school year of enrollment in United States schools. *Education Code 39.027(e); 19 TAC 101.1007(b)(1)*

FEDERAL  
ACCOUNTABILITY  
TESTING

Exempt students shall be administered assessments in subjects and grades required by federal law and regulations in accordance with linguistically accommodated testing procedures delineated in the test administration materials. *19 TAC 101.1007(c)*

EXIT-LEVEL  
ASSESSMENT  
POSTPONEMENT

LEP students are not eligible for an exemption from exit-level testing requirements for graduation on the basis of limited English proficiency. However, LEP students who are recent immigrants may be granted a postponement of the administration of the exit-level assessment during their first 12 months of enrollment in U.S. schools. A postponement is not permitted if a student would otherwise not be afforded the opportunity to take the exit-level assessments at least one time before the student's scheduled graduation date. *19 TAC 101.1005*

ASSESSMENT IN  
SPANISH

During the second and third school years of enrollment in U.S. schools, an immigrant student whose schooling outside the United States was inadequate and for whom a Spanish-version assessment is available is not eligible for an LEP exemption and must take the assessment in either English or Spanish unless the LPAC makes the determinations at 19 Administrative Code 101.1007(b)(4).

In grades 3–5, the LPAC shall determine whether an LEP student is administered the assessment of academic skills in English or in Spanish. An LEP student may be administered a Spanish version of the assessment for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.

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

*Education Code 39.023(l), (m); 19 TAC 101.1007(a), (b)(4), (e)*

ASYLEE AND  
REFUGEE TEST  
RESULT EXCLUSION

An eligible student who is enrolled as an unschooled asylee or refugee and who is beyond the third school year of enrollment in U.S. schools in grades 3–10 or who is beyond the first 12 months of enrollment in U.S. schools at the exit level is required to participate in assessments of academic skills in all subjects and grades required by state or federal law and regulations. However, the test results of the student may be excluded from the determination of District accreditation and performance ratings under Education Code Chapter 39 through the student's fifth school year of enrollment in U.S. schools in accordance with LPAC decision-making procedures outlined in the test administration materials.

REQUIRED  
FEDERAL  
TESTING

In subjects and grades in which testing is required by federal law and regulations, a student whose test results are excluded shall be administered assessments using linguistically accommodated testing procedures delineated in the test administration materials.

INADEQUATE  
SCHOOLING  
DEFINED

For purposes of LPAC determinations under this subsection, inadequate schooling outside the United States is defined as little or no formal schooling outside the United States such that the student lacked basic literacy in his or her primary language upon enrollment in school in the United States.

*19 TAC 101.1010(b)–(c)*

LEP STUDENTS IN  
SPECIAL EDUCATION

The ARD committee, in conjunction with the LPAC, shall make decisions regarding the selection of assessments and appropriate accommodations for LEP students who receive special education services. The ARD committee shall document the decisions in the student's individualized education program, and the LPAC shall document the decisions in the student's permanent record file. *19 TAC 101.1009(b)*

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an LEP student who receives special education services to participate in an English language proficiency assessment required by 19 Administrative Code 101.1001 for reasons associated with the student's particular disability. Specific documentation of the reason for the decision must be maintained in accordance with the documentation requirements found in 19 Administrative Code 101.1009(b). *19 TAC 101.1009(c)*

The provisions at 19 Administrative Code 107.1007(b) and (c) [see EXEMPTIONS, above] apply to the state's general and modified assessments of academic skills. *19 TAC 101.1009(d)*

An LEP student who receives special education services and whose parent or guardian has declined bilingual services is not eligible for an exemption under 19 Administrative Code 101.1007, an exit-level test postponement under 19 Administrative Code 101.1005, or an exclusion of test results from the determination of district accreditation and performance ratings for unschooled asylees or refugees under 19 Administrative Code 101.1010. *19 TAC 101.1009(e)*

GRADE  
ADVANCEMENT  
REQUIREMENTS

LEP students are subject to the grade advancement requirements of the Student Success Initiative authorized under Education Code 28.0211 [see EIE], unless the LEP students meet the exemption criteria under 19 Administrative Code 101.1007 [see EXEMPTIONS, above], qualify for the provisions for unschooled asylees or refugees under 19 Administrative Code 101.1010(c) [see ASYLEE AND REFUGEE TEST RESULT EXCLUSION, above], or are otherwise not subject to the requirements established for students receiving special education services under 19 Administrative Code 101.2003(d). *19 TAC 101.1011*





ADMISSIONS

FD  
(LEGAL)

GENERAL ELIGIBILITY      The Board or its designee shall admit into the public schools of the District free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

STUDENT AND PARENT

1. The person and either parent reside in the District.

CONSERVATOR

2. The person does not reside in the District, but one of the parents resides in the District and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.

GUARDIAN OR PERSON HAVING LAWFUL CONTROL

3. The person and his or her guardian or other person having lawful control under an order of a court reside in the District.

STUDENTS LIVING SEPARATE AND APART

4. The person is under the age of 18 and has established a separate residence in the District apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the District is not for the primary purpose of participation in extracurricular activities. The Board is not required to admit such person, however, if the person has:

- a. Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
- b. Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or
- c. Been convicted of a criminal offense and is on probation or other conditional release.

*Education Code 25.001(a), (b), (d)*

HOMELESS STUDENTS

5. The person is a homeless child. [See also FDC]
- a. A child is "homeless," under the McKinney-Vento Homeless Education Act, if the child lacks a fixed, regular, and adequate nighttime residence. This includes:
    - (1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in

emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (4) Migratory children living in circumstances described above.

“Migratory child” means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work:

- (a) Has moved from one school district to another; or
  - (b) Resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.
- b. A child is homeless, under state law, regardless of the residence of the child, either parent, or the child’s guardian or other person having lawful control, if:
- (1) The child lacks a fixed, regular, and adequate nighttime residence; or
  - (2) The child has a primary nighttime residence in a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.

*Education Code 25.001(b); 20 U.S.C. 6399; 42 U.S.C. 11434a*

ADMISSIONS

FD  
(LEGAL)

FOREIGN  
EXCHANGE  
STUDENTS

6. The person is a foreign exchange student placed with a host family that resides in the District by a nationally recognized foreign exchange program, unless the District has applied for and been granted a waiver by the Commissioner because:
  - a. This requirement would impose a financial or staffing hardship on the District;
  - b. The admission would diminish the District's ability to provide high quality education services for the District's domestic students; or
  - c. The admission would require domestic students to compete with foreign exchange students for educational resources.

*Education Code 25.001(b)(6), (e)*

STUDENTS IN  
RESIDENTIAL  
FACILITY

7. The person resides at a residential facility, as defined in Education Code 5.001, located in the District. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located. *Education Code 25.001(b)(7), 29.012(c)*

STUDENTS OVER 18

8. The person resides in the District and is 18 or older or the person's disabilities of minority have been removed. *Education Code 25.001(b)(8)*

RESIDENT  
GRANDPARENT

9. The person does not reside in the District but the grandparent of the person:
  - a. Resides in the District; and
  - b. Provides a substantial amount of after-school care for the person as determined by the Board.

*Education Code 25.001(b)(9)*

PROOF OF ELIGIBILITY

The District may require evidence that a person is eligible to attend the public schools of the District at the time it considers an application for admission of the person. The Board or its designee shall establish minimum proof of residency acceptable to the District. The Board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, the Board shall determine whether an applicant qualifies as a resident of the District and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*

The District may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

ADMISSIONS

FD  
(LEGAL)

ILLEGAL ALIENS

Denying enrollment based upon immigration status to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Plyler v. Doe, 457 U.S. 202 (1982)*

HIGH SCHOOL  
EQUIVALENCY  
CERTIFICATE

A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. *Education Code 29.087(h)*

SUBSTITUTE FOR  
PARENT OR  
GUARDIAN

The Board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. *Education Code 25.001(j)*

AUTHORIZATION  
AGREEMENT

A parent or both parents of a child may enter into an authorization agreement with the child's grandparent, adult sibling, or adult aunt or uncle to authorize the relative to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the District; and
3. Authorizing the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

The authorization agreement must conform to the requirements of Family Code Chapter 34.

IMMUNITY

A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34.

*Family Code 34.001-.009*

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**Note:** The Authorization Agreement for Nonparent Relative is available at [https://www.dfps.state.tx.us/documents/Child\\_Protection/2638.pdf](https://www.dfps.state.tx.us/documents/Child_Protection/2638.pdf).

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ADMISSIONS

FD  
(LEGAL)

**STUDENTS IN FOSTER CARE** A student placed in foster care by an agency of the state or a political subdivision, and whose foster parents reside in the District, shall be permitted to attend District schools free of any charge to the foster parents or to the agency. No durational residency requirement shall be used to prohibit such a student from fully participating in all activities sponsored by the District. *Education Code 25.001(f)*

A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Department of Human Services at a residence outside the attendance area for the school or outside the District is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition. *Education Code 25.001(g)*

**TRANSFERS FROM OTHER STATES** The District shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the Commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to the District. *Education Code 25.003*

**TEXAS YOUTH COMMISSION** A school-age child of an employee of the Texas Youth Commission (TYC) residing in an adjacent district may attend school in the District free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TYC facility. *Education Code 25.042*

**ENROLLMENT** A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. The District shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

**LEGAL SURNAME** A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

**REQUIRED DOCUMENTATION** If a parent or other person with legal control of a child enrolls the child in a District school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the District all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner of Education in the *Student Attendance Accounting Handbook*.

2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.

3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

*Education Code 25.002(a); 19 TAC 129.1(a), (b)*

The District must furnish information under items 1 and 2 not later than the tenth working day after the date the District receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that the District transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

*Education Code 25.002(a-1)*

CHILD IN FPS  
POSSESSION

The District shall enroll a child without the required documentation if the Department of Family and Protective Services (FPS) has taken possession of the child. FPS shall ensure that the required documentation is furnished to the District not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

INCONSISTENT  
DOCUMENTATION

If a child is enrolled under a name other than the name that appears in the identifying documents or records, the District shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.

MISSING  
DOCUMENTATION

If the required documents and other records are not furnished to the District within 30 days after enrollment, the District shall notify the police department of the city or the sheriff's department of the county in which the District is located and request a determination of whether the child has been reported as missing.

*Education Code 25.002(b), (c)*

ADMISSIONS

FD  
(LEGAL)

- STUDENTS UNDER 11      On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:
1.    Request from the person enrolling the child the name of each previous school attended by the child;
  2.    Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and
  3.    Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
    - a.    A certified copy of the child's birth certificate; or
    - b.    Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

*Code of Criminal Procedure 63.019*

FALSE INFORMATION      When accepting a child for enrollment, the District shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in the District is liable to the District if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee the District may charge [see FDA] or the amount the District has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

The District may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

ADMISSIONS

FD  
(LEGAL)

PLACEMENT OF  
TRANSFERS  
CREDITS AND  
RECORDS

The District shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at the District's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

The District shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in Texas Youth Commission educational programs. *Education Code 30.104*

The District shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a District school. *Education Code 37.001(d)*

NONPUBLIC  
SCHOOLS

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. The District may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

FOUNDATION SCHOOL  
PROGRAM

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person is at least five years of age and under 21 years of age, and has not graduated from high school.
2. On September 1 of the year, the person is at least 21 years of age and under 26 years of age and is admitted by the District to complete the requirements for a high school diploma.
3. The person is enrolled in prekindergarten under Education Code 29.153 [see EHBG].
4. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and the District has adopted a policy to admit students younger than five years of age.
5. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

*Education Code 25.001(a), 42.003*



ADMISSIONS

FD  
(LEGAL)

SCREENING

The principal of each District school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

PEST CONTROL  
INFORMATION

At the time a student is registered, District personnel shall inform parents, guardians, or managing conservators that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455* [See CLB]



ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

GENERAL RULE

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their 18th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. Students enrolled in prekindergarten or kindergarten shall attend school.

STUDENTS 18 AND OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday shall attend school each school day for the entire period the program of instruction is offered. The District may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester. A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

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

ACCELERATED /  
COMPENSATORY  
PROGRAMS

A student must also attend:

1. An extended-year program for which the student is eligible that is provided by the District for students identified as likely not to be promoted to the next grade level or tutorial classes required by the District under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];
4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or
5. A summer program provided:
  - a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete each course in which the student was enrolled at the time of removal. [See FO]

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

- b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. [See FOCA]

*Education Code 25.085*

EXEMPTIONS

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

EQUIVALENCY  
DIPLOMA

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

PRIVATE OR HOME  
SCHOOL

2. The student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. *TEA v. Leeper, 893 S.W.2d 432 (Tex. 1994)*

SPECIAL  
EDUCATION —  
NONDISTRICT  
PLACEMENT

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

MEDICAL  
CONDITION

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

EXPULSION — NO  
JJAEP

5. The student has been expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]

17-YEAR-OLD IN  
GED COURSE

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

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

- c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or
  - d. Is homeless as defined by 42 U.S.C. 11302.
- HIGH SCHOOL REPLACEMENT PROGRAMS
- 16-YEAR-OLD IN GED PROGRAM OR JOB CORPS
- OTHER EXEMPTION
- EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS
- RELIGIOUS HOLY DAYS
- COURT APPEARANCES
- CITIZENSHIP PROCEEDINGS
- 7. The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.
  - 8. The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if:
    - a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or
    - b. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.
  - 9. The student is specifically exempted under another law.  
*Education Code 25.086*
- The District shall excuse a student from attending school for the following purposes:
- 1. Observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.
  - 2. Attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.
  - 3. Appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

4. Taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.
- ELECTION CLERKS 5. Serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site.
- HEALTH-CARE APPOINTMENTS 6. Temporary absence resulting from an appointment with a health-care professional if that student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

*Education Code 25.087(b), (b-3); 19 TAC 129.21(k) [See FEB]*

CAMPUS VISITS The District may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The District may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
2. The District adopts:
  - a. A policy to determine when an absence will be excused for this purpose; and
  - b. A procedure to verify the student's visit at the institution of higher education.

*Education Code 25.087(b-2); 19 TAC 129.21(k)(9)*

TAPS AT MILITARY FUNERAL

In addition, the District may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

MAKE-UP WORK	<p>The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence.</p> <p><i>Education Code 25.087(c)</i></p>
OTHER EXCUSED ABSENCES	<p>A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or Superintendent of the school in which the person is enrolled. <i>Education Code 25.087(a)</i></p>
TEMPORARY ABSENCES	
SPECIAL EDUCATION MATTERS	<p>Students may be excused for special education assessment procedures and for special education-related services. <i>19 TAC 129.21(l)</i></p>
MILITARY DEPENDENTS	<p>A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the Superintendent to visit with the student's parent or legal guardian relative to such leave or deployment of the parent or guardian. <i>Education Code 162.002 art. V, § E [See FDD]</i></p>
NOTICES TO PARENTS WARNING NOTICE	<p>The District shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to prosecution under Education Code 25.094 or to referral to a juvenile court in a county with a population less than 100,000.</p>
NOTICE OF ABSENCES	<p>The District shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:</p> <ol style="list-style-type: none"><li>1. Inform the parent that:<ol style="list-style-type: none"><li>a. It is the parent's duty to monitor the student's school attendance and require the student to attend school,</li><li>b. The parent is subject to prosecution under Education Code 25.093; and</li></ol></li><li>2. Request a conference between school officials and the parent to discuss the absences.</li></ol>

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

The fact that a parent did not receive the notices described above is not a defense to prosecution for the parent's failure to require a child to attend school nor for the student's failure to attend school.

*Education Code 25.095*

NON-ATTENDANCE  
PARENT LIABILITY

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued,
2. The parent with criminal negligence fails to require the child to attend school as required by law, and
3. The child has absences for the amount of time specified under Education Code 25.094.

The attendance officer [see FED] or other appropriate school official shall file a complaint against the parent in an appropriate court, as permitted under Education Code 25.093.

AFFIRMATIVE  
DEFENSE —  
PARENT

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

*Education Code 25.093*

STUDENT LIABILITY

A student who is required to attend school under the compulsory attendance laws and fails to attend school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period may be prosecuted for nonattendance in:

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

*Education Code 25.094(a), (b)*



ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

CONDUCT IN NEED OF SUPERVISION	Conduct indicating a need for supervision includes the absence of a child on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school. <i>Family Code 51.03(b)(2)</i>
AFFIRMATIVE DEFENSE — STUDENT	It is an affirmative defense to prosecution for nonattendance or to an allegation of conduct in need of supervision that one or more of the absences required to be proven were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense.  A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.  <i>Education Code 25.094(f), (g); Family Code 51.03(d)</i>
DISTRICT COMPLAINT OR REFERRAL	If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, the District shall within ten school days of the student's tenth absence: <ol style="list-style-type: none"><li data-bbox="561 1045 1430 1220">1. File a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Education Code 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000; or</li><li data-bbox="561 1241 1398 1308">2. Refer the student to a juvenile court for conduct indicating a need for supervision under Family Code 51.03(b)(2).</li></ol> A court shall dismiss a complaint or referral by the District that does not comply with these requirements.  The District may take the actions listed above if a student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above.  <i>Education Code 25.0951</i>



RECORDS	<p>The District shall maintain records to reflect the average daily attendance (ADA), as required by the Commissioner. The Superintendent, principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. <i>19 TAC 129.21(a)</i></p> <p>Districts shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's <i>Student Attendance Accounting Handbook</i>. <i>19 TAC 129.1023-.1025</i></p> <p>The Superintendent is responsible for the safekeeping of attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or properly stored on the respective school campuses of the District. Regardless of where such records are filed or stored, they must be readily available for audit by TEA. <i>19 TAC 129.21(m)</i></p>
MINIMUM ENROLLMENT	<p>A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.</p>
FULL-DAY STUDENTS	<p>Students enrolled on a full-day basis may earn one full day of attendance each school day.</p>
HALF-DAY STUDENTS	<p>Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present.</p>
ALTERNATIVE ATTENDANCE ACCOUNTING PROGRAM	<p>Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program.</p>
ATTENDANCE FOR STATE FUNDING PURPOSES	<p>Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless the District has obtained permission from TEA for an alternate period to record absences, unless the Board adopts a policy for recording absences in an alternate period or hour, or unless the students for which attendance is being taken are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.</p> <p>The established period in which absences are recorded may not be changed during the school year.</p>

Students absent during the daily period selected by the District for taking attendance shall be counted absent for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

*19 TAC 129.21(h)-(i)*

A student in a disciplinary alternative education program shall be counted in computing the average daily attendance of students in the District for the student's time in actual attendance in the program. *Education Code 37.008(f)*

EXCEPTIONS

A student not actually on campus when attendance is taken may be considered in attendance for Foundation School Program purposes if:

BOARD-  
APPROVED  
ACTIVITIES

1. The student is participating in a Board-approved activity under the direction of a member of the District's professional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in TRS. [See FM]

MENTORSHIPS

2. The student is participating in a mentorship approved by District personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program outlined in 19 Administrative Code Chapter 74.

MEDICAID  
STUDENTS

3. The student is Medicaid-eligible and participating in the Early and Periodic Screening, Diagnosis, and Treatment Program. Such students may be excused for up to one day at any time without loss of ADA.

RELIGIOUS HOLY  
DAYS

4. The student is observing religious holy days, including days of travel to or from a site where the student will observe holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site. [See FEA]

COURT  
APPEARANCE

5. The student is attending a required court appearance, including travel for that purpose. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site. [See FEA]

- |                             |  |
|-----------------------------|--|
| CITIZENSHIP<br>PROCEEDINGS  | 6. The student is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site. [See FEA]  |
| ELECTION<br>CLERKS          | 7. The student is taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site. [See FEA]   |
| HEALTH-CARE<br>APPOINTMENTS | 8. The student is serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See FEA]   |
| CAMPUS VISITS               | 9. The student is temporarily absent as a result of a documented appointment with a health-care professional during regular school hours, if that student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy. [See FEA] |
|                             | 10. The student is visiting an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that: <ul style="list-style-type: none"><li>a. The District may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and</li><li>b. The District adopts:<ul style="list-style-type: none"><li>(1) A policy to determine when an absence will be excused for this purpose; and</li></ul></li></ul>                    |

(2) A procedure to verify the student's visit at the institution of higher education. [See FEA]

DROPOUT  
RECOVERY  
EDUCATION  
PROGRAM

11. The student is in attendance at a dropout recovery education program.

TAPS AT  
MILITARY  
FUNERAL

12. The student is sounding "Taps" at a military honors funeral held in this state for a deceased veteran, provided that the student is enrolled in grade 6 or higher.

*Education Code 25.087, 29.081(e); 19 TAC 129.21*

DISASTERS

The Commissioner shall adjust the average daily attendance of the District all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the District experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The Commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

*Education Code 42.0051*

PARENTAL CONSENT  
TO LEAVE CAMPUS

Before the District or a charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the District or charter school shall adopt a policy addressing parental consent for a student to leave campus and distribute the policy to staff and to all parents of students in the District or charter school.

*19 TAC 129.21(d)*

WELLNESS AND HEALTH SERVICES  
COMMUNICABLE DISEASES

FFAD  
(LEGAL)

REPORTS

School authorities, including the Superintendent, principal, teacher, school health official, or counselor, shall report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Department of State Health Services (DSHS). If there is no local health authority appointed or if the District is outside the jurisdiction of a local health authority, the report shall be made to the regional director. *25 TAC 97.2(d), .5(a); Health and Safety Code 81.041-.042*

SEXUALLY  
TRANSMITTED  
DISEASES (STD)  
AND HIV

A local school authority shall report a child attending school who is suspected, based on medical evidence, of having an STD and/or is an HIV-exposed infant in accordance with 25 Administrative Code 97.131-.135. If the local school authority, or an individual listed under 25 Administrative Code 97.132(1), (3), or (4), does not make the required report, an individual listed under 25 Administrative Code 97.132(2), including a professional nurse, a health professional, a peace officer, and a parent or guardian, must report a person who has or is suspected of having an STD and/or is an HIV-exposed infant. *25 TAC 97.5(a)(3), .132(2), (5)* [See FFG(LEGAL) regarding reports to the Department of Family and Protective Services]

“School authority” means the Superintendent or the Superintendent’s designee. *Health and Safety Code 81.003(10)*

PENALTIES

A person commits a Class B misdemeanor if the person knowingly fails to report a reportable disease or health condition under Health and Safety Code Chapter 81, Subchapter B. *Health and Safety Code 81.049*

EXCLUSION

The principal shall exclude from attendance any student suffering from a communicable condition, as defined by the commissioner of health, until one of the criteria for readmittance is fulfilled. *25 TAC 97.7(b)*

READMITTANCE

Students excluded for reason of communicable disease shall be readmitted by one or more of the following methods, as determined by the local health authority or the DSHS regional director if no local health authority has been appointed:

1. Submitting a certificate of the attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease’s non-communicability in a school setting.
2. Submitting a permit for readmission issued by a local health authority.

3. Meeting readmission criteria as established by the commissioner of health.

*25 TAC 97.1(13), .7(c)*

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**Note:** The DSHS Communicable Disease Chart for Schools and Child-Care Centers, detailing symptoms and treatment information regarding several diseases, as well as exclusion and readmission criteria, is available with notes at [http://www.dshs.state.tx.us/idcu/health/schools\\_childcare/resources/ChildCareChartNotes.pdf](http://www.dshs.state.tx.us/idcu/health/schools_childcare/resources/ChildCareChartNotes.pdf).

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BACTERIAL  
MENINGITIS

TEA shall prescribe procedures by which each district shall provide information relating to bacterial meningitis to its students and their parents each school year. The procedures must ensure that the information is reasonably likely to come to the attention of the parents of each student. The agency shall prescribe the form and content of the information.

With the written consent of TEA, the District may provide the information to its students and their parents by a method different from the method prescribed by the agency if the agency determines that method would be effective in bringing the information to the attention of the parents of each student.

*Education Code 38.0025*



STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

REMOVAL UNDER  
STUDENT CODE OF  
CONDUCT

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

MANDATORY  
PLACEMENT IN DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

SCHOOL-RELATED  
MISCONDUCT

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
  - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
  - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

*Education Code 37.006(a)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

EXCEPTION	Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. <i>Education Code 37.006(m)</i>
RETALIATION	Except where a student engages in retaliatory acts against a District employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation, as defined in Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
CONDUCT UNRELATED TO SCHOOL	<p>In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:</p> <ol style="list-style-type: none"><li>1. The student receives deferred prosecution under Family Code 53.03, for conduct defined as a felony offense in Title 5, Penal Code;</li><li>2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Title 5, Penal Code; or</li><li>3. The Superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Title 5, Penal Code.</li></ol> <p>[See FOC(EXHIBIT) for list of Title 5 felonies]</p> <p><i>Education Code 37.006(c)</i></p>
REASONABLE BELIEF	In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, the Superintendent or the Superintendent's designee may consider all available information, including the information furnished under Code of Criminal Procedure Article 15.27. <i>Education Code 37.006(e)</i> [See GRA]
SEXUAL ASSAULT OF ANOTHER STUDENT	<p>A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:</p> <ol style="list-style-type: none"><li>1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;</li><li>2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and</li></ol>

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

3. There is only one campus in the District serving the grade level in which the student is enrolled.

*Education Code 25.0341, 37.0051(a)* [See FDE at SEXUAL ASSAULT TRANSFER, TRANSFER OF ASSAILANT]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

PERMISSIVE  
REMOVAL

NON-TITLE 5  
FELONY

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The Superintendent or designee has a reasonable belief (as determined above) that the student has engaged in conduct defined as a felony offense other than those listed in Title 5, Penal Code [see FOC(EXHIBIT)]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

*Education Code 37.006(d), (e)*

ONE YEAR AFTER  
CONDUCT

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

CERTAIN  
ORGANIZATION AND  
GANG MEMBERSHIP  
AND SOLICITATION

The Board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

OLDER STUDENTS

A person who is 21 years of age or older and is admitted by the District for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the District shall revoke the student's admission. *Education Code 25.001(b-1)*

PLACEMENT OF  
YOUNGER STUDENTS

A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f); 37.007(e)* [See FOD]

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

STUDENTS YOUNGER THAN SIX	Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] may be provided educational services in a DAEP. <i>Education Code 37.006(l)</i>
PROCESS FOR REMOVAL CONFERENCE	Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.
ORDER	Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the Student Code of Conduct.
APPEAL	If District policy allows a student to appeal to the Board or the Board's designee a decision of the principal or other appropriate administrator, the decision of the Board or the Board's designee is final and may not be appealed.  <i>Education Code 37.009(a)</i> [See Student Code of Conduct]
TERM OF REMOVAL	The Board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the District determines that the student is a threat to the safety of other students or to District employees; or extended placement is in the best interest of the student. <i>Education Code 37.009(d)</i>
BEYOND GRADING PERIOD OR 60 DAYS	If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the Board or designee.
NO APPEAL	Any decision of the Board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.  <i>Education Code 37.009(b)</i>

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

BEYOND END OF  
SCHOOL YEAR

Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, the Board or designee must determine that:

1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or
2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

*Education Code 37.009(c)*

ORDER OF  
REMOVAL

The Board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, the Board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

ACTIVITIES

The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see GRA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

*Education Code 37.006(o)*

COMPLETION OF  
PROCEEDINGS UPON  
WITHDRAWAL

If a student withdraws from the District before an order for placement in a DAEP is entered, the principal or Board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the District the same or subsequent school year, the District may enforce the order at that time except for any period of the placement that has been served by the student in another dis-

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

trict that honored the order. If the principal or Board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.  
*Education Code 37.009(i)*

ENROLLMENT IN  
ANOTHER DISTRICT

If a student placed in a DAEP enrolls in another district before the expiration of the placement, the Board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
  - a. The out-of-state district provides a copy of the placement order; and
  - b. The grounds for placement are the same as grounds for placement in the enrolling district.

*Education Code 37.008(j)*

OUT-OF-STATE  
PLACEMENT

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.008(j-1)*

COURT-ORDERED  
PLACEMENT

Unless the Board and the juvenile board for the county in which the District's central administrative office is located have entered into a

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

EXPELLED  
STUDENT

1. A court may not order a student expelled under Section 37.007 to attend a District DAEP as a condition of probation;

MULTIPLE  
REFERRALS

2. A court may not order a student to attend a DAEP without the District's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

*Education Code 37.010(c), (d)*

SCHOOL ACTIVITIES

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(d)*

PLACEMENT AFTER  
COURT  
DISPOSITION

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, the District may not refuse to admit the student if the student meets the requirements for admission into the public schools. The District may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

*Education Code 37.010(f)*

NOT GUILTY /  
INSUFFICIENT  
EVIDENCE / CHARGES  
DROPPED

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the Superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The Super-

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

intendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the Superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the Superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

*Education Code 37.006(h); Code of Crim. Proc. 15.27(g)*

APPEAL AFTER  
PLACEMENT  
UPHELD

The student or the student's parent or guardian may appeal the Superintendent's decision to the Board. The student may not be returned to the regular classroom pending the appeal. The Board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the Superintendent or designee; and confirm or reverse the Superintendent's decision. The Board shall make a record of the proceedings.

If the Board confirms the decision, the Board shall inform the student and the student's parent or guardian of the right to appeal to the Commissioner. The student may not be returned to the regular classroom pending the appeal to the Commissioner.

*Education Code 37.006(i), (j)*

120-DAY REVIEW OF  
STATUS

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by the Board's designee at intervals not to exceed 120 days. In the case of a high school student, the Board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. This requirement does not, however, obligate the District to provide in the DAEP a course, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher that removed the student without that teacher's consent. The teacher cannot be coerced to consent. *Education Code 37.009(e)*

ADDITIONAL  
PROCEEDINGS

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the prin-



STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

Principal or Board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

REPORTING

The District may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)* [See AIB]

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**Note:** See FOF for provisions concerning students with disabilities.

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EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

MEETINGS WITH  
JUVENILE BOARD

The Board or designee shall regularly meet with either:

1. The juvenile board for the county in which the District's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the President of the Board and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

*Education Code 37.013*

JUVENILE JUSTICE  
ALTERNATIVE  
EDUCATION  
PROGRAM

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

MANDATORY JJAEP

The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile Probation Commission.

VOLUNTARY JJAEP

The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the Texas Juvenile Probation Commission. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

*Education Code 37.011(a), (k), (m)*

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**Note:** The following provisions apply to all districts that operate JJAEPs, whether voluntary or mandatory.

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PLACEMENT OF  
STUDENTS IN JJAEP—  
EXPULLED STUDENTS

An expelled student shall, to the extent provided by law or by the memorandum of understanding (MOU), immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)*

COURT-ORDERED  
PLACEMENT

If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007, the juvenile court, juvenile board, or juvenile board's designee, as appropriate, shall:

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

1. If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;
2. If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;
3. In determining the condition of the deferred prosecution or court-ordered probation, consider the length of the District's expulsion order for the student; and
4. Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student. This provision does not require that educational services be provided to a student who is not entitled to admission under Education Code 25.001(b).

*Education Code 37.011(b), (b-1)*

A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless the District agrees to accept the student before the date ordered by the juvenile court. *Education Code 37.011(i)*

STUDENTS WHO  
MOVE

If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the District and the juvenile board in the receiving county. *Education Code 37.011(n)*

FUNDING FOR JJAEPS  
MANDATORY  
EXPULSIONS

Except as determined by the Commissioner, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the Texas Juvenile Probation Commission. *Education Code 37.011(h)*

COURT-ASSIGNED  
STUDENTS

The District is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. *Education Code 37.012*

TITLE 5 FELONY  
PLACEMENTS

The District shall reimburse a JJAEP in which a student is placed under Education Code 37.0081 [see FOE] for the actual cost in-

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

curred each day the student is enrolled in the program. For purposes of this subsection:

1. The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and
2. The juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

*Education Code 37.0081(g)*

FUNDING FOR  
DISCRETIONARY  
EXPULSIONS

Subject to Education Code 37.011(n) [see STUDENTS WHO MOVE, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is served by the JJAEP, provide funding to the juvenile board in an amount determined by the MOU under Education Code 37.011(k).

The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to the District.

*Education Code 37.012(a)*

ARBITRATION OF  
DISPUTES

If the District elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the District are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.

Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the District shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.

DECISION OF  
ARBITRATOR

The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by the District for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:

1. The actual average total per student expenditure in the District's DAEP;

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
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2. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and
3. The costs necessary to achieve the accountability goals under Education Code Chapter 37.

*Education Code 37.011(p)*

LOCATION AND  
STAFFING

A JJAEP may be provided in a facility owned by the District. The District may provide personnel and services for a JJAEP under a contract with the juvenile board. *Education Code 37.011(e)*

ACADEMIC MISSION  
OF JJAEP

Academically, the mission of the JJAEP shall be to enable students to perform at grade level.

ACCOUNTABILITY

For purposes of accountability under Education Code Chapter 39, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

*Education Code 37.011(h)*

FEES

Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, including an entrance or supply fee, for participating in the program.

*Education Code 37.012(e)*

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

GBA  
(LEGAL)

- PUBLIC INFORMATION “Public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the Board or for the Board and to which the Board has a right of access. *Gov’t Code 552.002(a)*
- AVAILABILITY Public information is available, at a minimum, to the public during the District’s normal business hours. *Gov’t Code 552.021*
- INFORMATION THAT MUST BE DISCLOSED Unless they are expressly confidential under other law, categories of public information that are not excepted from required disclosure under this policy include:
1. A completed report, audit, evaluation, or investigation made of, for, or by the Board, except as provided in Government Code 552.108.
  2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the District.
  3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
  4. The name of each official and the final record of voting on all proceedings of the Board.
  5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.
  6. A description of the District’s organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
  7. A statement of the general course and method by which the District’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
  8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
  9. A substantive rule of general applicability adopted or issued by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.
  10. Any amendment, revision, or repeal of the information described in items 6–9.
  11. Final opinions and orders issued in adjudication of cases.

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

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12. A policy statement or interpretation adopted or issued by the Board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the District's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law.
16. Information that is also contained in a public court record.
17. A settlement agreement to which the Board is a party.

A court in this state may not order the Board or the District's officer for public information to withhold from public inspection any category of public information described above or to not produce the information for inspection or duplication, unless the information is expressly made confidential under other law.

*Gov't Code 552.022*

INVESTMENT  
INFORMATION

Certain District investment information, as specified by Government Code 551.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

PERSONAL  
INFORMATION

EMPLOYEE / BOARD  
MEMBER

Each District employee, other than a peace officer or security officer, and Board member and each former employee and Board member shall choose whether to allow public access to District-held information relating to the person's home address, telephone number, or social security number, or any other information that reveals whether the person has family members.

Employees and Board members shall state their choice to a District's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the District ends. If an employee or Board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or Board member may make a written request at any time to the personnel officer to open or close the information relating to the person's home address, telephone number, social security number, or any other information that reveals whether the person has family members. A written request made after the 14 days does not apply to an open records request made before the option was exercised.

*Gov't Code 552.024; Tex. Att'y Gen. ORD-530 (1989)*



PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

GBA  
(LEGAL)

PEACE OFFICERS / SECURITY OFFICERS  EMPLOYED BY THE DISTRICT	District-held information relating to the home address, home telephone number, or social security number of employees who are peace officers, or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals whether the officer has family members, is excepted from disclosure regardless of whether the officer chooses to restrict public access to the information under Government Code 552.024. <i>Gov't Code 552.117</i>
ALL OFFICERS	District-held information relating to the home address, home telephone number, social security number, or any information that reveals whether an officer has family members, of any peace officer, security officer, or other person listed at Government Code 552.1175 is confidential by law if the officer chooses to restrict public access and notifies the District on a form provided by the District, accompanied by evidence of the officer's status. <i>Gov't Code 552.1175</i>
NOTICE TO REQUESTOR	<p>If an employee or Board member has opted to restrict public access to his or her personal information, the District may redact the personal information from any information the District discloses without the necessity of requesting a decision from the attorney general. The District may also redact information that must be withheld under Government Code 552.1175 without requesting an attorney general decision.</p> <p>If the District redacts information under either of these provisions, the District shall provide the following information to the requestor on a form prescribed by the attorney general:</p> <ol style="list-style-type: none"><li>1. A description of the redacted or withheld information;</li><li>2. A citation to Government Code 552.024 or 552.1175, as applicable; and</li><li>3. Instructions regarding how to request a decision from the attorney general regarding whether the redacted information is excepted from required disclosure.</li></ol> <p><i>Gov't Code 552.024(c-2), 552.1175(h)</i></p>
EVALUATIONS	A document evaluating the performance of a teacher or administrator is confidential. <i>Education Code 21.355</i>
EDUCATOR CERTIFICATION EXAM	The results of an educator certification examination are confidential and are not subject to disclosure, unless: <ol style="list-style-type: none"><li>1. The disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057; or</li></ol>

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

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2. The educator has failed the examination more than five times.

*Education Code 21.048(c-1)*

CREDIT CARD, DEBIT  
CARD, CHARGE CARD,  
AND ACCESS DEVICE  
NUMBERS

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for the District is confidential.

“Access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

*Gov't Code 552.136*

E-MAIL ADDRESSES  
CONFIDENTIAL

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the District is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

EXCEPTIONS

This confidentiality does not apply to an e-mail address:

1. Provided to the District by a person who has a contractual relationship with the District or by the contractor's agent;
2. Provided to the District by a vendor who seeks to contract with the District or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the District in the course of negotiating the terms of a contract or potential contract;
4. Provided to the District on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to the District for the purpose of receiving orders or decisions from the District, or for the purpose of providing public comment on or receiving notices related to an application for a license. A “license” under this section includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

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(LEGAL)

The District may also disclose an e-mail address for any reason to another governmental body or to a federal agency.

*Gov't Code 552.137, 2001.003(2)*

VICTIM OF ABUSE OR  
IMPROPER  
RELATIONSHIP

The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Penal Code 21.12(a) may not be released to the public and is not public information subject to disclosure. *Penal Code 21.12(d)*

The name of a student or minor who is the victim of abuse or unlawful conduct by an educator is not public information subject to disclosure. *Education Code 21.006(h)*

PARTICIPANT IN  
ADDRESS  
CONFIDENTIALITY  
PROGRAM

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

VICTIMS OF CERTAIN  
CRIMES

A District employee who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B may elect whether to allow public access to information held by the District that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the District, be signed by the employee, and be filed with the District before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

*Gov't Code 552.132*

INFORMATION  
EXCEPTED FROM  
PUBLIC DISCLOSURE

The Board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Categories of information that are excepted from disclosure to the public include:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
3. Information in the custody of the District that relates to an employee or officer of the District if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.151*
4. Information relating to litigation of a civil or criminal nature to which the District is, or may be, a party or to which an officer or employee of the District, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the District's public information officer receives the request. *Gov't Code 552.103*
5. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*
6. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
7. Drafts and working papers involved in the preparation of proposed legislation. *Gov't Code 552.106*
8. Information the District's attorney is prohibited from disclosing because of a duty to the District under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*

9. Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records. *Education Code 22.08391*
10. Criminal history record information obtained by the District from the Texas Department of Public Safety. *Gov't Code 411.097(d)(2)* [See CJA, DBAA]
11. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
  - a. Information that deals with detection, investigation, or prosecution of crime; and
  - b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.

*Gov't Code 552.108*
12. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov't Code 552.109*
13. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
14. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. *Gov't Code 552.110(b)*
15. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the District. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)*
16. An audit working paper of an audit of the District auditor, including any audit relating to the criminal history background check of a public school employee. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*
17. Student records, except to District personnel, the student, or the student's parents, guardian, or spouse. The District is not

required to release student records, except in conformity with FERPA. *Gov't Code 552.114, 552.026* [See FL]

18. Information that relates to the home address, home telephone number, or social security number of the following persons, or that reveals whether the person has family members:
  - a. A current or former District employee or Board member, except as provided by Section 552.024; or
  - b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

*Gov't Code 552.117*

19. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:
  - a. The officer is under indictment or charged with an offense by information;
  - b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
  - c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

*Gov't Code 552.119*

20. Test items developed by a state-funded educational institution. *Gov't Code 552.122*
21. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov't Code 551.104(c)*
22. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
  - a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;

- b. To a person with a special right of access under Government Code 552.023; or
- c. To a law enforcement agency or prosecutor under a court order or subpoena.

*Gov't Code 552.124*

23. The name of an applicant for Superintendent, except the Board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126*

24. Motor vehicle record information that relates to:

- a. A motor vehicle operator's or driver's license or permit issued by an agency of this state;
- b. A motor vehicle title or registration issued by an agency of this state; or
- c. A personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

*Gov't Code 552.130*

25. An informer's name or information that would substantially reveal the identity of an informer, unless:
- a. The informer consents. If the informer is a student or former student, consent may also be given by the informer's legal guardian or spouse; or
  - b. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of the District who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the District or the proper regulatory enforcement authority.

The informer's name may be made available to a law enforcement agency or prosecutor for official purposes upon proper request, made in compliance with applicable law and

procedure. However, this exception does not impair the confidentiality of information considered to be confidential by law.

*Gov't Code 552.135*

26. Information in a commercial book or publication purchased or acquired by the District for research purposes, if the book or publication is commercially available to the public. The District is not required to make copies of commercially available information, but the District shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the District.

*Gov't Code 552.027*

27. Information that relates to economic development negotiations involving the Board and a business prospect that the Board seeks to have locate, stay, or expand in or near the District, if that information relates to:
- a. A trade secret of the business prospect; or
  - b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

*Gov't Code 552.131(a)*

28. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by the Board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

- a. By the Board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the District or a reduction in revenue received by the District from any source.

*Gov't Code 552.131(b), (c)*

29. Information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. The following information is confidential:



- a. A computer network vulnerability report; and
- b. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of the District or of a contractor of the District is vulnerable to unauthorized access or harm, including an assessment of the extent to which the District's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use.

The District may disclose the information to a bidder if the District determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007 (requiring disclosure to any person).

*Gov't Code 552.139*

MILITARY DISCHARGE  
RECORDS

30. A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the District on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of the District in accordance with Government Code Section 552.140. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

SOCIAL SECURITY  
NUMBERS

31. The social security number of a living person. The social security number is not confidential, however. The District may redact the social security number of a living person from any information the District discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

INVESTMENT  
INFORMATION

32. Certain District investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. *Gov't Code 552.143*



INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

This introductory page outlines the contents of the public information policy. See the following sections for statutory provisions on:

SECTION I	Officer for Public Information and Required Notices	page 2
	1. Duties	
	2. Notice Regarding Public Information	
SECTION II	Access to Public Information	pages 2–7
	1. Procedural Rules Regarding Access	
	2. Treatment of Public Information Requests	
	3. Location of Access	
	4. Time for Response to Public Information Requests	
	5. Clarifying or Narrowing Scope of a Request	
	6. Time for Examination of Information	
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**SECTION I: OFFICER FOR PUBLIC INFORMATION AND  
REQUIRED NOTICES**

OFFICER FOR PUBLIC  
INFORMATION

The Superintendent shall be the District's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

DUTIES

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

*Gov't Code 552.201(a)–.204*

SIGN

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of the District, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the District's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Employees of the District whose duties include receiving or responding to public information requests.

*Gov't Code 552.205*

**SECTION II: ACCESS TO PUBLIC INFORMATION**

ACCESS TO PUBLIC  
INFORMATION

PROCEDURAL  
RULES

The District may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

It shall be the policy of the District to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228*

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

TREATMENT OF  
REQUESTS

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. *Gov't Code 552.222(a)-(b), 552.223-.224*

LOCATION OF  
ACCESS

An officer for public information complies with a request for public information by:

1. Providing the information for inspection or duplication in the District's offices (see TIME FOR EXAMINATION, below); or
2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA (see COSTS AND CHARGES, below).

The PIA does not authorize a requestor to remove an original copy of a public record from the office of the District.

*Gov't Code 552.221(b), 552.226*

TIME FOR RESPONSE

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. The District may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

*Gov't Code 552.221; Tex. Atty. Gen. ORD-664 (2000)*

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

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(LEGAL)

REQUESTS TO  
NARROW OR CLARIFY

If a large amount of information has been requested, the District may discuss with the requestor how the scope of the request might be narrowed, but the District may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the District, the District may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the District must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond. If the District does not receive a written response by the 61st day after the District sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

*Gov't Code 552.222(b), (d)–(f)*

TIME FOR  
EXAMINATION

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the District. The period of interruption is not considered to be a part of the time during which the person may examine the information.

*Gov't Code 552.225*

ELECTRONIC DATA

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. The District shall provide a copy in the requested medium:

1. If the District has the technological ability to produce the information in the requested medium;
2. If the District is not required to purchase any software or hardware to accommodate the request; and

INFORMATION ACCESS  
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(LEGAL)

3. Providing the copy will not violate any copyright agreement between the District and a third party.

If the District is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the District shall provide a copy in another medium that is acceptable to the requestor. The District is not required to copy information onto a diskette or other material provided by the requestor but may use District supplies.

*Gov't Code 552.228*

REQUESTS  
REQUIRING  
PROGRAMMING OR  
MANIPULATION

The District shall provide the requestor a written statement, described below, if the District determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
  - a. Compliance with the request is not feasible or will result in substantial interference with operations; or
  - b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general [see GBAA(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

RESPONSE TIME  
WHEN  
PROGRAMMING OR  
MANIPULATION IS  
REQUIRED

The District shall provide the written statement to the requestor within 20 days after the date the District receives the request. The District has an additional ten days to provide the statement if the District gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

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REQUESTS FOR INFORMATION

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**FURTHER ACTION** After providing the written statement described above, the District has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and the District agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

**PROCESSING OF REQUESTS** The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. The District shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

*Gov't Code 552.231*

**REPETITIOUS OR REDUNDANT REQUESTS** If the District determines that a requestor has made a request for information for which the District has previously furnished or made copies available to the requestor, the District may:

1. Respond to the request for information as set forth below, at PROCEDURES; or
2. Furnish the information or make the information available to the requestor again in accordance with the request. If the District selects this option, the District is not required to comply with the procedures described below.

*Gov't Code 552.232(a)*

These provisions do not apply to information not previously furnished to a requestor. The District shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

**PROCEDURES** The District shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:



1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the District received the requestor's original request for that information;
3. The date the District previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

*Gov't Code 552.232*

### **SECTION III: ATTORNEY GENERAL DECISIONS**

ATTORNEY GENERAL  
DECISIONS

If the District receives a written request for information that the District considers to be within one of the exceptions to required disclosure and that the District wishes to withhold from public disclosure, the District shall request a decision from the attorney general about whether the information is within the exception (see SUBMISSION TO ATTORNEY GENERAL, below). For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee.

TIME FOR REQUEST

The District must submit the request to the attorney general not later than the tenth business day after receiving the written request. If the District does not timely request a decision from the attorney general and comply with the requirements at STATEMENT TO REQUESTOR, below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it.

*Gov't Code 552.301(a)-(c), 552.302*

The District may only request an attorney general decision if the District reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD-665 (2000)*

PREVIOUS  
DETERMINATIONS  
SAME  
INFORMATION

Except as set forth at Government Code section 552.301(g), the District may not request an attorney general decision if the District has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from the District after the attorney general has previously issued a deci-

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REQUESTS FOR INFORMATION

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	<p>sion regarding the precise information or records at issue. <i>Gov't Code 552.301(f); Tex. Att'y Gen. ORD-673 (2001)</i></p>
CATEGORIES OF INFORMATION	<p>The District may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:</p> <ol style="list-style-type: none"><li>1. The previous decision is applicable to a school district;</li><li>2. The previous decision concludes that the category of information is or is not excepted from public disclosure;</li><li>3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and</li><li>4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.</li></ol> <p><i>Tex. Att'y Gen. ORD-673 (2001)</i></p> <p>A district that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.</p> <p>The District may withhold from public disclosure the categories of personnel records listed at Texas Attorney General Open Records Decision 684 (2010).</p> <p><i>Tex. Att'y Gen. ORD-684 (2010)</i></p> <p>The District may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Education Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g [see FL]. <i>Tex. Att'y Gen. ORD-634 (1995)</i></p>
STATEMENT TO REQUESTOR	<p>If the District requests an attorney general decision, it shall provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:</p> <ol style="list-style-type: none"><li>1. A written statement that the District wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and</li><li>2. A copy of the District's written communication to the attorney general asking for the decision. If the District's written communication to the attorney general discloses the requested in-</li></ol>

formation, the District shall provide a redacted copy of that written communication.

*Gov't Code 552.301(d)*

SUBMISSION TO  
ATTORNEY  
GENERAL

When the District requests an attorney general decision, it shall, within a reasonable time but not later than the 15th business day after receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;
3. A signed statement as to the date on which the written request for information was received by the District or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The District shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The District shall send a copy of the comments to the requestor not later than the 15th business day after the District receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

*Gov't Code 552.301(e), (e-1)*

Unless the information is confidential by law, the District may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction. *Gov't Code 552.303(a)*

ADDITIONAL  
INFORMATION

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the District and the requestor written notice of that fact. The District shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the District does not comply with the attorney general's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.303(c)-(e)*

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PRIVACY OR  
PROPERTY  
INTERESTS

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.104 (information related to competitive bidding), 552.110 (trade secrets), and 552.114 (student records), the District may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. The District may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)-(c)*

NOTICE TO  
OWNER OF  
PROPRIETARY  
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.113 (geological or geophysical information), or 552.131 (economic development information), a district that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the District receives the request for information; and
2. Include:
  - a. A copy of any written request the District received for the information; and
  - b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

*Gov't Code 552.305(d)*

**SECTION IV: CHARGES REGARDING PUBLIC INFORMATION REQUESTS**

COSTS AND CHARGES

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

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REQUESTS FOR INFORMATION

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Charges for providing a copy of public information are considered to accrue at the time the District advises the requestor that the copy is available on payment of the applicable charges.

50 PAGES OR LESS

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

STATEMENT OF  
LABOR COSTS

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

*Gov't Code 552.261, 552.262(a)*

ATTORNEY  
GENERAL'S RULES

The District shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. [See GBAA(EXHIBIT)]

The District may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, the District may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the District requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b)*

EXEMPTIONS

The District may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If the District receives notice from the attorney general that an exemption has been granted, the District may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

COPIES FOR  
PARENTS

The District may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

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(LEGAL)

STATEMENT OF  
ESTIMATED  
CHARGES

If a request for a copy of public information will result in the imposition of a charge that exceeds \$40, the District shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the District regarding the alternative method. The District must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after the District provides the requestor the itemized statement but before it makes the copy or the paper record available, the District determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the District shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

REQUESTOR'S  
RESPONSE

A request for which the District is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the District within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

ACTUAL  
CHARGES

If the actual charges exceed \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

TIMING OF  
DEADLINES

An original or updated itemized statement is considered to have been sent by the District, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;

2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on the District for requesting a decision by the attorney general under Government Code 552, Subchapter G.

*Gov't Code 552.2615*

DEPOSIT OR BOND

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 (see STATEMENT OF ESTIMATED CHARGES, above); and
2. The charge for providing the copy is estimated by the District to exceed \$100, if the District has more than 15 full-time employees, or \$50, if the District has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

*Gov't Code 552.263(a), (b)*

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request for a copy of public information is considered to have been received by the District on the date the District receives the deposit or bond.

*Gov't Code 552.263(e)*

A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(f)*

UNPAID AMOUNTS

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes the District in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed \$100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

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DOCUMENTATION OF UNPAID AMOUNTS      The District must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

WAIVERS      The District shall provide a copy of public information without charge or at a reduced charge if the District determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to the District of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the District may waive the charge.

*Gov't Code 552.267*

GOVERNMENT PUBLICATION      The cost provisions described above do not apply to a publication that is compiled and printed by or for the District for public dissemination. If the cost of the publication is not determined by state law, the District may determine the charge for providing the publication, or the District may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

**SECTION V: INSPECTION OF PUBLIC INFORMATION**

INSPECTION OF PUBLIC INFORMATION      If the requestor does not request a copy of public information, the District may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

CONFIDENTIAL INFORMATION      If a page contains confidential information that must be edited from the record before the information can be made available for inspection, the District may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(b)*

PAYMENT, DEPOSIT, OR BOND      The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and
2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

*Gov't Code 552.271(c)*



CERTAIN SMALL  
DISTRICTS

If the District has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

*Gov't Code 552.271(d)*

ELECTRONIC  
RECORDS

If the District receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the District may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the District shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by the District, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the District's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, the District may impose charges.

If the District creates or keeps information in an electronic form, the District is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

*Gov't Code 552.272*

**SECTION VI: MISCELLANEOUS PROVISIONS**

LARGE OR FREQUENT  
REQUESTS

PERSONNEL TIME

The District may establish a reasonable limit on the amount of time that District employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. The time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to the District's fiscal year.

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REQUEST BY  
MINOR

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

EXCEPTION

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. A radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;
2. A newspaper that is qualified under Government Code 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;
3. A newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or
4. A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or a representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

WRITTEN  
STATEMENT OF  
PERSONNEL TIME

If the District establishes a time limit, each time the District complies with a request for public information, the District shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement.

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

WRITTEN ESTIMATE OF CHARGES If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, the District shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The District shall provide the written estimate on or before the tenth day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

ADDITIONAL TIME If the District provides the requestor with written notice that additional time is required to prepare the written estimate, the District must provide the written estimate as soon as practicable, but on or before the tenth day after the date the District provided the notice that additional time was required.

ACCEPTANCE OF CHARGES The District is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the District provided the written estimate, the requestor submits a written statement to the District in which the requestor commits to pay the lesser of:

1. The actual costs incurred in complying with the request, including the cost of materials, personnel time, and overhead; or
2. The amount stated in the written estimate.

If the requestor fails or refuses to submit a written statement, the requestor is considered to have withdrawn the request.

WAIVED OR REDUCED CHARGES This section does not prohibit the District from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267 [see WAIVERS, above].

*Gov't Code 552.275*

FILING SUIT TO WITHHOLD INFORMATION The District may file suit seeking to withhold information if the District receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The District must bring the suit not later than the 30th calendar day after the District receives the attorney general's decision. If the District wishes to preserve an affirmative defense for its officer for

public information, as provided by Government Code 552.353(b)(3), the District must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

*Gov't Code 552.324, 552.353(b)(3)*

PARENT'S REQUEST  
FOR INFORMATION

A district that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the District receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, the District may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If the District does not bring suit within the period established, the District shall comply with the decision of the attorney general.

*Education Code 26.0085*

RELATIONS WITH EDUCATIONAL ENTITIES  
COLLEGES AND UNIVERSITIES

GNC  
(LEGAL)

FACILITIES

DUAL USAGE  
EDUCATIONAL  
COMPLEX

The District may enter into a cooperative agreement with a community college district regarding a dual usage educational complex, provided the District is located in whole or in part in the service area of the college district. The college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the parties under the terms of the cooperative agreement. *Education Code 130.0103*

INSTRUCTIONAL OR  
ATHLETIC FACILITY

The Board may contract with an institution of higher education located wholly or partially within the District's boundaries for the use of any stadium and other athletic facilities owned by or under the control of the institution of higher education.

The District and an institution of higher education located wholly or partially in the boundaries of the county in which the District is located may contract for the District to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education.

*Education Code 45.109 [See CX]*

COLLEGE  
COURSES IN  
DISTRICT  
FACILITIES

If the District is located in a county contiguous to, but not part of, a community college district, the Board may enter into a contract with the community college district for the community college to hold college courses in the District's facilities. The contract shall be approved by Board resolution. Either party may terminate the contract by giving the other party at least one year's written notice. *Education Code 130.006*

DISTRICT COURSES  
ON HIGHER  
EDUCATION  
CAMPUS

The Board may operate a school or program or hold a class on the campus of an institution of higher education in this state if the Board obtains written consent from the president or other chief executive officer of the institution, regardless of whether the institution is located within the boundaries of the District. *Education Code 11.166*

INSTRUCTIONAL  
PARTNERSHIPS WITH  
COMMUNITY COLLEGE  
DISTRICTS

Types of instructional partnerships between the District and a community college district include:

1. Award of High School Credit (see HIGH SCHOOL CREDIT-ONLY COURSES, below).
2. Award of Dual Course Credit (see DUAL CREDIT COURSES, below).
3. Tech-Prep Programs.

RELATIONS WITH EDUCATIONAL ENTITIES  
COLLEGES AND UNIVERSITIES

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4. Remedial or Developmental Instruction (see REMEDIAL PROGRAMS, below).

*19 TAC 9.143*

AGREEMENT

For any educational partnership between the District and a community college district, an agreement must be approved by the board or designee of both the District and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcribing of credit.
8. Funding provisions.

*19 TAC 9.144*

HIGH SCHOOL  
CREDIT-ONLY  
COURSES

The District may contract with a community college district for the college district to provide coursework necessary for students to complete high school. The District and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125*

DUAL CREDIT  
COURSES

The District may enter into an agreement with a public college to form a dual credit partnership. Dual credit means the process by which a high school student enrolls in a college course and receives simultaneous academic credit for the course from both the college and high school. *19 TAC Ch. 4, Subch. D [See EHDD(LEGAL)]*

REMEDIAL  
PROGRAMS

The Board may contract with the board of the community college district in which the District is located for the college district to provide remedial programs for students enrolled in the District's secondary schools in preparation for graduation from secondary school and entrance into college. *Education Code 130.090; 19 TAC 9.146*

PLAN TO INCREASE  
HIGHER EDUCATION  
ENROLLMENT

An affected district, as described below, shall enter into an agreement with the public institution of higher education in this state in closest geographic proximity to the District to develop a plan to increase the percentage of the District's graduating seniors who enroll in an institution of higher education for the academic year

RELATIONS WITH EDUCATIONAL ENTITIES  
COLLEGES AND UNIVERSITIES

GNC  
(LEGAL)

following graduation. The plan must address the elements at Education Code 29.904(d). *Education Code 29.904(c), (d)*

AFFECTED  
DISTRICT

An affected district is one with one or more high schools that:

1. During the preceding five years, have had an average of at least 26 students in the high school graduating class; and
2. For any two consecutive years during the preceding five years, have been among the lowest ten percent of high schools in this state in the percentage of students graduating and enrolling for the following academic year in an institution.

*Education Code 29.904(a)*

TIMELINE

Unless the District is already operating under a plan to increase enrollment, not later than May 1 of each year TEA shall notify the District if it is an affected district. The District must enter into an agreement to develop a plan to increase enrollment by August 1 of the year in which it receives notice from TEA. *Education Code 29.904(b), (c)*

The District shall file the plan with the Commissioner of Education and the Commissioner of Higher Education. The District must implement the plan at the beginning of the school year following the year during which the District receives notice from TEA that it is an affected district. The District may revise the plan as necessary in response to achieving or failing to achieve goals under the plan. *Education Code 29.904(e)-(g)*

