



UNITED INDEPENDENT SCHOOL DISTRICT INFORMATIONAL ITEM

TOPIC: Review of LEGAL Policies in Update 85

SUBMITTED BY Gloria Rendon **OF:** Asst. to the Superintendent

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: June 17, 2009

B (LEGAL)	Local Governance
BBA (LEGAL)	Board Members – Eligibility/Qualifications
BBB (LEGAL)	Board Members – Elections
BBBB (LEGAL)	Board Members – Election Ethics
BE (LEGAL)	Board Members
BQ (LEGAL)	Planning and Decision-Making Process
C (LEGAL)	Business and Support Services
CH (LEGAL)	Purchasing and Acquisition
CJA (LEGAL)	Contracted Services – Criminal History
CL (LEGAL)	Building, Grounds, and Equipment Management
CNA (LEGAL)	Transportation Management – Student Transportation
CQ (LEGAL)	Electronic Communications and Data Management
CS (LEGAL)	Facility Standards
CV (LEGAL)	Facilities Construction
D (LEGAL)	Personnel
DAA (LEGAL)	Employment Objectives – Equal Employment Opportunity
DBAA (LEGAL)	Employment Requirements and Restrictions - Criminal History and Credit Reports
DEA (LEGAL)	Compensation and Benefits – Salaries and Wages
DEAA (LEGAL)	Compensation and Benefits – Incentives and Stipends
DEC (LEGAL)	Compensation and Benefits – Leaves and Absences
DECA (LEGAL)	Leaves and Absences - Family and Medical Leave
DECB (LEGAL)	Leaves and Absences – Military Leave
EHBAA (LEGAL)	Special Education – Identification, Evaluation, and Eligibility
EBAC (LEGAL)	Special Education – Students in Non-District Placement
EBAE (LEGAL)	Special Education – Procedural Requirements
EBK (LEGAL)	Special Programs – Other Instructional Initiatives
EKC (LEGAL)	Testing Program – Reading Assessment
FB (LEGAL)	Equal Educational Opportunity
FL (LEGAL)	Student Records
FOCA (LEGAL)	Placement in a Disciplinary Alternative Education Setting
	Disciplinary Alternative Education Program Operations
GBA (LEGAL)	Public Information Program – Access to Public Information

Localized Policy Manual

Update 85

United ISD

Localized Update 85 incorporates revised federal regulations for three significant laws: the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and the Family Educational Rights and Privacy Act (FERPA). The Update includes a redeveloped elections policy that has been organized into three main sections to follow the flow of the election process. The Update also addresses numerous other issues, including use of district vehicles and new material from commissioner rules on DAEPs, master teacher grant programs, and criminal history checks of employees who work for entities that contract with the district.

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 85 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 85 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 85 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this Update, please call your policy consultant/analyst, Amy Kadleck, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 85 . . .

- Board action on Localized Update 85 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 85, 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 85, 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 85 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 85 [with the following changes:]”
- The board’s action on Localized Update 85 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.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant/analyst of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. If the district uses *Policy On Line*, you will need to notify us of the board’s action on Update 85 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 85 policy changes should be inspected and revised by the district as needed.

PLEASE NOTE: This Localized Update packet and the Update 85 *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.

Explanatory Notes

TASB Localized Policy Manual Update 85

District: United ISD
B (LEGAL) LOCAL GOVERNANCE

The B section table of contents has been revised to reflect the addition of a new code, BBBB, on election ethics.

BBA (LEGAL) BOARD MEMBERS
ELIGIBILITY/QUALIFICATIONS

At 'RESIDENCE' DEFINED, newly added text from the Election Code clarifies that a person does not establish residency in a place to which the person comes for temporary purposes without an intention of making that place the person's home. In a new **Note** at the end of that section, we have added a provision from case law, specifying that residency should be determined by a court of law.

BBB (LEGAL) BOARD MEMBERS
ELECTIONS

In order to better align this policy with the flow of the elections process, provisions have been reorganized into three main sections: Elections Generally, Conducting Elections, and Post-Election Procedures. We have included a table of contents outlining the main topics for ease of use and have added margin notes throughout. While many of the provisions in this policy remain unchanged, revisions and additions are as follows:

- At CHANGING METHOD OF ELECTION, revisions clarify that the board may by resolution order that trustees be elected at-large by position or place.
- A new provision specifies that the board is responsible for the ELECTION ORDER.
- Notice requirements for special elections have been added at ELECTION NOTICE, as well as details about the required NOTICE TO THE COUNTY CLERK and the NOTICE TO THE ELECTION JUDGE.
- At ELECTION JUDGES AND CLERKS, we have added a reference to Chapter 32 of the Election Code, which covers selection and duties of election judges and clerks.
- We have added a general reference to Title 8 of the Election Code, which includes provisions about the selection and use of VOTING SYSTEMS.
- We have also added a general reference to Title 6 of the Election Code, which includes general provisions about CONDUCTING ELECTIONS.
- Finally, at TIE VOTES we have deleted unnecessary detail.

Several provisions addressing election ethics were moved to a new code, BBBB(LEGAL). See the explanatory note for that code below.

BBB (EXHIBIT) BOARD MEMBERS
ELECTIONS

We have added to this exhibit a link to the Secretary of State Elections Division Web site for information on election forms, calendars, and other school board election resources.

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**BBBB (LEGAL) BOARD MEMBERS
ELECTION ETHICS**

We have created this new code to address provisions on ethics and board elections. These provisions were previously at BBB(LEGAL).

**BDA (LOCAL) OFFICERS AND OFFICIALS
DUTIES AND REQUIREMENTS OF BOARD OFFICERS**

At TERM AND DUTIES, we have changed the term of service for board officers from one to two years to match your district's two-year election cycle.

We have retained, unaltered, the district's locally developed provisions at VICE PRESIDENT, SECRETARY, and PARLIAMENTARIAN.

Please note: This policy provides that, in case of a vacancy in the office of board president, the vice president will become president only if elected to the position. If this no longer matches your practice (for example, if the vice president automatically becomes president upon a vacancy in that office) please contact your policy consultant for appropriate policy language.

BE (LEGAL) BOARD MEETINGS

Two recent attorney general opinions have been added to this policy:

- On page 1, GA-689 concluded that changes to the Education Code from the last legislative session did not change majority voting standards. The common-law voting standard still applies to school boards—a motion will pass if a majority of those present and voting, excluding abstentions, votes for the motion.
- At SPECIFICITY OF AGENDA/NOTICE, GA-668 reinforces past attorney general opinions that the agenda must list the topics of a report or update by staff or a member of the board; “superintendent report” and like agenda items are not specific enough to satisfy the Texas Open Meetings Act requirements.

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

TEA approved comprehensive new rules on DAEPs, effective December 14, 2008. The rules require a district that participates in a SHARED SERVICES ARRANGEMENT FOR DAEP SERVICES to include the performance of DAEP students in the district- and campus-level improvement plans. The rules identify certain objectives that must be addressed in the plans.

Other provisions from the new rules have been included at FOCA(LEGAL), also included in this update. See the explanatory note below.

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C (LEGAL) BUSINESS AND SUPPORT SERVICES

The C section table of contents has been revised to reflect the renaming of code CJ to Contracted Services and the addition of a new code, CJA, Contracted Services: Criminal History.

CH (LEGAL) PURCHASING AND ACQUISITION

Provisions on CRIMINAL HISTORY have been moved to CJA(LEGAL), a new code addressing criminal history checks of employees who work for entities that contract with the district. [See the explanatory note for CJA(LEGAL), below.]

CJA (LEGAL) CONTRACTED SERVICES CRIMINAL HISTORY

New rules from TEA, effective November 20, 2008, address CRIMINAL HISTORY checks of individuals who work for entities that contract with the district. The new rules and existing provisions on criminal history checks of contractors from CH(LEGAL), CNA(LEGAL), and CV(LEGAL) have been moved to this new code for ease of reference. The rules expand CONTRACTOR RESPONSIBILITIES and DISTRICT RESPONSIBILITIES and add definitions for "continuing duties related to contracted services," "covered contract employee," "direct contact with students," and "service contractors."

Service contractors:

- Must obtain criminal history information on covered contract employees. As indicated in the policy, different provisions apply depending on when the employee was offered employment. If an employee or applicant has or will have continuing duties related to the contracted services and has or will have direct contact with students, the contractor will need to do a criminal history check.
- Must certify to the school district that the criminal history check was done.
- Must certify that they will take reasonable steps to make sure conditions don't change such that a non-covered employee would become a covered employee during the time contracted services are provided.
- Upon request, must provide the district with information necessary for the district to obtain criminal history information for covered employees.
- May not permit covered contract employees to provide services at a school if the employee has a disqualifying conviction under Education Code 22.085.

School districts:

- May obtain criminal history record information on covered contract employees.
- Must ensure that service contractors have obtained required criminal history record information for covered contract employees.
- May not permit covered contract employees to provide services at a school if the employee has a disqualifying conviction under Education Code 22.085. Districts may adopt stricter standards for disqualification.

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- Must notify SBEC if they find out that a certified covered contract employee has a reported criminal history.

CL (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

Effective December 19, 2008, the Virginia Graeme Baker Pool and Spa Safety Act requires a swimming pool or spa that is open to the public generally to meet certain drain cover standards (see page 4). If you have any questions about whether this Act applies to operation of the district's swimming pool, please contact TASB Legal Services or the district's attorney.

CNA (LEGAL) TRANSPORTATION MANAGEMENT STUDENT TRANSPORTATION

Provisions on CRIMINAL HISTORY have been moved to CJA(LEGAL), a new code addressing criminal history checks of employees who work for entities that contract with the district. [See the explanatory note for CJA(LEGAL), above.]

CNB (LOCAL) TRANSPORTATION MANAGEMENT DISTRICT VEHICLES

We have broadened the scope of this policy to address use of all district vehicles, and have revised the policy to distinguish between nonschool and school-related use.

Under this policy, nonschool use of district vehicles is prohibited. An exception allows the superintendent or designee to authorize use of district vehicles by certain entities in emergencies or disasters.

The superintendent or designee is still required to develop administrative regulations governing SCHOOL-RELATED USE, which now should address all school vehicles. We have deleted the provisions in your policy addressing who may drive vehicles other than buses as well as other details regarding operation of vehicles. Such details are better suited for administrative regulations.

For sample regulations on district vehicles, see the *TASB Regulations Resource Manual*, available through myTASB.

If your district allows nonschool use of district vehicles other than in emergency situations, please contact your policy consultant for appropriate text.

CQ (LEGAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

The Children's Internet Protection Act was amended effective October 10, 2008. The amendments require school districts participating in the E-Rate program to educate students regarding appropriate online behavior on social networking sites and chat rooms and to teach students about cyberbullying. Districts must certify to the FCC that these education requirements are part of their Internet safety policies. [See the explanatory note for CQ(LOCAL), below.]

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CQ (LOCAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

Amendments to the Children's Internet Protection Act now require school districts participating in the E-Rate program to educate students regarding cyberbullying and appropriate online behavior on social networking sites and chat rooms. This new text has been added at INTERNET SAFETY, item 5.

The district's locally developed text at LIMITED PERSONAL USE and USE BY MEMBERS OF THE PUBLIC has been retained, unchanged.

Please review this policy closely to confirm that the provisions accurately reflect the district's practices regarding its electronic communications system. For sample regulations on electronic communication systems, see the *TASB Regulations Resource Manual*, available through myTASB.

CRE (LOCAL) INSURANCE AND ANNUITIES MANAGEMENT WORKERS' COMPENSATION

We have deleted the text at RELATION TO PAID LEAVE because the district's decision to allow an employee on workers' compensation to use available paid leave in partial amounts to supplement workers' compensation wage benefits is already included in DEC(LOCAL).

The district's locally developed text at FITNESS TO RETURN TO WORK remains unchanged. If this no longer reflects district practice please contact your policy consultant to make revisions.

CS (LEGAL) FACILITY STANDARDS

Commissioner rules regarding facility standards were amended effective September 24, 2008. As a result, we have updated citations and added existing text listing information that must be included in educational specifications for new school facilities or major space renovations. These requirements as listed on page 2 of the policy are:

- Number of students;
- 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;
- A schedule of the estimated number and approximate size of all instructional and instructional support spaces included in the facility;
- Estimated budget for the facility project;
- School administrative organization;
- Provisions for outdoor instruction;
- Hours of operation that include the instructional day, extracurricular activities, and any public access or use;
- The safety of students and staff in instructional programs, such as science and vocational instruction; and
- The overall security of the facility.

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CV (LEGAL) FACILITIES CONSTRUCTION

Provisions on CRIMINAL HISTORY have been moved to CJA(LEGAL), a new code addressing criminal history checks of employees who work for entities that contract with the district. [See the explanatory note for CJA(LEGAL), above.]

On page 4, we have added text from the Texas Administrative Code to clarify that only a REGISTERED ARCHITECT may prepare architectural plans or specifications for certain construction projects, even when a registered professional engineer rather than a registered architect is designated as the prime design professional on the construction project.

D (LEGAL) PERSONNEL

The D section table of contents has been revised to reflect the addition of two new codes: DECA, on Family and Medical Leave, and DECB, on Military Leave.

DAA (LEGAL) EMPLOYMENT OBJECTIVES EQUAL EMPLOYMENT OPPORTUNITY

At NONDISCRIMINATION on page 1, we have added an existing provision from the Texas Labor Code prohibiting discrimination on the basis of genetic information.

Other changes to the policy result from the ADA (Americans with Disabilities Act) Amendments Act of 2008 (ADAAA), which was effective September 25, 2008. For a list of significant changes to the ADA, see http://www.tasb.org/services/hr_services/documents/ADAAA_summary_of_cha.pdf. This policy has been revised as follows:

- A new paragraph on page 3, DISABILITY DISCRIMINATION, repeats the prohibition against discrimination on the basis of disability. The new law clarifies that an individual cannot bring a reverse disability discrimination claim—when an individual without a disability alleges he was discriminated against because of his lack of a disability. Also at this margin note is a requirement for each district receiving assistance under the IDEA to make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted by the IDEA.
- On page 4, we have created separate definitions for “disability” and “major life activities” to accommodate the significant changes to both definitions, which expand the number of persons protected from discrimination. The Congressional findings and purposes of the ADAAA reflect Congress’s intent to apply a broad scope of protection to disabled individuals. Congress stated that the focus should be on whether the employer complied with its obligations under the Act and not on an extensive analysis of whether the employee’s impairment constitutes a disability.
- A new paragraph on page 6 prohibits the use of VISION STANDARDS AND TESTS based on a person’s uncorrected vision unless a district can demonstrate that the vision standard is job related and consistent with business necessity.

To review changes to Section 504 of the Rehabilitation Act brought about by the ADAAA, see the explanatory note for FB(LEGAL) below.

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DBAA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CRIMINAL HISTORY AND CREDIT REPORTS

Districts that are "users" of consumer reports, which include employee criminal background checks obtained from private agencies, must comply with new rules under the Fair and Accurate Credit Transactions Act (FACTA). Under the new rules, consumer reporting agencies must notify districts that are "users" if there is a discrepancy between the address that the consumer reporting agency has on file for the consumer and the address the district provided. The district must have "policies and procedures" to respond to these address discrepancy notices. Because these procedures are administrative, we recommend that they be included in administrative regulations, rather than board adopted local policy. Examples given in the rules of ways the district may confirm that an address is correct include:

- Verifying the address with the consumer;
- Reviewing its own records to verify the address of the consumer;
- Verifying the address through third-party sources; or
- Using other reasonable means.

DBB (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

As mentioned in the explanatory note for DAA(LEGAL) above, the Americans with Disabilities Act was amended by the ADA Amendments Act (ADAAA) of 2008. We have made significant revisions to this policy to reflect the district's obligations under the ADAAA.

As in the current policy, the district may require current employees to undergo a medical examination. The revisions clarify the circumstances under which the superintendent or designee may require an examination—when information from the employee, the employee's supervisor, or other sources indicates the employee has an impairment that interferes with his or her ability to perform essential job functions or poses a direct threat to the health or safety of the employee or others. A communicable disease may constitute a direct threat to health or safety.

Provisions regarding the district's authority to designate the physician and regarding payment for the cost of the examination remain unchanged from the current policy. Revised text now allows the district to place the employee on paid administrative leave while evaluating the results of the examination.

New provisions explain the steps the superintendent or designee should follow upon receiving the results of the examination:

- The superintendent or designee must first determine whether the employee has an impairment and whether the impairment actually interferes with the employee's performance of essential job functions or poses a direct threat to health or safety.
- If so, the superintendent or designee must determine, in accordance with DAA(LEGAL), whether the employee has a disability that requires reasonable accommodation. As reflected in the policy, federal guidelines state that reasonable accommodation may include granting of additional unpaid leave.
- If the superintendent or designee determines that the employee does not have a disability requiring reasonable accommodation, the district must consider eligibility for leave, in accordance with DEC(LOCAL).

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We have deleted the provision allowing termination when an employee has used all available leave, as this decision is governed by DEC(LOCAL).

In addition to the changes prompted by the ADA, we have revised the provisions concerning PLACEMENT ON TEMPORARY DISABILITY. Separate provisions apply depending on whether the employee requests to be placed on temporary disability leave or the leave is involuntary. In the case of an involuntary placement, the Education Code requires the board to determine whether the condition interferes with the performance of regular duties. So that the board has appropriate information on which to base its decision, the policy requires the superintendent to make a recommendation to the board.

Please note: The district's locally developed provisions, in the last sentence at TB TESTING REQUIREMENTS and the paragraph at MEDICAL CERTIFICATION, have been retained, unchanged.

If your district no longer requires new employees to provide evidence of a tuberculosis test, please contact your policy consultant for appropriate policy changes.

DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

Under new rules from TEA, eligible employees must annually elect whether to use the SUPPORT STAFF COMPENSATION of \$500 for full-time employees and \$250 for part-time employees as health-care supplementation. The rules clarify that, to be eligible for the supplement, the employee must be a participating member of TRS and must have made a written election. The rules also define "full-time" and "part-time" for purposes of the supplement.

At EXEMPT EMPLOYEES, beginning on page 5, we have added considerable detail from existing law to help districts determine whether ACADEMIC ADMINISTRATIVE PERSONNEL and TEACHERS are exempt employees under the Fair Labor Standards Act (FLSA). In addition, since administrative personnel must meet a salary threshold to be classified as exempt employees, information about how leave resulting in a reduction in pay affects the salary determination has been added to the policy.

DEAA (LEGAL) COMPENSATION AND BENEFITS INCENTIVES AND STIPENDS

This policy has been revised to reflect new rules from the commissioner on the District Awards for Teacher Excellence (DATE) program and master teacher grant programs.

With respect to the DATE program, in accordance with the commissioner rules, we have:

- Added a general description of the program on page 2;
- At APPLICATION, added material on submission of the local awards plan and grant application; and
- Added text regarding the EXCLUSION OF CERTAIN TEACHERS and AWARD AMOUNTS, neither of which may be appealed to the commissioner.

The text at MASTER TEACHER GRANT PROGRAMS, beginning on page 3, has been extensively revised based on new commissioner rules effective April 8, 2008. The new rules more closely track the Texas Education Code provisions, including:

- The requirement to pay stipends at the end of the school year;
- Eligibility rules requiring teachers to be certified as master teachers and to mentor other teachers as required by the district; and

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- Deletion of the requirement that a district must pay a stipend for two additional consecutive years to certain teachers.

We have also deleted text formerly at REDUCTION OF STIPEND since these provisions reflect duties of the commissioner. Please note, the new commissioner rules on master teacher grant programs do not address master technology teachers.

DEC (LEGAL) COMPENSATION AND BENEFITS LEAVES AND ABSENCES

The Department of Labor (DOL) issued new regulations, effective January 16, 2009, on the Family and Medical Leave Act (FMLA). The new regulations constitute a major overhaul of the previous federal rules. The DOL reorganized the existing regulations, deleted obsolete provisions, made substantive changes, and adopted new military leave provisions. The final rules, including commentary, encompass over 700 pages of material. The impact of these regulations on the policy manual results in significant revisions to the structure of the leaves and absences material. In general, we have split the material previously at DEC(LEGAL) into three codes: DEC(LEGAL), Leaves and Absences; DECA(LEGAL), Family and Medical Leave; and DECB(LEGAL), Military Leave. See the explanatory notes for those policies below.

Changes at DEC include simplification of text at STATE LEAVE and removal of provisions on the FMLA and military leave, as described above.

Please note: The new regulations also impact local leave policy. In response, Policy Service has developed a *Starting Points* policy development toolkit on the leaves and absences policy, DEC(LOCAL). The *Leaves and Absences Starting Points* incorporates changes from the new FMLA regulations and includes other revisions to improve the policy. **Even if your district's practices have not changed, it is essential that the district complete the *Leaves and Absences Starting Points* worksheet so that your policy will have up-to-date text.** You may complete the *Starting Points* electronically, which allows an easy method to track changes and insert unique provisions, or you may complete the hard copy included with this update. The electronic version is available through myTASB at https://www.tasb.org/services/policy/mytasb/starting_points/.

DECA (LEGAL) LEAVES AND ABSENCES FAMILY AND MEDICAL LEAVE

As a result of the new FMLA regulations, we have reworked existing provisions moved from DEC(LEGAL) and added newly enacted provisions. In doing so we have emphasized provisions from the new regulations that are specific to school districts; provided a general framework of the FMLA rules, with reference to the regulations for details; included provisions on frequently misapplied or misunderstood concepts; and included provisions for concepts that appear in the *Leaves and Absences Starting Points*.

For a description of significant changes to the FMLA, see http://www.tasb.org/services/hr_services/documents/FMLA_Summary_of_Chan1.pdf.

At ELIGIBLE EMPLOYEE on page 2, we have added a note for districts that do not have any eligible employees, and thus only must comply with the GENERAL NOTICE requirements (see page 10) of the FMLA.

Other new provisions are included as follows:

- At QUALIFYING EXIGENCY on page 3, we have placed the exclusive list of events that are considered to be qualifying exigencies for leave eligibility when a family member is called to active duty.

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- At AMOUNT OF LEAVE, MILITARY CAREGIVER LEAVE on pages 3 and 4, we have added details to help districts determine how much leave an employee is entitled to when taking leave for an injured service member, including when a husband and wife are both employed by the same district and when military caregiver leave is combined with regular FMLA leave.
- Existing provisions for when a district transfers an employee on intermittent leave to a different position are on page 5 at TRANSFER TO AN ALTERNATIVE POSITION.
- A new rule on CALCULATING LEAVE USE when an employee is using intermittent leave is on page 5. The rules previously required leave to be deducted based on the smallest increment the payroll system would allow. Now a district may use the smallest increment in which it deducts leave for other reasons, so long as that increment is no larger than one hour.
- An existing provision on an instructional employee's FAILURE TO PROVIDE NOTICE OF FORESEEABLE LEAVE is on page 6. Under this provision, a district may require the employee to take leave of a particular duration, may transfer the employee to an alternative position, or may require the employee to delay taking leave.
- Additional details have been added on pages 6 and 7 to address LEAVE AT THE END OF A SEMESTER by an instructional employee.
- A new provision from the regulations clarifies that if an employee chooses not to substitute paid leave while on unpaid FML, a district may require the employee to do so in accordance with local policy. This provision has been placed at SUBSTITUTION OF PAID LEAVE on pages 7 and 8.
- A significant new provision on page 8 allows a district to count COMPENSATORY TIME against an employee's FMLA leave.
- Additional details have been added to explain the interaction between the FMLA AND WORKERS' COMPENSATION on page 8.
- Detail was added to address the provision of health insurance during FML. See MAINTENANCE OF HEALTH BENEFITS, PAYMENT OF PREMIUMS, and FAILURE TO PAY PREMIUMS on pages 8 and 9.
- The reinstatement provisions, including provisions addressing pay increases while the employee is on FML, have been revised to include more detail. See pages 9 and 10.
- A new provision now allows a district to disqualify an employee from an attendance bonus if the employee failed to meet the bonus standards because of FML. See PAY INCREASES AND BONUSES on page 10.
- The new regulations made significant changes to the notice and certification requirements as reflected on pages 10–16. These changes result in increased communication between employees and the district before, during, and after FML.
- Provisions addressing an employee's return to work after FML were also revised. A district may now require as part of the employee's FITNESS FOR DUTY CERTIFICATION that the employee provide evidence of ability to perform the essential functions of the job. See page 16.
- Consequences of an employee's FAILURE TO PROVIDE CERTIFICATION are on page 16.
- We have added existing provisions regarding a district's obligation to keep RECORDS pertaining to FML, beginning on page 16.

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

Moved to this policy are unaltered provisions on military leave from DEC(LEGAL).

See the explanatory note for DEC(LEGAL) for information on the reorganization of the leaves and absences provisions in the policy manual.

**EHBAA (LEGAL) SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY**

On December 1, 2008, the Department of Education issued final regulations under the Individuals with Disabilities Education Act regarding parental CONSENT TO SERVICES. As reflected on page 5 of this policy, the rules specify the district's obligations if the parent:

- Fails to respond to a request for the initial provision of services;
- Refuses to consent to the initial provision of services; or
- Revokes consent in writing for continued provision of services after services have begun.

**EHBAC (LEGAL) SPECIAL EDUCATION
STUDENTS IN NONDISTRICT PLACEMENT**

This policy has been revised to correctly reflect statutory language. When a parent places in private school a disabled child who is then referred to the public school district for evaluation, the district must consider whether it can offer the child FAPE. If the district determines that it *can* offer FAPE, it must develop an individualized services plan, but the district is not responsible for providing educational services to the child.

**EHBAE (LEGAL) SPECIAL EDUCATION
PROCEDURAL REQUIREMENTS**

More new material from the IDEA regulations has been added at CONSENT, item 3, explaining that if a parent revokes consent after the child has begun receiving special education services, the district is not required to delete references to the services from the student's educational records.

At COMPLAINT PROCEDURES, on page 5, we have added a reference to the TEA rules on due process hearings.

**EHBK (LEGAL) SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES**

Provisions on STUDENT ELECTIONS, on page 4, have been moved unaltered from BBB(LEGAL). These provisions allow a district to hold a mock election in conjunction with a regular, special, or primary election for the purpose of teaching students about the election process. The district must follow certain procedures as outlined in this policy, including appointing separate election officers, supervising participating students, and publically announcing the results on election day after polling places close.

Explanatory Notes

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EKC (LEGAL) TESTING PROGRAM
READING ASSESSMENT

Districts are required to administer a diagnostic reading instrument to a SEVENTH GRADE student who did not pass the sixth grade state reading assessment. New commissioner rules, effective on October 14, 2008, specify the test to administer—the Texas Middle School Fluency Assessment—and provide criteria for alternate tests.

FB (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

The ADA Amendments Act of 2008 (ADAAA), effective September 25, 2008, significantly revised and broadened the definitions of a "disability" and "major life activity" as used in the employment context and incorporated the same definitions into the Rehabilitation Act to be used with students.

For changes to the employment policies as a result of the ADAAA, see the explanatory note for DAA(LEGAL) above.

FL (LEGAL) STUDENT RECORDS

The U.S. Department of Education issued new rules, effective January 8, 2009, on the Family Educational Rights and Privacy Act (FERPA). The rules make several significant changes to existing regulations issued under the Act, as reflected in this policy.

- On page 2, the definition of "education records" was revised to clarify that records of an alumni that are not related to the individual's attendance as a student are not "education records." In addition, the rules incorporated U.S. Supreme Court case law holding that a grade on a student's paper that is graded by another student is not an education record until the grade is collected and recorded by a teacher. We have also added an existing provision from FERPA regarding records maintained by professionals in connection with the treatment of a student.
- On page 4, we have added DEFINITIONS for "attendance," which now specifies that a student does not need to be physically present to be in attendance, "disclosure," which now clarifies that release of student records to the entity that originally provided the records to the district is not a disclosure, and "personally identifiable information," which now includes biometric records.
- A new provision at ACCESS BY STUDENT on page 5 describes when a district may provide a parent access to student records without the student's consent after the student has turned 18 years old.
- On pages 5 and 6, the new rules clarify that outside individuals and businesses that are working on behalf of the district can, in certain situations, be considered "school officials" for purposes of access to student records.
- A district may disclose a student's educational records without consent to OFFICIALS OF OTHER SCHOOLS where the student is already enrolled if the disclosure is for purposes related to a student's enrollment or transfer.
- Extensive provisions were added on pages 7 and 8 specifying when a district may disclose education records to ORGANIZATIONS CONDUCTING STUDIES for or on behalf of a district.

Explanatory Notes

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- Details on disclosure of education records in a HEALTH OR SAFETY EMERGENCY of the student or another person were added on page 8.
- New provisions on SUBPOENAED RECORDS were added on page 9.
- In certain circumstances, a district may disclose personally identifiable information without consent if the disclosure concerns SEX OFFENDERS. This material is on page 9.
- Districts may release education records without consent if all personally identifiable information has been removed and the student's identity will not be revealed. These DE-IDENTIFIED records may be released for educational research if certain procedures are followed. See pages 9 and 10.
- As reflected on page 10, districts are now required to use reasonable methods to identify and authenticate the identity of individuals to whom the district discloses records. See AUTHENTICATING REQUESTORS' IDENTITIES.
- New requirements regarding the RECORD OF ACCESS TO STUDENT RECORDS are placed on pages 11 and 12. If a district releases an education record in a health or safety emergency, the district must record information concerning the circumstances of the emergency. Districts do not have to record requests or access by a party receiving records because of a subpoena.
- The new regulations require additional information to be included in the ANNUAL NOTIFICATION OF RIGHTS (see pages 13 and 14). Districts must now include the criteria for determining who is a school official and what constitutes a legitimate educational interest.
- The new rules clarify that a district may not list social security numbers as DIRECTORY INFORMATION. The rules also allow a district to designate and disclose student identification numbers and other unique personal identifiers as directory information if the number cannot be used by itself to gain access to education records. For example, if a student must enter the ID number and a password or personal identification number (PIN) to access his or her records, the district could list student ID numbers as directory information. If a student or other person could access student records using only the ID number, then the district could not list student ID numbers as directory information. (See pages 14 and 15.)
- Two additional provisions on directory information are on page 15. Even if a parent or student opts out of directory information disclosures, a district may disclose the student's name, identifier or district e-mail address in the student's class. For former students, districts must continue to honor an opt-out request made while the student was in attendance unless the student rescinds the opt-out request.

For an extensive discussion of the changes to FERPA, see <http://www.ed.gov/policy/gen/guid/fpco/pdf/ht12-17-08-att.pdf>.

FL (LOCAL) STUDENT RECORDS

New FERPA regulations as described above [see the explanatory note for FL(LEGAL)] prompt changes to this (LOCAL) policy.

- A new requirement for districts to use reasonable procedures to identify and authenticate the identity of individuals to whom the district discloses records is reflected at COMPREHENSIVE SYSTEM.
- In response to questions about whether grievance records are education records, we have added these to the list of TYPES OF EDUCATION RECORDS at item 15.

Explanatory Notes

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- Provisions on ACCESS BY PARENTS have been reworked and reordered. This section now begins with an affirmative statement that the district will make a student's records available to the parents as permitted by law. The records custodian must now use reasonable procedures to verify the parent's identity. Minor revisions were made to the provisions about in-person review of records to clarify that such review is without charge and that the records custodian or a designee will be available, rather than present, to explain records and answer questions. If the parent requests copies, the request must be in writing and the parent must pay for the copies in advance, unless the student qualifies for free or reduced-price lunch, in which case one copy of the records will be provided at no charge.
- Because the new regulations expanded the circumstances in which a parent may have access to student records after the student has turned 18 years old or is attending an institution of postsecondary education, we have deleted the specific provisions here in favor of a reference to the legal provisions.
- Provisions on ACCESS BY SCHOOL OFFICIALS have been revised. This section now begins with a general statement explaining that a school official will be allowed access to student records if he or she has a legitimate educational interest in the records. The definition of "school official" incorporates a new provision from the regulations and includes an employee, trustee, or agent of the district, including an attorney, a consultant, a contractor, a volunteer, and any other outside service provider used by the district to perform institutional services. Another added provision, requiring contractors to follow the same rules as employees regarding the privacy of student records and requiring contractors to return records upon completion of the assignment, is also from the new rules.
- Changes from the new rules reflected at TRANSCRIPTS AND TRANSFERS OF RECORDS require a district to forward records to another school system in which the student intends to enroll or enrolls when those records are needed for a student's enrollment or transfer. Another new provision allows a district to return an educational record of an enrolling or transferring student to the school district that provided the record. This may be necessary if the district has a question about the content or authenticity of the record.
- Time lines at PROCEDURE TO AMEND RECORDS have been changed from "school days" to "District business days" to match the grievance policies.

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

TEA approved comprehensive new rules on DAEPs, effective December 14, 2008. We have incorporated these new rules and reordered existing provisions as appropriate:

- On page 1, new text was placed at JOINT/CONTRACTED DAEP allowing districts to contract with third parties for DAEP services and requiring district cooperation with government agencies and community organizations that provide services in the district to students in DAEP.
- At LOCATION, the new rules specify that the school district determines by local policy whether a student is classified as elementary or secondary. The rules also clarify that in summer programs districts may serve DAEP students together with students not assigned to DAEP, also as determined by local policy. Students in JJAEP, however, must be kept separate from students in DAEP.*
- Provisions from the rules on student SAFETY have been added. In addition to a broad statement that districts are responsible for the safety and supervision of DAEP students, the new rules require each district to establish a board-approved policy addressing unsafe behavior and discipline.*

Explanatory Notes

TASB Localized Policy Manual Update 85

- New STAFFING provisions require a teacher-to-student ratio of 15-to-1 and mandatory teacher training.
- Detailed requirements for ENTRANCE PROCEDURES are included on pages 2 and 3. The procedures each district must develop for students entering a DAEP must include a written contract between parents, students, and the DAEP addressing expectations and the student's plan for success.
- ACADEMIC requirements are included on page 3. A student's graduation plan (minimum, recommended, or distinguished achievement-advanced) may not be altered when a student is assigned to a DAEP. The rules clarify which courses must be offered by stating that a student must be given an opportunity to complete "a foundation curriculum course in which the student was enrolled at the time of removal." The law previously just referred to an opportunity to complete "coursework."
- For accountability purposes, the student's locally assigned campus is the relevant campus, even if the district contracts with a third party for DAEP services.
- New provisions on TRANSITION SERVICES are included on page 4. When a student exits a DAEP, the district must establish a time line for the transition to the local campus and ensure communication from the DAEP staff to the staff at the local campus regarding the student's performance at the DAEP.

Administrative rules addressing TEA's evaluation of DAEPs were repealed and have been deleted from the policy.

* (These policy requirements can be met through the district's board-adopted Student Code of Conduct. Appropriate provisions will be included in the **TASB Model Student Code of Conduct**, to be released this summer.)

GBA (LEGAL) PUBLIC INFORMATION PROGRAM
ACCESS TO PUBLIC INFORMATION

We have reworded the text at EVALUATIONS on page 3 to better reflect the statute.

GRA (LOCAL) RELATIONS WITH GOVERNMENTAL ENTITIES
LOCAL GOVERNMENTAL AUTHORITIES

This policy has been amended at CHILD ABUSE INVESTIGATION to change the name of the Department of Protective and Regulatory Services to the Department of Family and Protective Services. In addition, we have reordered the paragraphs to emphasize that when a student is interviewed or questioned at school as part of a child abuse investigation, the district follows different procedures than in other types of investigations.

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 B: LOCAL GOVERNANCE

BA	BOARD LEGAL STATUS
BAA	Powers and Duties
BB	BOARD MEMBERS
BBA	Eligibility/Qualifications
BBB	Elections
BBBA	Reporting Campaign Funds
BBBB	Ethics
BBC	Vacancies and Removal From Office
BBD	Training and Orientation
BBE	Authority
BBF	Ethics
BBFA	Conflict of Interest Disclosures
BBFB	Prohibited Practices
BBG	Compensation and Expenses
BBH	Conventions, Conferences, and Workshops
BC	BOARD MEMBERSHIPS
BD	BOARD INTERNAL ORGANIZATION
BDA	Officers and Officials
BDA A	Duties and Requirements of Board Officers
BDA E	Duties and Requirements of Depository
BDA F	Selection and Duties of Chief Tax Officials
BDB	Internal Committees
BDD	Attorney
BDE	Consultants
BDF	Citizen Advisory Committees
BE	BOARD MEETINGS
BEC	Closed Meetings
BED	Public Participation
BEE	News Coverage
BEF	Staff Participation
BF	BOARD POLICIES
BG	BOARD SELF-EVALUATION
BI	ADMINISTRATIVE GOALS AND OBJECTIVES

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 B: LOCAL GOVERNANCE

BJ	SUPERINTENDENT
BJA	Qualifications and Duties
BJB	Recruitment and Appointment
BJC	Contract
BJCA	Travel
BJCB	Professional Development
BJCC	Consulting
BJCD	Evaluation
BJCE	Dismissal
BJCF	Nonrenewal
BJCG	Retirement or Resignation
BK	ADMINISTRATIVE ORGANIZATION
BKA	Organization Charts
BKB	Line and Staff Relations
BM	ADMINISTRATIVE COUNCILS, CABINETS, AND COMMITTEES
BP	ADMINISTRATIVE REGULATIONS
BQ	PLANNING AND DECISION-MAKING PROCESS
BQA	District-Level
BQB	Campus-Level
BR	REPORTS

BOARD MEMBERS
ELIGIBILITY/QUALIFICATIONS

BBA
(LEGAL)

ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, the office of school board Trustee, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - a. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
 - b. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction.
4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities. *Atty. Gen. Op. LO 96-114 (1996)*
5. Be a resident of Texas and the territory from which the office is elected for the period of time described at CANDIDATE'S RESIDENCY TERM, below. *Tex. Const. Art. XVI, Sec. 14*

Election Code 1.020; 141.001(a); Brown v. Patterson, 609 S.W.2d 287 (Tex. Civ. App.—Dallas 1980, no writ)

QUALIFIED VOTER

A person may not be elected Trustee of the District unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - a. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or

BOARD MEMBERS
ELIGIBILITY/QUALIFICATIONS

BBA
(LEGAL)

- b. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction;
- 4. Has not been finally convicted of a felony or, if so convicted:
 - a. Has fully discharged his or her sentence, including any term of incarceration, parole, or supervision;
 - b. Has completed a period of probation ordered by any court; or
 - c. Has been pardoned or otherwise released from the resulting disability to vote;
- 5. Is a resident of this state; and
- 6. Is a registered voter.

Election Code 1.020, 11.002

OFFICIAL OATHS

After each election or appointment, the elected or appointed Board members shall file their official oaths with the Board President.
Education Code 11.061(a)

COMPENSATION

Trustees serve without compensation. *Education Code 11.061(d)*

SINGLE-MEMBER
DISTRICTS

A candidate for Trustee representing a single-member district must be a resident of the Trustee district he or she seeks to represent.
Education Code 11.052(g)

CANDIDATE'S
RESIDENCY TERM

PREFILED
CANDIDACY

An individual seeking election to the office of Trustee by having his or her name placed on the ballot must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the last date on which the candidate could file to be listed on the ballot.

WRITE-IN
CANDIDACY

An individual seeking election to the office of Trustee by write-in vote must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the day of the election.

APPOINTMENT TO
OFFICE

An individual appointed to the office of Trustee must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the day on which the appointment is made.

Election Code 141.001(a)(5)

BOARD MEMBERS
ELIGIBILITY/QUALIFICATIONS

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'RESIDENCE' DEFINED "Residence" shall mean domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015*

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer*, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dismissed w.o.j)

This introductory page outlines the contents of the elections policy.
See the following sections for statutory provisions on:

SECTION I

Elections Generally

1. Membership, method of election, and terms
2. Residency
3. Changing method of election
4. General election date
5. Joint elections
6. Boundary change notice
7. Preclearance
8. Voting rights hotline

SECTION II

Conducting Elections

1. Election order and notices
2. Filing information
3. Election of unopposed candidate
4. Ballot
5. Election judges and clerks
6. Polling places
7. Bilingual materials
8. Voting systems
9. Early voting
10. Conducting elections

SECTION III

Post-Election Procedures

1. Determination of results
2. Canvass returns
3. Certificate of election
4. Certificate of election for unopposed candidate
5. Officer's statement
6. Oath of office

SECTION I: ELECTIONS GENERALLY

MEMBERSHIP,
METHOD OF
ELECTION, AND
TERMS

The Board consists of seven Trustees elected from single-member districts in accordance with Texas law, serving terms of four years, with elections held in even-numbered years. *Education Code 11.051(b), 11.059*

Board policy shall state the schedule on which specific terms expire. *Education Code 11.059* [See BBB(LOCAL)]

RESIDENCY

Residents of each Trustee district are entitled to elect one Trustee to the Board. A candidate for Trustee representing a single-member Trustee district must be a resident of the district the candidate seeks to represent. A Trustee elected to represent a Trustee district at the first election of Trustees shall be a resident of the district the Trustee represents not later than the 90th day after the day election returns are canvassed or the 60th day after the day of a final judgment in an election contest filed concerning that Trustee district. A Trustee vacates the office if he or she fails to move into the district the Trustee represents within the time provided or ceases to reside in the district the Trustee represents. A person appointed to fill a vacancy in a Trustee district must be a resident of that Trustee district. [See also BBA, BBC]

NUMBER AND TERM

At the first election at which some or all of the Trustees are elected in a manner authorized by Education Code 11.052 and after each redistricting, all positions on the Board shall be filled. The Trustees then elected shall draw lots for staggered terms as provided by Education Code 11.059.

REDISTRICTING

Not later than the 90th day before the day of the first regular Board election at which Trustees may officially recognize and act on the last preceding federal census, the Board shall redivide the District into the appropriate number of Trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Redivision of the District shall be based on the number of members that are to be elected from single-member Trustee districts, and each Trustee district shall be numbered. The Trustee districts shall be compact and contiguous and shall be as nearly as practicable of equal population according to the last preceding federal census.

Education Code 11.052

PHASE-IN OPTION

The board of a district that adopts a redistricting plan under Education Code 11.052 may provide for the Trustees in office when the plan is adopted or the District is redistricted to serve for the remainder of their terms in accordance with this provision. The Trustee district and any at-large positions provided by the District's plan

BOARD MEMBERS
ELECTIONS

BBB
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shall be filled as the staggered terms of Trustees then in office expire. Not later than the 90th day before the date of the first election from Trustee districts and after each redistricting, the Board shall determine the order in which the positions will be filled. *Education Code 11.053*

CHANGING METHOD
OF ELECTION

The Board may by resolution order that trustees be elected at-large by position or place in accordance with Education Code 11.058. *Education Code 11.058*

In accordance with Education Code 11.052, the Board may decide, on the Board's motion or by voter petition, to change its method of election. *Education Code 11.052*

Note: For additional information regarding the legal requirements of changing the method of election, see this policy code in the **TASB Policy Reference Manual**.

GENERAL ELECTION
DATE

Election of Trustees of the District shall be on the November uniform election date. *Election Code 41.001*

JOINT ELECTIONS
REQUIRED

A District Trustee election shall be held on the same date as:

1. The election for the members of the governing body of a municipality located in the District; or
2. The general election for state and county officers.

Elections held on the same date as the election for the members of the governing body of a municipality located in the District or the same date as the general election for state and county officers shall be held as a joint election under Election Code Chapter 271.

The voters of a joint election under this section shall be served by common polling places consistent with Election Code 271.003(b).

The Board shall adjust the terms of office of its members to conform to the new election date if the election date is changed to comply with Education Code 11.0581.

Education Code 11.0581

ADMINISTRATOR

The District may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. *Election Code 31.152*

BOUNDARY CHANGE
NOTICE

A district that changes its boundaries or the boundaries of districts used to elect members to the Board shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and
2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

Election Code 42.0615

PRECLEARANCE

The Board, being subject to the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the justice department interposes an objection within 60 days after the date of submission. *42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F. Supp. 1211 (D.C. Tex. 1980)*

NOTICE OF VOTING
RIGHTS HOTLINE

A notice of voter's rights, in the form prescribed by the secretary of state and including information required by the secretary of state, shall be publicized as provided by the secretary of state. The notice shall, in part, inform voters of the telephone number and purpose of the secretary of state's toll-free hotline for reporting existing or potential abuse of voting rights. *Election Code 31.0055, 62.0115*

SECTION II: CONDUCTING ELECTIONS

ELECTION ORDER

A call for an election shall be made not later than the 62nd day before election day, except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. The Board shall order the election. *Election Code 3.004-.005*

Each election order must state the date of the election, the offices or measures to be voted on, the location of the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. The Board shall retain the election order for at least 22 months after election day. *Election Code 3.006, 3.008, 66.058(a), 83.010, 85.004, 85.007*

FAILURE TO ORDER
AN ELECTION

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

ELECTION NOTICE

Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within a district's boundaries or in a newspaper of general circulation in a district if none is published within the district's boundaries. *Election Code 4.003(a)(1), (c)*

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The notice shall state the nature and date of the election, the location of each polling place, the hours the polls will be open, the location of the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on, unless the notice regards an election on a proposed constitutional amendment. The Board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication and shall preserve that copy for at least 22 months after election day. *Election Code 4.004, 4.005, 66.058(a), 83.010, 85.004, 85.007*

POSTING

In addition to the notice described above, the District shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of the Board. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the Board after the last posting is made. *Election Code 4.003(b), 4.005*

NOTICE TO COUNTY
CLERK

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

NOTICE TO
ELECTION JUDGE

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the Board shall deliver to the presiding judge of each election precinct in which the election is to be held in the District a written notice of:

1. The nature and date of the election;
2. The location of the polling place for the precinct served by the judge;
3. The hours that the polls will be open;
4. The judge's duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

FAILURE TO GIVE
NOTICE OF
ELECTION

Failure to give notice of a general election does not affect the validity of the election. *Election Code 4.006*

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FILING INFORMATION	An application may not be filed earlier than the 30th day before the date of the filing deadline.
GENERAL ELECTION	<p>An application of a candidate for a place on the ballot must be filed not later than 5:00 p.m. of the 62nd day before election day, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 70th day before election day.</p> <p><i>Education Code 11.055(a), (c); Election Code 144.005</i></p>
SPECIAL ELECTION	<p>An application may not be filed before the election is ordered.</p> <p>A candidate's application for a place on a special election ballot must be filed not later than:</p> <ol style="list-style-type: none">1. 5:00 p.m. of the 67th day before election day if election day is on or after the 70th day after the election is ordered;2. 5:00 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or3. 5:00 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.
EXCEPTION	<p>For a special election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.</p> <p><i>Election Code 201.054(a), (d), (f)</i></p>
WRITE-IN CANDIDACY	<p>A declaration of write-in candidacy must be filed no later than 5:00 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 67th day before election day. <i>Education Code 11.056(b), (e)</i></p>
APPLICATION	<p>The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law. [See BBBB] <i>Election Code 31.0021, 141.031, 141.039</i></p>
ELECTION OF UNOPPOSED CANDIDATE	<p>The Board may declare each unopposed candidate elected to the office if:</p> <ol style="list-style-type: none">1. The candidate for an office that is to appear on the ballot in that Trustee district is unopposed; and

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2. No proposition is to appear on the ballot.

Election Code 2.051

The Board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that if the election were held, only the votes cast for that candidate in the election for that office may be counted. If the Board makes such a declaration, the election is not held. A copy of the order or ordinance must be posted on election day at each polling place that would have been used in the election. *Election Code 2.052, 2.053(a), (b)*

BALLOT

The ballot shall be printed in the form required by law. *Election Code 52.061-.064, 52.069, 52.093-.094; Education Code 11.058(g)*

BALLOT POSITION

Except as otherwise provided by law, for an election at which the names of more than one candidate for the same office are to appear on the ballot in an independent column or are to appear on a general or special election ballot that does not contain a party nominee, the order of the candidates' names shall be determined by a drawing consistent with the requirements of Election Code 52.094. *Election Code 52.094*

ELECTION JUDGES
AND CLERKS

The Board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. Election Code Chapter 32

POLLING PLACES

The Board shall designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handicapped. *Election Code, 43.004, 43.034*

If the District holds an election on the November uniform election date, the District shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the District. *Election Code 42.002(a)(5), 42.0621, 43.004(b)*

POSTING SIGNS
PROHIBITED

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located. *Election Code 62.013(b)*

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

USE OF CERTAIN
DEVICES
PROHIBITED

A person may not use a wireless communication device or any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

EXCEPTION

The prohibition does not apply to:

1. An election officer in conducting the officer's official duties; or
2. The use of election equipment necessary for the conduct of the election.

Election Code 61.013

BILINGUAL MATERIALS

The District shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:

1. More than five percent of the citizens of voting age of the District are members of a single language minority and are limited-English proficient, or more than 10,000 of the citizens of voting age of the District are members of a single-language minority and are limited-English proficient; and
2. The illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, illiteracy defined as the failure to complete the fifth primary grade.

The term "limited-English proficient" means unable to speak or understand English adequately enough to participate in the electoral process.

The term "language minorities" or "language minority group" means people who are American Indian, Asian American, Alaskan natives, or of Spanish heritage.

42 U.S.C. 1973aa-1a

Except as provided by Election Code 272.003, bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

An election precinct may be exempt from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.

Election Code 272.002, 272.003

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

VOTING SYSTEMS

Effective January 1, 2006, a voting system shall be selected and utilized in accordance with Election Code Title 8. *Election Code Title 8*

VOTING MACHINES
AND PUNCH-CARD
BALLOTS

Effective January 1, 2006, a voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

VOTERS WITH
DISABILITIES

ACCESSIBLE
VOTING
STATIONS

Each polling place in an election of the District must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments, and the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments, and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 61.012(a)*

ELECTRONIC
VOTING
SYSTEMS

Upon providing the notice detailed in Election Code 61.013(d), the District is not required to meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments if the District's election is not held jointly with another election in which a federal office appears on the ballot and if the District is located in a county:

1. With a population of less than 2,000;
2. With a population of 2,000 or more but less than 5,000, and the District provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;
3. With a population of 5,000 or more but less than 10,000, and the District provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;
4. With a population of 10,000 or more but less than 20,000, and the District:
 - a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;
 - b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section

15481(a)(3) on election day and during the period for early voting by personal appearance; and

- c. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

For purposes of the above requirement, a district located in more than one county may choose:

- a. To be considered located in the county that contains the greatest number of registered voters of the District; or
- b. For each portion of the District located in a different county, to be considered a separate political subdivision.

Election Code 61.013

MULTIPLE
VOTING
SYSTEMS
PERMITTED

The District may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. *1 TAC 81.55 [See GA]*

VOTING SYSTEM
MALFUNCTION

If no private vendor supports the District's voting system, the District must give notice to the Secretary of State within 24 hours of a malfunction of the District's voting system software or equipment in an election. The notice may be verbal or in writing. *1 TAC 81.64*

EARLY VOTING

The Board shall provide for early voting in Board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. *Election Code 81.001*

CONDUCTING
ELECTIONS

Elections shall be conducted in accordance with Election Code Title 6. Election Code Title 6

SECTION III: POST-ELECTION PROCEDURES

DETERMINATION OF
RESULTS

To be elected to a public office, a candidate must receive a plurality of votes, more votes than any other candidate, except as otherwise provided by law. *Election Code 2.001*

PLURALITY

SINGLE-MEMBER
DISTRICTS

The candidate receiving the highest number of votes for each respective position voted on is entitled to serve as Trustee. *Education Code 11.057*

MAJORITY VOTE
OPTION

The board of an independent school district in which the Trustees are elected from single-member Trustee districts as provided by Education Code 11.052 may provide by resolution, not later than the 180th day before the date of an election, that a candidate must

BOARD MEMBERS
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receive a majority of the votes cast in a Trustee district to be elected.

The resolution is effective until rescinded by a subsequent resolution adopted not later than the 180th day before the date of the first election to which the rescission applies.

Education Code 11.057(c)

RUNOFF
ELECTION

If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required. *Election Code 2.021 et seq.*

WRITE-IN VOTING

A write-in vote may not be counted for a person who has not filed a declaration of write-in candidacy with the Secretary of the Board in the manner provided for write-in candidates in a general election for state and county officers. To the extent practicable and in accordance with rules adopted by the secretary of state, Election Code Chapter 146, Subchapter B, shall govern write-in voting in Trustee elections. *Education Code 11.056*

TIE VOTES

In accordance with Election Code 2.002, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie. *Election Code 2.002*

CANVASS RETURNS

Except as provided below, the Board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.

For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

Two members of the Board constitute a quorum for purposes of canvassing an election.

Election Code 67.003, 67.004

BOARD MEMBERS
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CERTIFICATE OF
ELECTION

After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

A recount petition shall delay the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

The presiding officer of the canvass shall also prepare a report of the precinct results as contained in the election register and shall deliver the report to the secretary of state as required by law.

Election Code 67.016, 67.017, 212.0331

CERTIFICATE OF
ELECTION FOR
UNOPPOSED
CANDIDATE

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(c)*

OFFICER'S
STATEMENT

Newly elected and appointed Trustees, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b)* [See BBB(EXHIBIT)]

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

OATH OF OFFICE

After the officer's statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the Trustee shall take the oath or affirmation of office and shall file it with the President of the Board. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061* [See BBB(EXHIBIT)]

The oath may be administered and a certificate of the fact given by:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace or clerk of a justice court.
5. The Texas secretary of state.
6. The speaker of the house of representatives.
7. The lieutenant governor of Texas.
8. The governor of Texas.
9. A legislator or retired legislator.
10. The attorney general.

Gov't Code 602.002, 602.006

BOARD MEMBERS
ELECTION ETHICS

BBBB
(LEGAL)

ELECTIONEERING

The Board may not use state or local funds or other resources of the District to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

POLITICAL
ADVERTISING

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

NEWSLETTERS

A newsletter of a public officer of the District is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
 - a. Is informational rather than self promotional;
 - b. Does not advocate passage or defeat of a measure; and
 - c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

NEPOTISM

A candidate shall not take affirmative action to influence a District employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE(EXHIBIT)] However, this prohibition does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees. *Gov't Code 573.042*

BOARD MEETINGS

BE
(LEGAL)

The Board may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the Board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. *Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009)*

DEFINITIONS

'MEETING'

"Meeting" means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. "Meeting" also means a gathering:

1. That is conducted by the Board or for which the Board is responsible;
2. At which a quorum of members of the Board is present;
3. That has been called by the Board; and
4. At which Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the District, about the public business or public policy over which the Board has supervision or control.

Gov't Code 551.001(4)

'DELIBERATION'

"Deliberation" means a verbal exchange during a meeting among a quorum of the Board, or between a quorum of the Board and another person, concerning any issue within the jurisdiction of the Board or any public business. *Gov't Code 551.001(2)*

SOCIAL FUNCTION OR
CONVENTION

The term "meeting" does not include the gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board, or the attendance by a quorum of the Board at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference. *Gov't Code 551.001(4)*

LEGISLATIVE
COMMITTEE OR
AGENCY MEETING

The attendance by a quorum of the Board at a meeting of a committee or agency of the legislature is not considered to be a meeting of the Board if the deliberations at the meeting by the Board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035*

BOARD MEETINGS

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(LEGAL)

SUPERINTENDENT PARTICIPATION	The Board shall provide the Superintendent an opportunity to present at a meeting an oral or written recommendation to the Board on any item that is voted on by the Board at the meeting. <i>Education Code 11.051(a-1)</i>
OPEN TO PUBLIC	Every meeting of the Board shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. <i>Gov't Code 551.002, 551.084, Ch. 551, Subch. D, Subch. E</i> [See BDB and BEC]
PARENTAL ACCESS	A parent, as defined in Education Code 26.002, is entitled to complete access to any meeting of the Board, other than a closed meeting held in compliance with the Open Meetings Act. <i>Education Code 26.007(a)</i>
RECORDING	All or any part of an open meeting may be recorded by any person in attendance by means of a tape recorder, video camera, or any other means of aural or visual reproduction. The Board may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. These rules shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. <i>Gov't Code 551.023</i>
MINUTES	The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. <i>Gov't Code 551.021</i>
BOARD MEMBER ATTENDANCE	The minutes or recording, as applicable, of a regular or special meeting of the Board must reflect each member's attendance at or absence from the meeting. <i>Education Code 11.0621</i>
AVAILABILITY	The minutes and tapes are public records and shall be available for public inspection and copying on request to the Superintendent or designee. <i>Gov't Code 551.022; Education Code 11.0621</i>
NOTICE REQUIRED	The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. <i>Gov't Code 551.041</i>
CONTINUED MEETING	If the Board recesses an open meeting to the following regular business day, the Board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the Board continues the meeting to another day, the Board must give the required written notice of the meeting continued to that other day. <i>Gov't Code 551.0411(a)</i>

BOARD MEETINGS

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(LEGAL)

INQUIRY DURING
MEETING

If a member of the public or of the Board inquires at a meeting about a subject for which notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. *Gov't Code 551.042*

LOCATION

The Board must hold each public meeting within the boundaries of the District, except:

1. As otherwise required by law; or
2. To hold a joint meeting with another district or with another governmental entity if the boundaries of the governmental entity are in whole or in part within the boundaries of the District.

Education Code 26.007(b)

TIME OF NOTICE AND
ACCESSIBILITY

Notice of a Board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), 551.051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

If the District is required to post notice of a meeting on the Internet, the District satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

The District must still comply with the duty to physically post the notice in the central administration office and if the District makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

Gov't Code 551.043(b)

INTERNET POSTING

If the District maintains an Internet Web site, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet Web site.

A district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more

BOARD MEETINGS

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must also, concurrently with the notice, post on the District's Internet Web site the agenda for a Board meeting, if the agenda differs from the posted notice.

The validity of a posting of a district that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the District.

Gov't Code 551.056

SPECIFICITY OF
AGENDA / NOTICE

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to the Superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the Board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist.*, 706 S.W.2d 956 (Tex. 1986); *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176 (Tex. App.—Corpus Christi 1990, writ denied); *Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)*

The terms "employee briefing" or "staff briefing" do not give adequate notice of the subject matter to be presented to the Board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by District staff or a member of the Board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

EMERGENCY
MEETING OR
EMERGENCY
ADDITION TO AGENDA

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to the District's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of

BOARD MEETINGS

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(LEGAL)

a meeting to address a situation described by this subsection must be given to members of the news media as provided by Education Code 551.047 not later than one hour before the meeting.

Gov't Code 551.045

CATASTROPHE

A board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the Board gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of the Board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 541.0411(b), (c)

SPECIAL NOTICE TO
NEWS MEDIA

The District shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested it and agreed to reimburse the District for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, the Board President shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. *Gov't Code 551.047, 551.052*

QUORUM

A majority of the Board (e.g., four members of a seven-member board or five members of a nine-member board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board. *Gov't Code 551.001(6), 311.013(b)*

DISASTER

Notwithstanding any other law, a quorum is not required for the Board to act if:

BOARD MEETINGS

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(LEGAL)

1. The District's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the Board are unable to be present at a Board meeting as a result of the disaster.

Gov't Code 418.112

SECRET BALLOT

No vote shall be taken by secret ballot. *Atty. Gen. Op. H-1163 (1978)*

MEETING BY
CONFERENCE CALL

The Board may hold a meeting by telephone conference call if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a quorum of the Board is difficult or impossible, or if the meeting is held by an advisory board.

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

NOTICE

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting, the location where meetings of the governmental body are usually held.

RECORDING

The conference call meeting shall be tape-recorded and made available to the public.

Gov't Code 551.125

MEETING BY
VIDEOCONFERENCE
CALL

If the District does not extend into three or more counties, a meeting may be held by videoconference call only if a quorum of the Board is physically present at one location of the meeting. If the District extends into three or more counties, a meeting may be held by videoconference call if a majority of the quorum is physically present at one location of the meeting. A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

NOTICE OF
LOCATIONS

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting

BOARD MEETINGS

BE
(LEGAL)

to be held by videoconference call by a board in a district that extends into three or more counties must specify as a location of the meeting each location where a majority of the quorum of the Board will be physically present and specify the intent to have a majority of the quorum of the Board present at that location.

In addition, the notice of the meeting must specify as a location of the meeting each other location where a Board member who will participate in the meeting will be physically present during the meeting. Each of the locations shall be open to the public during the open portions of the meeting.

RECORDING

The Board shall make at least an audio recording of the meeting. The recording shall be made available to the public.

QUALITY OF AUDIO
AND VIDEO SIGNALS

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified in the notice.

Each location specified in the notice shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:

1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and
2. Be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

REMOTE
PARTICIPATION

The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in the meeting from a remote location.

Gov't Code 551.127; 1 TAC 209.10-.12

INTERNET
BROADCAST

The Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site.

BOARD MEETINGS

BE
(LEGAL)

The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act. *Gov't Code 551.128*

ATTORNEY
CONSULTATION

The Board may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the Board or a private consultation with its attorney in a closed meeting of the Board. [See BEC]

Each part of a public consultation by the Board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

EXCEPTION

This does not apply to a consultation with an attorney who is an employee of the District. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by the District, is an employee of the District.

Gov't Code 551.129

HEARING-IMPAIRED
PERSONS

In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an adjudicative hearing, the Board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov't Code 558.001, 558.003

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

REQUIRED PLANS

The Board shall ensure that a District improvement plan and improvement plans for each campus are developed, reviewed, and revised annually for the purpose of improving the performance of all students. The Board shall annually approve District and campus performance objectives and shall ensure that the District and campus plans:

1. Are mutually supportive to accomplish the identified objectives; and
2. At a minimum, support the state goals and objectives under Education Code Chapter 4.

Education Code 11.251(a)

DISTRICT
IMPROVEMENT
PLAN

The District shall have a District improvement plan that is developed, evaluated, and revised annually, in accordance with District policy, by the Superintendent with the assistance of the District-level committee. The purpose of the District improvement plan is to guide District and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the academic excellence indicators. [See GND]

The District improvement plan must include provisions for:

1. A comprehensive needs assessment addressing District student performance on the academic excellence indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the District, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.
2. Measurable District performance objectives for all appropriate academic excellence indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.
3. Strategies for improvement of student performance that include:
 - a. Instructional methods for addressing the needs of student groups not achieving their full potential.
 - b. Methods for addressing the needs of students for special programs, such as suicide prevention, conflict resolution, violence prevention, or dyslexia treatment programs.

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

- a. Include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Family Code 71.0021; and
- b. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

Education Code 37.0831 [See FFH]

The District's plan for the improvement of student performance is not filed with TEA, but the District must make the plan available to TEA on request. *Education Code 11.252(b)*

CAMPUS-LEVEL
PLAN

Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the academic excellence indicators and any other appropriate performance measures for special needs populations.

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the academic excellence indicator system.
2. Set the campus performance objectives based on the academic excellence indicator system, including objectives for special needs populations, including students in special education programs under Education Code Chapter 29, Subchapter A.
3. Identify how the campus goals will be met for each student.
4. Determine the resources needed to implement the plan.
5. Identify staff needed to implement the plan.
6. Set time lines for reaching the goals.
7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Provide for a program to encourage parental involvement at the campus.

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

9. Include goals and methods for violence prevention and intervention on campus.

Education Code 11.253(c), (d)

SHARED SERVICES
ARRANGEMENT
FOR DAEP
SERVICES

Each District participating in a shared services arrangement (SSA) for disciplinary alternative education program (DAEP) services shall ensure that the District improvement plan and each campus-level plan include the performance of the DAEP student group for the respective District. The identified objectives for the improvement plans shall include:

1. Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
2. Attendance rates;
3. Pre- and post-assessment results;
4. Dropout rates;
5. Graduation rates; and
6. Recidivism rates.

19 TAC 103.1201(b)

EVALUATION

At least every two years, the District shall evaluate the effectiveness of the District's decision-making and planning policies, procedures, and staff development activities related to District- and campus-level decision making and planning to ensure that they are effectively structured to positively impact student performance.

Education Code 11.252(d)

PLANNING AND
DECISION-MAKING
PROCESS

The Board shall adopt a policy to establish a District- and campus-level planning and decision-making process that will involve the professional staff of the District, parents of students enrolled in the District, business representatives, and community members in establishing and reviewing the District's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. *Education Code 11.251(b)*

ADMINISTRATIVE
PROCEDURE

The Board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the Superintendent, central office staff, principals, teachers, District-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. The Board shall also ensure that the District-level planning and decision-making

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision making at the District and campus levels. *Education Code 11.251(d)*

REQUIREMENTS

The District policy must provide that all pertinent federal planning requirements are addressed through the District- and campus-level planning process. *Education Code 11.251(f)*

The planning and decision-making requirements do not:

1. Prohibit the Board from conducting meetings with teachers or groups of teachers other than the District-level committee meetings.
2. Prohibit the Board from establishing policies providing avenues for input from others, including students or paraprofessional staff, in District- or campus-level planning and decision making.
3. Limit or affect the power of the Board to govern the public schools.
4. Create a new cause of action or require collective bargaining.

Education Code 11.251(g)

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 C: BUSINESS AND SUPPORT SERVICES

CA	FISCAL MANAGEMENT GOALS AND OBJECTIVES
CAA	Financial Ethics
CB	STATE AND FEDERAL REVENUE SOURCES
CBA	State
CBB	Federal
CC	LOCAL REVENUE SOURCES
CCA	Bond Issues
CCB	Time Warrants
CCC	Certificates of Indebtedness
CCD	Recreational Facilities Bonds
CCE	Athletic Stadium Authority
CCF	Loans and Notes
CCG	Ad Valorem Taxes
CCH	Appraisal District
CD	OTHER REVENUES
CDA	Investments
CDB	Sale, Lease, or Exchange of School-Owned Property
CDBA	Revenue Bonds From Proceeds
CDC	Grants From Private Sources
CDD	Rentals and Service Charges
CDE	Shop Sales
CDF	Royalties
CDG	Gate Receipts, Concessions
CDH	Public Facilities Corporations
CE	ANNUAL OPERATING BUDGET
CF	ACCOUNTING
CFA	Financial Reports and Statements
CFB	Inventories
CFC	Audits
CFD	Activity Funds Management
CFE	Payroll Procedures
CFEA	Salary Deductions and Reductions
CFF	Checking Accounts
CFG	Cash in School Buildings
CG	BONDED EMPLOYEES AND OFFICERS

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 C: BUSINESS AND SUPPORT SERVICES

CH	PURCHASING AND ACQUISITION
CHB	Petty Cash Account
CHD	Purchasing Procedures
CHE	Vendor Relations
CHF	Payment Procedures
CHG	Real Property and Improvements
CHH	Financing Personal Property Purchases
CI	SCHOOL PROPERTIES DISPOSAL
CJ	CONTRACTED SERVICES
CJA	Criminal History
CK	SAFETY PROGRAM/RISK MANAGEMENT
CKA	Inspections
CKB	Accident Prevention and Reports
CKC	Emergency Plans
CKD	Emergency Medical Equipment and Procedures
CKE	Security Personnel/Peace Officers
CL	BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT
CLA	Security
CLB	Maintenance
CLC	Traffic and Parking Controls
CLD	Records and Reports
CLE	Flag Displays
CM	EQUIPMENT AND SUPPLIES MANAGEMENT
CMA	Receiving and Warehousing
CMB	Authorized Uses of Equipment and Supplies
CMD	Instructional Materials Care and Accounting
CN	TRANSPORTATION MANAGEMENT
CNA	Student Transportation
CNB	District Vehicles
CNBA	Bus Maintenance
CNC	Transportation Safety
CO	FOOD SERVICES MANAGEMENT
COA	Food Purchasing
COB	Free and Reduced-Price Food Program
COC	Vending Machines

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 C: BUSINESS AND SUPPORT SERVICES

CP	OFFICE MANAGEMENT
CPA	Office Communications
CPAA	Printing and Duplicating
CPAB	Mail and Delivery
CPAC	Telephone
CPC	Records Management
CQ	ELECTRONIC COMMUNICATION AND DATA MANAGEMENT
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Design-Build Contracts
CVD	Construction Manager-Agent
CVE	Construction Manager-At-Risk
CVF	Job Order Contracts
CW	NEW FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS

PURCHASING AND ACQUISITION

CH
(LEGAL)

BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.</p> <p><i>Education Code 44.0312</i></p>
INJUNCTION	A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. <i>Education Code 44.032(f)</i>
PURCHASES VALUED AT OR ABOVE \$25,000	<p>All District contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the District:</p> <ol style="list-style-type: none">1. Competitive bidding.2. Competitive sealed proposals.3. A request for proposals for services other than construction services.4. An interlocal contract.5. The reverse auction procedure as defined by Government Code 2155.062(d).6. The formation of a political subdivision corporation under Local Government Code 304.001. <p><i>Education Code 44.031(a)</i></p> <hr/> <p>Note: Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC for design/build contracts; CVD, CVE for contracts using a construction manager; and CVF for job order contracts for minor repairs/alterations.</p> <hr/>
FACTORS	In awarding a contract, the District shall consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the District's needs.
5. The vendor's past relationship with the District.
6. The impact on the ability of the District to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the District to acquire the goods or services.
8. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

Education Code 44.031(b-1)

The factors listed above are the only criteria that may be considered by the District in its decision to award a contract. R.G.V. Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

CONTRACT WITH
PERSON INDEBTED
TO DISTRICT

The Board may, by resolution, establish regulations permitting the District to refuse to enter into a contract or other transaction with a person indebted to the District. The District may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the District.

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the District requiring Board approval.

Education Code 44.044

PURCHASING AND ACQUISITION

CH
(LEGAL)

NOTICE
PUBLICATION

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the District's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

PERSONAL PROPERTY
PURCHASES VALUED
\$10,000 TO \$25,000

When the District seeks to purchase personal property of a value of at least \$10,000 but less than \$25,000, in the aggregate, for a 12-month period, the District may either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described below. *Education Code 44.033(a)*

NOTICE

For each 12-month period, the District shall publish a notice in two successive issues of any newspaper of general circulation in the county in which the school is located. If there is no newspaper in the county in which the school is located, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the school is located, specifying the categories of personal property to be purchased and soliciting the names, addresses, and telephone numbers of vendors that are interested in supplying any of the categories to the District. *Education Code 44.033(b)*

VENDOR LIST

For each category, the District shall create a vendor list consisting of each vendor that responds to the published notice and any additional vendors the District elects to include. Before the District makes a purchase from a category of personal property, it must obtain written or telephone price quotations from at least three vendors from the list for that category. If fewer than three vendors are on the list, the District shall contact each vendor. Whenever possible, telephone quotes should be confirmed in writing by mail or facsimile. The bidding records shall be retained with the District's competitive bid records and are subject to audit. Purchases shall be made from the lowest responsible bidder, except as provided by Education Code 44.033(f). *Education Code 44.033(b), (c)*

LOCATION OF
BIDDER

In awarding a contract by competitive sealed bid under Education Code 44.033, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner pro-

vided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.033(f)*

PRODUCE OR FUEL
PURCHASES

When the District purchases produce or fuel valued at \$10,000 or more in the aggregate, for a 12-month period, the District must either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described immediately above. *Education Code 44.033(a), (d)*

PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agent.

The District may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

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

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

[See also CV]

EMERGENCY DAMAGE
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

PURCHASING AND ACQUISITION

CH
(LEGAL)

- COMPUTERS The District may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*
- AUTOMATED INFORMATION SYSTEM The District may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*
- AUTOMATED EXTERNAL DEFIBRILLATORS A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. *Education Code 44.047*
- SOLE SOURCE Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:
1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
 2. A film, manuscript, or book.
 3. A utility service, including electricity, gas, or water.
 4. A captive replacement part or component for equipment.
- The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.
- Education Code 44.031(j), (k)*
- IMPERMISSIBLE PRACTICES A Trustee, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.
- “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A Trustee who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

Education Code 44.032

INSURANCE

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031 or 44.033. *Education Code 44.031, 44.033; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR
CONTRACTS

The District may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If the District executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the District will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE
BIDDING

If the District receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of the District, that bidder shall be selected. If two or more such bidders are residents of the District, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

The Board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

Local Gov't Code 271.901

REVERSE AUCTION

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the District and fair to vendors. *Local Gov't Code 271.906(b)*

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

OUT-OF-STATE
BIDDERS

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

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

INTERLOCAL
AGREEMENTS

To increase efficiency and effectiveness, the District may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions. *Gov't Code 791.001, 791.011, 791.025*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed annually.

Gov't Code 791.011(d)-(f)

The District may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a

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CH
(LEGAL)

state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b), (c); Atty. Gen. Op. JC-37 (1999)

STATE PURCHASING
PROGRAM

Purchasing services performed for the District by the comptroller shall include:

1. The extension of state contract prices to the District when the comptroller considers it feasible.
2. Solicitation of bids on items desired by the District if the solicitation is considered feasible by the comptroller and is desired by the District.
3. Provision of information and technical assistance to the District about the purchasing program.

The comptroller may charge the District its actual costs in providing purchasing services.

Local Gov't Code 271.082

DISTRICT
REQUIREMENTS

The District may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the BPC a resolution adopted by the Board requesting that the District be allowed to participate on a voluntary basis, to the extent the BPC deems feasible, and stating that the Board shall:

1. Designate an official to act for the District in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:
 - a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse

auction purchase, and electronically sending the BPC reports on actual purchases.

4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

ELECTRONIC
MARKETPLACE

If the District has the ability to electronically send purchase orders and information, it may participate in the Department of Information Resources' electronic procurement system, as described in Government Code Chapter 2177.

Local Gov't Code 271.083

MULTIPLE AWARD
CONTRACT
SCHEDULE

The BPC shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.

The District may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code 2157.

The price listed for a good or service under a multiple award contract is a maximum price. The District may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155, Subch. 1

COOPERATIVE
PURCHASING
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative stating that the District will:

1. Designate a person to act on behalf of the District in all matters relating to the program.
2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

If the District participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

PURCHASING AND ACQUISITION

CH
(LEGAL)

CONTRACT-RELATED
FEE

A district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Subchapter F, Chapter 271, Local Government Code (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the Board. The written report must appear as an agenda item. The Commissioner of Education may audit the written report.

Education Code 44.0331

STATE COUNCIL ON
COMPETITIVE
GOVERNMENT

As approved by the State Council on Competitive Government, the District may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A district that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

COMMITMENT OF
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the Board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the Board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

ENERGY OR WATER
CONSERVATION
MEASURES

The District may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004.

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

Education Code 44.901 [See policy CL for legal requirements pertaining to such contracts]

RECYCLED
PRODUCTS

The District shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The District shall regularly review and

revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the District purchase products that may be recycled when they have served their intended use.

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

Health and Safety Code 361.426

AGRICULTURAL
PRODUCTS

If the cost and quality are equal, the District shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, the District shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

The District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR
LANDSCAPING

If cost is equal and the quality is not inferior, the District shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

Education Code 44.042

BUS PURCHASE OR
LEASE

Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)* [See CNB]

RIGHT TO WORK

While engaged in procuring goods and services or awarding a contract, the District:

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

PURCHASING AND ACQUISITION

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2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

LOBBYING
RESTRICTION:
TOBACCO EDUCATION
GRANT FUNDS

The District may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:

1. Lobbying expenses incurred by the District;
2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission.
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2);
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Gov't Code 403.1067

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

CONTRACTED SERVICES
CRIMINAL HISTORY

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CRIMINAL HISTORY —
IN GENERAL

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

DEFINITIONS

'CONTINUING
DUTIES RELATED
TO CONTRACTED
SERVICES'

"Continuing duties related to contracted services" are work duties that are performed pursuant to a contract to provide services to the District on a regular, repeated basis rather than infrequently or one-time only.

'COVERED
CONTRACT
EMPLOYEE'

A "covered contract employee" is an individual who:

1. Is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of the District, or is an individual subcontractor of a service contractor;
2. Has or will have continuing duties related to the contracted services;
3. Has or will have direct contact with students; and
4. Is not a student of (or enrolled in) the District for which the services are performed.

'DIRECT CONTACT
WITH STUDENTS'

"Direct contact with students" is the contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional District employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students.

'SERVICE
CONTRACTOR'

A "service contractor" is an entity, including a government entity and an individual independent contractor, that contracts or agrees with the District by written agreement or verbal understanding to provide services through individuals who receive compensation. However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on a school campus, a law enforcement agency or the Department of Family and Protec-

CONTRACTED SERVICES
CRIMINAL HISTORY

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tive Services is not a service contractor, and the investigator or intervener is not a covered contract employee.

19 TAC 153.1101(2), (3), (7), (10)

CONTRACTOR
RESPONSIBILITIES

EMPLOYED
BEFORE
JANUARY 1, 2008

An entity that contracts with the District to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Education Code 22.0834(b) if:

1. The employee has continuing duties related to the contracted services; and
2. The employee has direct contact with students.

EMPLOYMENT
OFFERED ON OR
AFTER JANUARY 1,
2008

A person who, on or after January 1, 2008, is offered employment by an entity that contracts with the District must submit to a national criminal history record information review if:

1. The employee or applicant has or will have continuing duties related to the contracted services; and
2. The employee or applicant has or will have direct contact with students.

The person must submit to the review before being employed or serving in a capacity described above.

An entity contracting with the District shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845.

CERTIFICATION TO
DISTRICT

The entity shall certify to the District that it received all of the criminal history record information required above. The service contractor shall also certify that it will take reasonable steps to ensure that the conditions or precautions that have resulted in a determination that any person is not a covered contract employee continue to exist throughout the time that the contracted services are provided.

A service contractor shall provide the District, at its request, the information necessary for the District to obtain criminal history record information for all covered contract employees.

DISQUALIFYING
CONVICTION

A service contractor shall not permit a covered contract employee to provide services at the District if the employee has a disqualifying conviction under Education Code 22.085.

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

DISTRICT RESPONSIBILITIES	The District may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above at CONTRACTOR RESPONSIBILITIES—EMPLOYED BEFORE JANUARY 1, 2008.
EMPLOYED BEFORE JANUARY 1, 2008	
EMPLOYMENT OFFERED ON OR AFTER JANUARY 1, 2008	The District may obtain the criminal history record information of a person described above at CONTRACTOR RESPONSIBILITIES—EMPLOYMENT OFFERED ON OR AFTER JANUARY 1, 2008, through the criminal history clearinghouse as provided by Government Code 411.0845.
CERTIFICATION FROM CONTRACTOR	The District shall ensure that each of its service contractors certify that the service contractor has obtained all required criminal history record information for covered contract employees.
DISQUALIFYING CONVICTION	The District may not allow a covered contract employee to serve at the District if the District obtains information through a criminal history record information review that the covered contract employee has a disqualifying conviction under Education Code 22.085. The District may adopt a stricter standard.
SBEC NOTIFICATION	Pursuant to 19 TAC 249.14(d)(1), if the District obtains information that a covered contract employee who holds a certificate issued by the State Board for Educator Certification (SBEC) has a reported criminal history, the Superintendent or the Superintendent's designee shall notify SBEC of that criminal history within seven calendar days of the date that information is obtained. <i>Education Code 22.0834; 19 TAC 153.1117(b), (c)</i>
EMERGENCY EXCEPTION TO CRIMINAL HISTORY CHECK	In the event of an emergency, the District may allow a covered contract employee to enter District property without the required criminal history record information review if the person is accompanied by a District employee. The District may adopt rules regarding an emergency situation. <i>Education Code 22.0834(f); 19 TAC 153.1117(b)(2)</i> [See DBAA for definitions and provisions regarding confidentiality, consumer credit reports, records retention, and criminal history record checks of employees.]
CONTRACTORS PROVIDING TRANSPORTATION SERVICES	In addition to the requirements described above at CRIMINAL HISTORY—IN GENERAL, if the District contracts with a person for transportation services, the District shall obtain criminal history record information from any law enforcement or criminal justice agency relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with the District to provide transportation services shall submit to the District the name and other identification data

CONTRACTED SERVICES
CRIMINAL HISTORY

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required to obtain the criminal history record information of such persons. If the District obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, the District shall inform the chief personnel officer of the person with whom the District has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the Board. *Education Code 22.084(a), (b)*

Criminal history record information obtained by the District shall not be released or disclosed to any person, other than the individual who is the subject of the information, the Texas Education Agency, SBEC, or the chief personnel officer of a public or commercial transportation company with which the District contracts to provide transportation services to students. *Gov't Code 411.097*

COMMERCIAL
TRANSPORTATION
COMPANY

In addition to the requirements described above at CRIMINAL HISTORY — IN GENERAL, if the District contracts with a commercial transportation company for transportation services, the company may obtain all criminal history record information that relates to a person employed by the company as a bus driver, bus monitor, or bus aide, or a person the company intends to employ in one of these positions. If the company obtains criminal history record information indicating that a person it employs or intends to employ has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not, without the permission of the board, employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported. If the commercial transportation company obtains the criminal history record information, the District is not required to do the same. *Education Code 22.084(c), (d)*

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

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(LEGAL)

REDUCTION OF
ENERGY
CONSUMPTION

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

ENERGY OR WATER
CONSERVATION
MEASURES

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

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

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

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

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13. Equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
14. Metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
15. Other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

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

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

PERFORMANCE
BOND

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

FINANCING

An energy savings performance contract may be financed:

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

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider

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

CONTRACT
PROCUREMENT

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

COST SAVINGS
REVIEW

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

Education Code 44.901

ENERGY USAGE
REPORT

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

LIGHT BULBS

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

1. Uses the fewest watts for the necessary luminous flux or light output;
2. Is compatible with the light fixture; and

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3. Is the most cost-effective, considering the factors described above.

Education Code 44.903

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

RECYCLING
PROGRAM

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

The District shall also:

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

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

Health and Safety Code 361.425

CERTIFICATE OF
MOLD REMEDIATION

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

POOL DRAINS

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. Section 8003. "Public pool and spa" means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

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DEFINITIONS

For purposes of this policy:

1. "Bus" means a motor vehicle used to transport persons and designed to accommodate more than ten persons, including the driver.
2. "Passenger car" refers to a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate ten or fewer passengers.
3. "Passenger van" means a motor vehicle, other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.
4. "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by the District and is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, or a school bus.
5. "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport preprimary, primary, or secondary students to and from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.
6. "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.

Education Code 34.003; Trans. Code 541.201

AUTHORITY

The District may establish and operate an economical public school transportation system in the District or outside the District, if the District enters into an interlocal contract as provided by Government Code Chapter 791. For that part of the system that the District operates directly, it shall employ bus drivers certified by the Department of Public Safety. *Education Code 34.007*

TRANSPORTATION
FUNDING FOR
ELIGIBLE STUDENTS

If the District operates a transportation system, the District is entitled to a state transportation allotment. The allotted funds are based on the cost of providing transportation services to students who live two or more miles from the school they attend. The Commissioner of Education cannot reduce the allotment because the District provides transportation for an eligible student to and from a child-care facility instead of the student's residence, if the

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

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transportation is provided within the approved routes of the District for the school the student attends. *Education Code 42.155*

The Board may require payment of a reasonable fee for transportation to and from school of a student who lives within two miles of the school the student attends. However, the Board may not charge a fee for transportation for which the District receives a transportation allotment under Education Code 42.155(d). *Education Code 11.158.*

HAZARDOUS
CONDITIONS

The District may apply to the Commissioner of Education for an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of students living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. The Board shall provide to the Commissioner the definition of hazardous conditions applicable to the District and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and students must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition. *Education Code 42.155(d)*

BUS OPERATION

A person may not operate a school bus if:

1. The door of the school bus is open; or
2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

Trans. Code 545.426

TRANSPORTING
STUDENTS TO
SCHOOL

School buses or mass transit authority buses shall be used for the transportation of students to and from schools on routes having ten or more students. Passenger cars may be used on routes having fewer than ten students. *Education Code 34.003(a)*

DESIGNATION OF
CHILD-CARE
FACILITY OR
GRANDPARENT'S
RESIDENCE

The Board, after determining eligibility for transportation services, shall allow a parent to designate a child-care facility or the residence of a grandparent of the child instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school. Either designated location must be an approved stop on an approved route. *Education Code 34.007(b)(2)*

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adop-

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tion to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

TRANSPORTATION
TO A HIGHER
PERFORMING
SCHOOL

The District shall provide or pay for the transportation of a student to a higher-performing public school operated by another district, if the District is identified for corrective action, or to another public school within the District if the student's school:

1. Has been identified for school improvement;
2. Has failed to make adequate yearly progress by the end of the first full school year after identification for school improvement;
3. Has had corrective action implemented by the District for failure to make adequate yearly progress by the end of the second full school year after identification for school improvement; or
4. Has failed to make adequate yearly progress after one full school year of corrective action.

No Child Left Behind Act of 2001, 20 U.S.C. 6316(b)(9)

TRANSPORTATION
OF HOMELESS
STUDENTS

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, the District shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, at the request of the homeless liaison) to and from the school of origin, as follows:

1. If the homeless child lives in the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.
2. If the homeless child lives in a district other than that in which the school of origin is located, the district of origin and the district where the homeless child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Secs. 722, 725; 42 U.S.C. 11432(g)(1)(J)(iii)(I), (II)
[See FDC]

SCHOOL ACTIVITIES

When transporting students in connection with school activities other than on routes to and from school:

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

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1. Only school buses or motor buses may be used to transport 15 or more students; and
2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

Education Code 34.003(b)(1), (2)

The operator of a passenger car or passenger van used to transport students to school or to a school activity shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

Education Code 34.003(c)

ACCELERATED
INSTRUCTION
PROGRAMS

The District shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j)*

TRANSPORTATION
COMPANY OR SYSTEM

The Board may contract for all or any part of its public school transportation with a mass transit authority or commercial transportation company, provided that the authority or commercial transportation company:

1. Requires its school bus drivers to have the qualifications required by and be certified in accordance with standards established by the Department of Public Safety;
2. Transports 15 or more students only in school buses or mass transit authority buses that meet or exceed safety standards for school buses established under Education Code 34.002;
3. Conducts all the following education programs with Board approval:
 - a. A program to inform the public that public school students will be riding on the authority's or company's buses;
 - b. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and
 - c. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

The Board may supplement the state transportation cost allotment with local funds necessary to provide complete transportation services.

Education Code 34.008

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CAREER AND
TECHNOLOGY
PROGRAM

The District shall be reimbursed the cost of transporting career and technology program students to another campus within the District, to another secondary public school or an area career and technology school, or to an approved postsecondary institution under a contract for instruction approved by TEA. *Education Code 42.155(f)*

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors providing transportation services, see CJA(LEGAL).

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

CQ
(LEGAL)

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*

"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)(3), (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:

1. An Internet safety policy has been adopted and implemented.

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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(LEGAL)

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 elec-

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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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;

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*

FACILITY STANDARDS

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APPLICABILITY OF
STATE STANDARDS
AFTER JANUARY 1,
2004

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

DEFINITIONS

After January 1, 2004, a "major space renovation" means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration or function. *19 TAC 61.1036(a)(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 Texas Administrative Code Title 19, Chapter 74, Section 74.1 (relating to Essential Knowledge and Skills). The written educational program should describe:
 - a. The learning activities to be housed, by instructional space;
 - b. How the subject matter will be taught (methods of instructional delivery);
 - c. The materials and equipment to be used and stored;
 - d. Utilities and infrastructure needs; and
 - e. The characteristics of furniture needed to support instruction.

19 TAC 61.1036(a)(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

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APPLICABILITY OF
STATE STANDARDS
BEFORE JANUARY 1,
2004

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

FIRE ESCAPES

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

SECURITY CRITERIA

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

READILY ACCESSIBLE
PROGRAMS

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

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

Compliance with these requirements may be achieved by:

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

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

28 CFR 35.150; 34 CFR 104.22

REVIEW OF PLANS

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

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

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

NOTICE

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

PORTABLE BUILDINGS

Any portable, modular building capable of being relocated that is purchased or leased after September 1, 2007, for use as a school facility, regardless of whether the building is an industrialized building as defined by Occupations Code 1202.003, must be inspected as provided by Occupations Code Subchapter E, Chapter 1202 to ensure compliance with the mandatory building codes or approved designs, plans, and specifications. *Education Code 46.008(b); 19 TAC 61.1036(f)(3)*

FACILITY STANDARDS

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PLAYGROUNDS Public funds may not be used to purchase playground equipment or surfacing for the area under and around the equipment if either purchase does not substantially comply with each applicable provision of the Handbook for Public Playground Safety, published by the U.S. Consumer Product Safety Commission.

EXCEPTION Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 1997, even if they do not comply with the Playground Safety Handbook.

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.

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

Health and Safety Code 425.002

TESTING OF NATURAL GAS PIPING At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, the District shall pressure test the natural gas piping system in each District facility. The testing may be per-

formed on a two-year cycle under which the District pressure tests the natural gas piping system in approximately one-half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the pressure test in each of those facilities shall be conducted and reported not later than July 1 of the year in which the pressure test is performed. *Utilities Code 121.502; 16 TAC 8.230(c)(4)*

RAILROAD
COMMISSION
RULES

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

STANDARDS AND
PROCEDURE

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

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

NOTICE

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

TERMINATION OF
SERVICE

The supplier shall terminate service to a District facility if:

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

Utilities Code 121.505(a)

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

1. The natural gas supplier receives notification of a hazardous natural gas leak in the school facility piping system; or

FACILITY STANDARDS

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2. The natural gas supplier does not receive written notification from the District specifying the completion date and results of the testing.

16 TAC 8.230(b)(2)

REPORTING LEAKS

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

LP-GAS SYSTEMS
TESTING

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

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

Natural Resources Code 113.352; 16 TAC 9.41

REQUIREMENTS OF
TEST

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

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

Natural Resources Code 113.353

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

NOTICE

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

Natural Resources Code 113.354; 16 TAC 9.41

TERMINATION OF
SERVICE

A supplier shall terminate service to a District facility if:

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

Natural Resources Code 113.355

REPORTING LEAKS

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

INTRASTATE PIPELINE
EMERGENCY
RESPONSE PLAN

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

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

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

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

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

FACILITIES CONSTRUCTION

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BOARD AUTHORITY	<p>The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i></p>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.</p> <p>The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.</p> <p>In procuring construction services, the District shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request. If the District fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the Board in an open public meeting is advisory only.</p> <p><i>Education Code 44.0312</i></p>
INJUNCTION	<p>A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. <i>Education Code 44.032(f)</i></p>
IMPERMISSIBLE PRACTICES	<p>A trustee, employee, or agent of the District who knowingly or with criminal negligence violates the purchasing laws is subject to criminal penalties. <i>Education Code 44.032</i> [See CH]</p>
CONTRACTS VALUED AT OR ABOVE \$25,000	<p>All District contracts valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for the District [see also CH]:</p> <ol style="list-style-type: none">1. Competitive bidding. [See CVA]2. Competitive sealed proposals. [See CVB]3. An interlocal contract.4. A design/build contract. [See CVC]5. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager. [See CVD, CVE]6. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility. [See CVF]

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

Education Code 44.031(a)

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

SELECTING A CONTRACTING METHOD	When the District is considering awarding a construction contract using a method specified by Education Code 44.031(a), the Board shall, before advertising, determine which purchasing method provides the best value for the District. <i>Education Code 44.035(a)</i>
PUBLIC NOTICE	Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the District's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. <i>Education Code 44.031(g)</i>
CONTRACT SELECTION CRITERIA	The District shall base its selection among offerors on criteria authorized in Education Code 44.031(b). [See CH] The District shall publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights given to the criteria. <i>Education Code 44.035(b)</i>
MAKING EVALUATIONS PUBLIC	The District shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. <i>Education Code 44.035(c)</i>
ATTORNEY FEES	A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to the District in a dispute in which the District prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. <i>Gov't Code 2252.904</i>
IMPACT FEES	The District is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the Board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the Board considers advisable to provide for the payment of the fees. <i>Local Gov't Code 395.022</i>

FACILITIES CONSTRUCTION

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PROFESSIONAL
SERVICES

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

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

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

EMERGENCY DAMAGE
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

RIGHT TO WORK

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

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

FACILITIES CONSTRUCTION

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REGISTERED
ARCHITECT

An architectural plan or specification for any of the following may be prepared only by an architect registered in accordance with Occupations Code, Title 6, Chapter 1051:

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

This section does not prohibit the District from choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand, limit, or otherwise alter the scope of a design professional's practice nor does it allow a design professional to prepare an architectural plan or specification described above.

Occupations Code 1051.703; 22 TAC 1.212

REGISTERED
ENGINEER

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

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

PROCURING
ARCHITECTURAL,
ENGINEERING, AND
LAND-SURVEYING
SERVICES

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

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate a contract with that provider at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, the District shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The District shall continue this process until a contract is entered into.

Gov't Code 2254.004

ACCESSIBILITY

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

28 CFR 35.151, 34 CFR 104.23

PAYMENT AND
PERFORMANCE
BONDS

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

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

For a contract in excess of \$25,000, a payment bond shall be executed in the amount of the contract solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. *Gov't Code 2253.021(c)*

FAILURE TO OBTAIN
PAYMENT BOND

If the Board fails to obtain a payment bond covering a contract in excess of \$25,000 from the prime contractor, it is subject to the same liability as a surety would be, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code. *Gov't Code 2253.027*

FACILITIES CONSTRUCTION

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NO BOND FOR DESIGN SERVICES ONLY	A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. <i>Education Code 44.036(j)</i> [See CVC for more information on design/build contracts, including bond amounts]
BOND FOR INSURED LOSS	<p>The Board shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor:</p> <ol style="list-style-type: none"><li data-bbox="581 684 1341 741">1. A performance bond for the benefit of the District, as described above; and<li data-bbox="581 772 1398 898">2. A payment bond, as described above. If the payment bond is not furnished, the District is subject to the same liability that a surety would have if the surety had issued the payment bond and the District had required the bond to be provided. <p>These bonds shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.</p>
EXCEPTION TO BOND REQUIREMENT	<p>The requirement that the District secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the District.</p> <p><i>Gov't Code 2253.022</i></p>
OUT-OF-STATE BIDDERS	<p>The Board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. <i>Gov't Code 2252.001, 2252.002</i></p> <p>This requirement shall not apply to a contract involving federal funds. The District shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. <i>Gov't Code 2252.003, 2252.004</i></p>
PREVAILING WAGE ON PUBLIC WORKS	<p>A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of the District shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per di-</p>

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em wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with the District. *Gov't Code 2258.001, 2258.021*

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

ENFORCEMENT

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

RETAINAGE AND
REIMBURSEMENT

The Board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, the Board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator's award. The Board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.052(d), 2258.056*

PENALTY FOR
NONCOMPLIANCE

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to the District \$60 for each worker, laborer, or mechanic employed for each calendar day or

part of a calendar day the worker is paid less than the wage rates specified in the contract. The Board must specify this penalty in the contract. If the District does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. The Board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

REQUIRED WORKERS'
COMPENSATION
COVERAGE

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

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
2. As part of the contract, using the language required by 28 TAC 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracts directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
 - a. Before the end of the coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and

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- b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance upon request and to any person entitled to a copy by law.
7. Use the prescribed language for bid specifications and contracts without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation. [See CV(EXHIBIT) for prescribed language]

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

EXCEPTION

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

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

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

SECTION D: PERSONNEL

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

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SECTION D: PERSONNEL

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



UNITED INDEPENDENT SCHOOL DISTRICT INFORMATIONAL ITEM

TOPIC: Review of LEGAL Policies in Update 85

SUBMITTED BY Gloria Rendon **OF:** Asst. to the Superintendent

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: June 17, 2009

B (LEGAL)	Local Governance
BBA (LEGAL)	Board Members – Eligibility/Qualifications
BBB (LEGAL)	Board Members – Elections
BBB (EXHIBIT)	Board Members – Elections
BBBB (LEGAL)	Board Members – Election Ethics
BE (LEGAL)	Board Members
BQ (LEGAL)	Planning and Decision-Making Process
C (LEGAL)	Business and Support Services
CH (LEGAL)	Purchasing and Acquisition
CJA (LEGAL)	Contracted Services – Criminal History
CL (LEGAL)	Building, Grounds, and Equipment Management
CNA (LEGAL)	Transportation Management – Student Transportation
CQ (LEGAL)	Electronic Communications and Data Management
CS (LEGAL)	Facility Standards
CV (LEGAL)	Facilities Construction
D (LEGAL)	Personnel
DAA (LEGAL)	Employment Objectives – Equal Employment Opportunity
DBAA (LEGAL)	Employment Requirements and Restrictions - Criminal History and Credit Reports
DEA (LEGAL)	Compensation and Benefits – Salaries and Wages
DEAA (LEGAL)	Compensation and Benefits – Incentives and Stipends
DEC (LEGAL)	Compensation and Benefits – Leaves and Absences
DECA (LEGAL)	Leaves and Absences - Family and Medical Leave
DECB (LEGAL)	Leaves and Absences – Military Leave
EHBAA (LEGAL)	Special Education – Identification, Evaluation, and Eligibility
EBAC (LEGAL)	Special Education – Students in Non-District Placement
EBAE (LEGAL)	Special Education – Procedural Requirements
EBK (LEGAL)	Special Programs – Other Instructional Initiatives
EKC (LEGAL)	Testing Program – Reading Assessment
FB (LEGAL)	Equal Educational Opportunity
FL (LEGAL)	Student Records
FOCA (LEGAL)	Placement in a Disciplinary Alternative Education Setting
	Disciplinary Alternative Education Program Operations
GBA (LEGAL)	Public Information Program – Access to Public Information