

# Vantage Points

A Board Member's Guide to Update 78



***Vantage Points*** is an executive summary, prepared for board members, of the TASB Localized Update. The topic-by-topic outline and the thumbnail descriptions survey the update landscape, focusing attention on key issues to assist local officials in studying specific changes found in the policies. The description of policy changes in ***Vantage Points*** is a highly summarized overview and should not substitute for careful attention to the significantly more detailed, district-specific Explanatory Notes and the policies within the Localized Update Packet.

**PLEASE NOTE:** This Update 78 ***Vantage Points*** and the Localized Update 78 packet may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

We welcome your comments or suggestions for improving ***Vantage Points***. Please write to us at TASB Policy Service, P.O. Box 400, Austin, TX 78767-0400, or call us at 800-580-7529 or 512-467-0222.

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**The Big  
Picture:  
House Bill 1**

Update 78 encompasses recent changes in law or rule affecting public education and picks up key pieces of HB 1 from the recent special legislative session as well. These late-breaking additions include:

- BAA and DC—internal auditor
- CCG—property taxes
- CE—budget comparisons
- CRD—health care supplement
- DEA—compensation supplement
- EHBE—Limited English Proficiency
- EHBG—prekindergarten
- FDAA and FDB—transfer students
- FFAC—self-medication by students

Descriptions of each of these changes are woven into the narratives below.

**Business Issues  
Ad Valorem  
Taxes**

The HB 1 property tax provisions have been added to **CCG(LEGAL)** and include the:

- Tax rate cap—If a district adopts an increase in the maintenance and operations (M & O) tax rate for the 2006–07 school year, the amount of the tax cannot be more than \$ .17 over the compression percentage approved in the bill (88.67 percent in 2006) multiplied by \$1.50 (or the amount of M & O tax levied in 2005, if greater than \$1.50).
- 2006 tax year rollback elections—If the tax rate adopted for 2006 exceeds the rollback rate, it must have voter approval. The election must be called no later than August 31 with the election occurring on September 30, 2006.
- Tax increment funds—There are also changes to payments into tax increment funds for districts that receive market value exemptions of their taxable property for Freeport Goods and Reinvestment Zones.

Also at CCG, but from the regular session, is text drawn from HB 2491 permitting districts to adopt discounts for early payment even if another entity collects the taxes.

**Budget  
Summary**

In addition to the existing posting requirements for the budget found at **CE(LEGAL)**, HB 1 requires districts to post a budget summary that includes a comparison to the previous year's actual spending, specifically relating to per-student and aggregate spending on:

- Instruction,
- Instructional support,
- Central administration,
- District operations,
- Debt service, and
- Any other category designated by the commissioner.

**Internal Auditor** Now reflected at both **BAA(LEGAL)** and **DC(LEGAL)** is the new HB 1 requirement that any internal auditor hired by the district must be selected by, and must report directly to, the board

**School Safety**

**(LOCAL) POLICY CONSIDERATIONS:**  
**CKC**

The Emergency Operations Plan that every district had to develop in accordance with the Texas School Safety Center template has rendered existing text on emergency procedures obsolete. In its place we recommend a streamlined policy pointing to the superintendent's responsibility to ensure the plan is maintained properly and staff trained accordingly.

**Investments**

**(LOCAL) POLICY CONSIDERATIONS:**  
**CDA**

In response to risk assessment issues addressed by General Accounting Standards Board (GASB) Statement 40, we have added a provision aimed at reducing the risk of interest rate fluctuation by specifying final and weighted-average-maturity limits as well as diversifying the district's investments.

**"Prompt Payment Law"**

**CHF(LEGAL)** now reflects the "Prompt Payment Law" amendment in HB 2425 from the 79<sup>th</sup> regular legislative session. The rate of interest for a district's overdue payment to a vendor is set at one percent over the prime rate, based on a September 1–August 31 calendar.

**Conflict of Interest**

To avoid confusion about the definition of "family member" in the context of a government officer's requirement to file a conflict of interest disclosure, we amended **BBFA(LEGAL)** to include the Government Code definition—a person related within the first degree by consanguinity or affinity.

**(LOCAL) POLICY CONSIDERATIONS:  
DBD**

Regarding the requirement for filing affidavits declaring substantial interest:

- The superintendent must file an affidavit on his or her own behalf and must also file on behalf of a relative in the first degree who has a substantial interest.
- Any other employee must file only on his or her own behalf.

**Board Member  
Elections**

The text at **BBBA(LEGAL)** has been expanded to include provisions addressing the termination of a campaign treasurer appointment.

**Employee Issues  
Compensation**

For the 2006–07 school year, HB 1 provides a state-funded salary supplement of \$2,500 for classroom teachers, full-time librarians, full-time counselors, and full-time nurses. As noted at **DEA(LEGAL)** however, state funding for the supplement is subject to recapture and is inclusive of a compensation supplement. For all other employees, except administrators, the bill provides a \$500 supplement for full-time employees and a \$250 supplement for part-time employees.

When employees elect any cafeteria plan coverage or health care premium conversion plan available to them, they may designate part of their compensation for that purpose. [See also **CRD(LEGAL)**]

The new language prompted some clarification of existing provisions at **DEA(LEGAL)**. For more comprehensive treatment of the minimum monthly salary schedule and compliance with the Fair Labor Standards Act (FLSA), we now include:

- Definitions from commissioner's rules.
- Education Code salary entitlements for employees who received a career ladder supplement on August 31, 1993.
- Prohibitions against certain salary increases—still at **CE(LEGAL)**, as well.
- Details from federal regulations implementing the FLSA.

SB 1863 moved administrative and rule-making authority from the Texas Teacher Retirement System to TEA. The resulting commissioner's rules, effective January 31, 2006, address eligibility criteria, reporting requirements, and funding formulation and distribution procedures.

**(LOCAL) POLICY CONSIDERATIONS:  
DEA**

As with DEA(LEGAL), this policy is substantially revised. Compensation plans are defined as encompassing pay schedules, stipends, benefits, and incentives. Classification of positions and determination of appropriate pay for new and reassigned employees falls under the superintendent's responsibility.

The new language more clearly spells out the authority of the superintendent to determine pay increases for individuals within the amount budgeted for that purpose. Mid-year pay increases are restricted unless a reassignment or modification of an employee's duties justifies additional compensation. The superintendent may also authorize pay increases for at-will employees during the year if warranted by adjustments in the market value of the job. Pay increases for contract employees will require board approval, while pay increases for at-will employees require only a report to the board.

Finally, the overtime pay and compensatory time provisions have been revised to more clearly spell out the options for their use.

**Insurance**

**(LOCAL) POLICY CONSIDERATIONS:  
CRD**

Streamlining of the recommended language in this policy resulted in deletion of "how-to" provisions not essential to board policy. The text now focuses on board issues, such as:

- The board's option to differentiate between full-time and part-time employees when determining the district's contribution toward the employees' health insurance premiums.
- An employee's financial responsibility to fund the entire group health insurance monthly premium when on unpaid leave, subject to the exception for family and medical leave.
- The continuation of employee-funded coverage for the period of time permitted by the health insurance plan.

**DOT Testing**

**(LOCAL) POLICY CONSIDERATIONS:**  
**DHE**

Providing an adulterated, diluted, or substituted specimen for a drug and alcohol test is a reportable offense under the Department of Transportation (DOT) testing and has been added to the list of drug-related policy violations.

**Instruction  
Issues**

**Alternate Testing  
Dates**

As required by SB 658 from the 79<sup>th</sup> regular legislative session, the commissioner adopted rules governing requests for exceptions to the statewide testing dates. The four circumstances under which alternate testing dates may be granted are found at **EKB(LEGAL)** and include:

- Inclement weather or natural disasters that would reduce attendance to a small percentage on the test date.
- Health epidemics resulting in a large number of absentees on the test date.
- Death of a student or school official that could impact student performance.
- Sudden emergencies on the day of, or shortly before, testing that may inhibit completion of the testing.

If a new test date is approved, the commissioner is authorized to prohibit UIL contest participation by the district or campus on the new date.

**Textbook  
Selection**

The provisions addressing textbook selection are expanded at **EFAA(LEGAL)** to include more detail on:

- Conforming textbooks—covering all Texas Essential Knowledge and Skills (TEKS)—and nonconforming textbooks—at least half, but not all TEKS.
- The length of time adopted and delivered textbooks must be used by the district.
- Criminal offenses relating to textbook selection.

**Physical  
Education**

Although the legislature may have intended to establish a minimal time for physical education in middle school, it never actually enacted this intention into law. Consequently the time requirement has been deleted from **BDF(LEGAL)**.

**Limited English  
Proficiency**

**EHBE(LEGAL)** has new provisions from HB 1 regarding Limited English Proficiency. A student may be exited from a bilingual program or a special language program if the student is able to participate equally in a regular all-

English program. The student's ability is determined by a TEA-approved assessment administered in English. Post-exit monitoring is required and the student must be re-evaluated if he or she earns a failing grade in a foundation curriculum subject within the first two years of leaving the program.

**Student Issues**  
**Directory**  
**Information**

**(LOCAL) POLICY CONSIDERATIONS:**  
**FL**

The U.S. Department of Education recently released information regarding the Family Educational Rights and Privacy Act (FERPA) that broadens districts' options for directory information:

- Rather than permitting parents to pick and choose which directory information items may be released for their children, districts can now give parents an all-or-nothing choice. The recommended revision to this policy reflects that change.
- Another option for districts is to establish two separate lists of directory information:
  - One for school-sponsored purposes only—e.g., yearbooks, newspapers, or music or athletic programs.
  - A separate one for all other purposes.

If a parent chooses to disallow the release of directory information for school-sponsored purposes, release of information would be governed by the second list. Any exceptions to either list would require parental consent.

**Attendance**

Issues surrounding excused absences have been clarified and expanded at **FEA(LEGAL)**. Absences for the following purposes are to be considered excused for compulsory attendance purposes:

- Special education assessments or special education-related services.
- Juvenile court proceedings for delinquent conduct or conduct indicating a need for supervision—previously at **FEB(LEGAL)**, Attendance Accounting.
- Referral of abused or neglected students to the Texas Department of Human Services or a county or local welfare unit—previously at **FEB**.

New to **FEB(LEGAL)**, but not to State Board rule, is the superintendent's responsibility for the safekeeping of attendance records and reports.



**Interdistrict  
Transfers**

**(LOCAL) POLICY CONSIDERATIONS:**

**FDA**

The recommended text for districts that allow nonresident transfers includes the following revisions:

- Ancestral language is added to the list of reasons that may not be used to deny transfer status.
- All transfer requests are subject to the same application procedures and are granted on the basis of specific factors for one year at a time. For that reason, we have deleted any text specific to children of nonresident employees, unless the district has locally developed provisions in this policy or at **DEB(LOCAL)**.
- The factors to be considered in approving or denying an application include availability of space and instructional staff and the student's disciplinary history and attendance record.
- A revocation provision in the transfer agreement requires the student to follow all district rules and regulations or be subject to revocation of transfer status.

Districts that do not accept transfer students, but make an exception for children of nonresident employees or other categories of students will receive provisions at this code to address the exceptions.

**(LOCAL) POLICY CONSIDERATIONS:**

**DEB**

Deletion of this policy is recommended because:

- Provisions regarding admission of the children of nonresident employees—previously found at this code for many districts:
  - Are unnecessary for districts that accept transfer students in general according to **FDA(LOCAL)**.
  - Are moved to **FDA(LOCAL)** for districts that grant transfer status only for children of nonresident employees.
- The specifics of housing provisions are likely addressed in leases or contracts prepared on an individual, case-by-case basis.

- Free passes to school events for employees or board members are typically arranged among area districts by the administrative staff.

**Lauren’s Law**

Effective with the 2006–07 school year, and added at **CO(LEGAL)**, SB 42 from the 79<sup>th</sup> regular session allows parents and grandparents the option of providing cupcakes—or other foods—for a classroom celebration or school-related event. TASB attorneys believe birthdays and other classroom celebrations may still be held as long as they are scheduled after lunch is over. The statute limiting such events to three per school year still applies.

**Disciplinary Consequences**

As with expulsion, a district is authorized to complete disciplinary proceedings for a student who withdraws before an order for disciplinary alternative education program placement is completed. If the student returns to the district, the consequences may be imposed at that time. If the student enrolls in another district, that district is authorized to impose the consequences. [See **FOC(LEGAL)**.]

**Prekindergarten**

At **EHBG(LEGAL)** the eligibility criteria to attend prekindergarten are expanded by HB 1 to include the child of a member of the armed forces of the United States, including the state military forces or reserve components of the armed forces when the member:

- Is ordered to active duty by proper authority;
- Is injured or killed while serving on active duty; or
- Leaves the armed forces or is no longer on active duty after the child begins the prekindergarten class.

**Health Issues**

**FFAB(LEGAL)** now includes the provisional admittance, for up to 30 days, of a military dependent who is waiting for the transfer of immunization records.

HB 1 adds anaphylaxis to the existing self-administered medication text for asthma found at **FFAC(LEGAL)**. The student must demonstrate the ability to self-administer the medication.

**Student Transfers**

Any student who shares a household with a student being transferred to another school for special education services must be given the same transfer option. [See **FDB(LEGAL)**.]

**FDAA(LEGAL)** now clarifies that a student has a choice to transfer to another school within the district or use a Public Education Grant to attend a school in another district.