

# Explanatory Notes

## TASB Localized Policy Manual Update 90

District: Brackett ISD

B (LEGAL) LOCAL GOVERNANCE

The B section table of contents has been revised to add BBI, Technology Resources and Electronic Communications, and to delete BRB, Web Site Postings, which has been moved to CQA.

BBD (LEGAL) BOARD MEMBERS  
TRAINING AND ORIENTATION

Text throughout this policy on board member training has been revised for clarity and to better match statutory language, and provisions have been reordered for better flow.

Specifically, we have:

- Moved the provisions on the required OPEN MEETINGS ACT TRAINING and PUBLIC INFORMATION ACT TRAINING to the beginning of the policy and added detail about both trainings, including that the district must make available for public inspection documentation about board members' completion of the open meetings training;
- Deleted the requirement that the public information coordinator complete the PIA training, since this material has been moved to GBAA(LEGAL);
- Removed the provisions on conventions and workshops that exclude attendance at these activities from the definition of a meeting under the Texas Open Meetings Act, since this material is currently addressed at BE(LEGAL);
- Grouped the provisions on State Board of Education (SBOE)-REQUIRED TRAINING into five main sections: reporting, orientation, legislative updates, team building, and annual continuing education;
- At REPORTING, added new provisions from SBOE rules requiring the board president to annually distribute the SBOE's framework for governance to other board members and the superintendent and, at the last regular board meeting during the calendar year, to announce whether each board member has satisfied training requirements (an announcement is no longer required at the meeting at which the board calls the election for board members); and
- Deleted the provision requiring sitting board members to receive a basic orientation to the Education Code as conducted by a regional education service center, as this was a transitional provision to implement training requirements from SB 1, adopted in 1995.

BBD (LOCAL) BOARD MEMBERS  
TRAINING AND ORIENTATION

At PUBLIC INFORMATION COORDINATOR, we have added a cross-reference to GBAA, since this is where the training requirements for the coordinator are located. BBD(LOCAL) continues to designate the superintendent to fulfill the training requirements on behalf of the board.

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### BBE (LEGAL) BOARD MEMBERS AUTHORITY

This legally referenced policy has been reworked to match the flow of the corresponding local policy. In addition, legal citations throughout have been updated to reflect the most current legal authority.

Several new provisions were added:

- At ACCESS TO INFORMATION, a provision from a 2004 attorney general opinion was added to provide more detail about board member access to records that are otherwise confidential or involve a security concern. In these circumstances, the board can establish procedures to preserve confidentiality, but the district cannot absolutely prohibit a board member's access.
- A provision was added to explain that a board member can have ACCESS TO STUDENT RECORDS only when acting in his or her official capacity with a legitimate educational interest as defined in FL(LOCAL).
- New material at RESPONSIBILITY FOR RECORDS outlines a board member's obligations to maintain the integrity of public records, including prohibitions against distributing confidential records or destroying, mutilating, altering, concealing, or removing records. These obligations are also emphasized in the new local policy recommendation at BBI, included in this update.

### BBI (LOCAL) BOARD MEMBERS TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS

In response to requests from districts and to provide guidance on board member use of the district's TECHNOLOGY RESOURCES, we recommend the addition of BBI(LOCAL). This policy defines technology resources to include both electronic equipment and use of the electronic communications system.

Under the policy, technology resources are made available to board members primarily for official duties but, as with employee and student use in most districts, may be used on a limited personal basis as long as any personal use imposes no tangible cost to the district and does not unduly burden the district's technology resources.

As with other users of the district's technology resources, the policy requires board members to sign an ACCEPTABLE USE form in which they will agree to follow rules of use and agree that their use of the resources may be monitored by the superintendent or designee to ensure appropriate use. A sample user agreement is included in Update 38 to the *TASB Regulations Resource Manual*, available on myTASB.

Standard DISCLAIMER OF LIABILITY language is also included in this new policy.

In addition to the material on technology resources, we included a provision outlining the legal responsibility for board members to retain electronic records, whether created or maintained on the district's or on personal technology resources. As indicated by the cross-reference, further information on RECORDS RETENTION may be found at BBE and CPC.

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### BED (LEGAL) BOARD MEETINGS PUBLIC PARTICIPATION

At UNITED STATES CONSTITUTION, we have added the holding of a 2010 Fifth Circuit Court of Appeals Case, *Fairchild v. Liberty Independent School District*. This case clarified that a board can create a limited public forum for the purpose of hearing comments from the public as long as the board does not engage in viewpoint discrimination, only imposes restrictions that are reasonable in light of the purpose served by the forum, and provides alternative paths for the public to express speech that is excluded from the forum.

### BR (LEGAL) REPORTS

Item 6 in the list of required reports has been updated to reflect revised SBOE rules requiring the board president to announce, at the last regular board meeting during the calendar year, whether each board member has satisfied training requirements. An announcement is no longer required at the meeting at which the board calls the election for board members. See the explanatory note for BBD(LEGAL), above.

We have also deleted an item from the list of reports. Based on an amendment to the Administrative Code, effective April 21, 2010, a district that develops its own assessment instrument is no longer required to report the results electronically to TEA.

### BRB (LEGAL) REPORTS WEB SITE POSTINGS

The text of this legally referenced policy has been moved unchanged to CQA, District, Campus, and Classroom Web Sites.

### C (LEGAL) BUSINESS AND SUPPORT SERVICES

The C section table of contents has been revised to rename CQ to Technology Resources and to add CQA, District, Campus, and Classroom Web Sites, and CY, Intellectual Property.

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

We have deleted text previously requiring districts to notify the Commissioner when real property is sold, leased, or otherwise conveyed. Modifications to Civil Order 5281 by the Fifth Circuit Court of Appeals have resulted in all but nine districts being exempted from Civil Order 5281.



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

Beginning on page 7, new Administrative Code rules on textbooks, effective November 21, 2010, describe when printed and electronic textbooks and technological equipment are considered to be in ACCEPTABLE CONDITION when returned by a student.

Citations to the new rules have been added throughout.

### CNC (LEGAL) TRANSPORTATION MANAGEMENT TRANSPORTATION SAFETY

Details on SCHOOL BUS EMERGENCY EVACUATION TRAINING from amended Administrative Code rules, effective December 27, 2010, have been added. A definition has been included for districts that conduct school bus emergency evacuation training in the fall, defined as July 1 to December 31. In addition, a link has been provided to the form districts must complete after the training.

### CQ (LEGAL) TECHNOLOGY RESOURCES

In light of the technology focus of Update 90, we have made several changes at this code, which is now titled Technology Resources:

- We have clarified that the required CERTIFICATIONS TO THE FCC regarding Internet safety must be made annually and have moved the filtering exception for adults conducting bona fide research directly under the margin note addressing the TECHNOLOGY PROTECTION MEASURE.
- To provide information about district ACCESS TO ELECTRONIC COMMUNICATIONS, we have added beginning on page 7 provisions from the federal Electronic Communication Privacy Act and from the Stored Wire and Electronic Communications and Transactional Records Access Act.
- The Electronic Communication Privacy Act generally prohibits the intentional interception, use, or disclosure of any wire, oral, or electronic communication except when the person is a party to the communication or when one of the parties has given prior consent. This provision does not prohibit a district from intercepting electronic mail transmissions and other use of the district's electronic communications system so long as users give permission by signing an acceptable use form.
- The Stored Wire and Electronic Communications and Transactional Records Access Act will assist districts in understanding the rules applicable to accessing electronic communications while in electronic storage. This Act limits access to electronic communications while they are in electronic storage, as defined in the policy. Again, in most instances, this Act will not prohibit the district from accessing e-mails and other electronic communications on district-owned devices or stored on the district's technology resources because students and employees consent to such access in the user agreement. See EXCEPTIONS on page 8.
- Definitions have been added for "electronic communication," "electronic storage," "electronic communications system," and "electronic communications service."
- At AUTHENTICATION OF ELECTRONIC COMMUNICATIONS, existing statutory text has been added to address requirements for when a district uses a digital signature to authenticate a written electronic communication sent to the district.

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### CQ (LOCAL) TECHNOLOGY RESOURCES

Recommended changes to this local policy stem from our review of the technology policies at Update 90.

These changes broaden the scope of the policy. Previously the policy applied only to use of the district's electronic communications systems and did not address district-issued equipment. Our recommendation is to include electronic equipment in the scope of the policy, since most districts issue some type of electronic equipment, such as computers, laptops, netbooks, tablets, or e-readers, to employees or students. The term "technology resources" defined in the first paragraph and used throughout the policy clarifies that the policy applies to both the use of the district's electronic communications system and use of district-issued equipment.

Districts are still required by federal law to install a FILTERING device or software on each district computer with Internet access, but we have added a requirement to also install filtering devices or software on the district's network systems to reflect common district practice.

At DISCLAIMER OF LIABILITY, recommended text gives notice that the district's technology resources may not be available at all times.

A new provision at RECORD RETENTION is recommended to ensure employees understand their obligations to retain electronic records, whether created or maintained on the district's technology resources or on personal equipment or systems, in accordance with the district's records management program.

Provisions on student and employee intellectual property rights have been moved to CY where relevant provisions on copyright, trademarks, and intellectual property are located. See the explanatory notes for CY, below.

Updated user agreements are included in Update 38 to the *TASB Regulations Resource Manual*, available on myTASB.

### CQA (LEGAL) TECHNOLOGY RESOURCES DISTRICT, CAMPUS, AND CLASSROOM WEB SITES

We have moved unchanged from BRB this legally referenced policy on Web site postings, as this material is a better fit under the CQ series Technology Resources title.

### CRB (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT LIABILITY INSURANCE

We have revised the name of the certificate obtained after MOLD REMEDIATION has been performed from the "certificate of mold remediation" to the "certificate of mold damage remediation."

### CS (LEGAL) FACILITY STANDARDS

As a result of amendments to the Code of Federal Regulations, effective March 15, 2011, we have revised item 1 at READILY ACCESSIBLE PROGRAMS to provide that compliance with accessibility standards for services, programs, and activities may be achieved by redesigning or *acquisitioning* equipment.

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### CY (LEGAL) INTELLECTUAL PROPERTY

This new legally referenced policy compiles existing statutory material on intellectual property, including copyright, trademarks, and patents.

The copyright material previously at EFE has been moved to this policy with a minor revision at EXCLUSIVE RIGHTS on page 2 and, on page 5, the inclusion of a new paragraph describing COPYRIGHT INFRINGEMENT. In addition, on pages 1 and 2, we have included from federal law provisions explaining what is considered protected COPYRIGHTED MATERIAL, who holds the OWNERSHIP OF THE COPYRIGHT, how to TRANSFER OWNERSHIP, and information on REGISTERING A COPYRIGHT.

Beginning on page 7, provisions on TRADEMARKED MATERIAL have also been added, including definitions for the various types of marks. As with copyright, we also added provisions on REGISTERING A MARK, ASSIGNMENT OF A MARK, and LIABILITY for using a mark without consent. A **Note** provides a link to the United States Patent and Trademark Office Web page on trademarks.

Material on PATENTS, beginning on page 9, includes definitions of INVENTION and PROCESS, along with information on how to obtain and assign patents. Patent infringement is also described. A **Note** provides a link to the United States Patent and Trademark Office Web page on patents.

### CY (LOCAL) INTELLECTUAL PROPERTY

This policy, addressing intellectual property, copyright, and trademark, includes updates to existing local policy provisions moved from CQ and EFE and new provisions on trademark.

In moving local policy text on student and employee INTELLECTUAL PROPERTY from CQ, we are recommending several new provisions. One provision clarifies EMPLOYEE OWNERSHIP when an employee creates a work on his or her own time with personal equipment and materials. An employee must obtain special PERMISSION to use district materials or equipment for the employee's creative projects. Another new provision explains the district's ability to enter into an agreement for a WORKS MADE FOR HIRE project. Finally, we have added a provision requiring RETURN OF INTELLECTUAL PROPERTY upon the termination of a person's association with the district.

In moving the local policy text on copyright from EFE, we are recommending several changes. The first paragraph at COPYRIGHT explains that an employee or student is responsible for ensuring that a license or permission is obtained before using copyrighted material for instructional, curricular, or extracurricular purposes, unless use of the material is an exception under the "fair use" guidelines maintained by the superintendent. A new provision also clarifies that the policy does not apply to work that is considered to be in the public domain. Provisions addressing the specifics of computer software are recommended for deletion, as this material is adequately addressed at TECHNOLOGY USE. Throughout, the policy text has been updated to refer to the district's *technology resources* in accordance with Update 90 changes to CQ. The provision on ELECTRONIC MEDIA states the rule that a license or permission must be obtained for using motion pictures and audiovisual materials in the classroom, unless they are used in the course of face-to-face teaching activities as defined by law.

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Based on requests from districts, new provisions are recommended to address TRADEMARK, including an affirmative statement that district trademarks are protected from unauthorized use. Trademarks include district and campus names, logos, mascots, and symbols. Use without appropriate authorization is subject to legal action. A paragraph on SCHOOL-RELATED USE grants permission to students, student and parent organizations, and other district-affiliated school-support or booster organizations to use district trademarks to promote a group of students, an activity or event, a campus, or the district if the use is in furtherance of school-related business or activity. These groups do not need to obtain written approval before using district trademarks. The policy language gives the superintendent the authority to revoke permission if the use is improper or does not conform to administrative regulations. In contrast, other entities or groups that wish to use the district's trademarks must obtain prior permission from the superintendent.

### D (LEGAL) PERSONNEL

The D section table of contents has been revised to delete DGC, Intellectual Property Rights, as these provisions have been moved to CY, addressing intellectual property.

### DF (LEGAL) TERMINATION OF EMPLOYMENT

Because our records reflect that your district does not have employees on continuing contracts, we have deleted references to continuing contracts in this legally referenced policy. A continuing contract differs from a single-year or multiple-year term contract in that a continuing contract is comparable to "tenure" and is for an indefinite length of time. The district can terminate a continuing contract only for good cause or due to a necessary reduction in personnel. If our records are incorrect, and your district does still have continuing contracts, please contact your policy consultant.

We have deleted from the list of items the superintendent is required to REPORT TO SBEC those that do not involve the certificate holder's termination, such as reporting when the certificate holder violates test security procedures. These items have been moved to DH(LEGAL); see the explanatory note below.

We have revised the definition of "abuse" on page 3 to reflect amended Administrative Code rules, effective December 26, 2010. Previously, the Administrative Code incorporated the Family Code definition of abuse. The new definition adopted by SBEC, although still similar to the Family Code definition, is more applicable to the school environment and replaces "child" with "student or minor" throughout.

Other changes include:

- Moving to DH(LEGAL) the provision subjecting the superintendent to sanctions for failing to report to SBEC;
- Moving to DH(LEGAL) the provision explaining that a superintendent has immunity for making a report in good faith; and
- Deletion of the provision requiring the superintendent to notify the board and the educator of a report to SBEC, as this provision only applies to resignations and is already included at DFE(LEGAL).



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### DFE (LEGAL) TERMINATION OF EMPLOYMENT RESIGNATION

Amended Administrative Code rules addressing SANCTIONS FOR ABANDONMENT OF CONTRACT have been added at item 2 on page 2. The deadline for the board to submit a written complaint to SBEC is within 30 calendar days after the educator files a written resignation with the district. Previously, the deadline ran from the date the employee separated from employment. Under the amended rules, if the educator does not submit a written resignation, the district determines the effective resignation date, which cannot be later than 14 days after the educator fails to report for duty.

### DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

Several existing provisions that require the superintendent to make a REPORT TO SBEC OF EDUCATOR MISCONDUCT have been moved to this code from DF(LEGAL).

New details on the CONTENTS OF THE REPORT to SBEC have been added from Administrative Code changes, effective October 25, 2009. These changes require the report to describe in detail the factual circumstances prompting the report and include specific information to identify the subject of the report.

We have also moved two other provisions from DF(LEGAL) providing for sanctions against the superintendent for failing to report to SBEC and granting the superintendent IMMUNITY for making a report in good faith.

### DH (EXHIBIT) EMPLOYEE STANDARDS OF CONDUCT

Effective December 26, 2010, SBEC updated the educator's code of ethics to incorporate revisions from its recent rule review. Substantive revisions include:

- Amendment of Standard 1.1, addressing deceptive practices, to include reference to educator preparation programs, TEA, and SBEC;
- Addition of Standard 1.9 to prohibit threats of violence;
- Addition of Standard 1.10 to require good moral character;
- Addition of Standard 1.11 to prohibit misrepresentation of employment history, criminal history, and disciplinary record;
- Addition of Standard 1.12 to prohibit illegal use or distribution of controlled substances or abuse of prescription drugs;
- Addition of Standard 1.13 to prohibit consumption of alcoholic beverages on school property and events when students are present;
- Amendment of Standards 2.5 and 3.4 to prohibit discrimination against colleagues or students based on sexual orientation;
- Amendment of Standard 2.7 to prohibit retaliation against individuals who provide information for a disciplinary investigation;
- Amendment of Standards 3.2 and 3.5 to address endangering students or engaging in neglect or abuse of a student;

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- Amendment of Standard 3.7, prohibiting providing alcohol to students, to create an exception if the educator is that student's parent;
- Addition of Standard 3.8 to require professional relationships and boundaries with students; and
- Addition of Standard 3.9 to address electronic communications with students.

### DMD (LEGAL) PROFESSIONAL DEVELOPMENT PROFESSIONAL MEETINGS AND VISITATIONS

This policy, addressing when an employee's attendance at a meeting of a professional organization is permissible, is being deleted at this update. CE(LEGAL), at AUTHORIZED EXPENDITURES, includes the constitutional standards to determine whether district expenditures, including use of staff time, are permissible.

### E (LEGAL) INSTRUCTION

The E section table of contents has been revised to delete EFE, Copyrighted Material, the content of which was moved to CY, Intellectual Property, and to reflect the new subtitle of EMG, Non-Service Animals.

### EF (LEGAL) INSTRUCTIONAL RESOURCES

This policy has been reworked and provisions have been reordered to clarify that different requirements from the Protection of Pupil Rights Amendment apply, depending on whether a survey or activity is funded by the U.S. Department of Education (DOE) or another source.

Under current law, which has not changed, the district must obtain prior consent from the student or parent for U.S. DOE FUNDED SURVEYS if a survey asks students about the PROTECTED INFORMATION listed in the policy on page 3. For surveys or activities that ask about protected information but that are funded by other sources, the district must notify parents at the beginning of each school year, and offer an opportunity for the parents to opt their child out of participation in a survey or activity.

Additional detail on parental access to surveys was added at POLICIES on pages 1 and 2. No new local policy is required by these changes, as these requirements are addressed in the *TASB Model Student Handbook*.

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

From new Administrative Code rules, effective November 21, 2010, we have added the definitions for OPEN-SOURCE TEXTBOOKS and electronic textbooks.

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EFE (LEGAL) INSTRUCTIONAL RESOURCES  
COPYRIGHTED MATERIAL

Legal provisions on copyrighted material have been moved to CY where other relevant provisions on copyright, trademarks, and intellectual property are now located. See the explanatory note for CY(LEGAL), above.

EFE is no longer an active code.

EFE (LOCAL) INSTRUCTIONAL RESOURCES  
COPYRIGHTED MATERIAL

Provisions on copyrighted material have been moved to CY where other relevant provisions on copyright, trademarks, and intellectual property are now located. See the explanatory note for CY(LOCAL), above.

EFE is no longer an active code.

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

At item 5, Economics, on page 2, we have deleted the paragraph requiring a district to incorporate personal financial literacy in economics courses. The Administrative Code provision on which this text was based was repealed effective August 22, 2011, because this requirement is now included in the TEKS.

EHAD (LEGAL) BASIC INSTRUCTIONAL PROGRAM  
ELECTIVE INSTRUCTION

Based on changes to the Administrative Code, effective December 29, 2010, at DRIVER EDUCATION, we have added a reference to the applicable Administrative Code provision and have updated the text to reflect the revised name of a driver's education program, which was changed from "teenage" driver education program to "minor and adult" driver education program.

EHBAB (LEGAL) SPECIAL EDUCATION  
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION  
PROGRAM

To reflect current language from the Administrative Code, we have revised item 11 on page 2 to refer to career and "technical" education.

We have also added a cross-reference to EHBC at item 8 on page 1.

EHBAD (LEGAL) SPECIAL EDUCATION  
TRANSITION SERVICES

Based on changes to the Administrative Code, effective August 22, 2011, at GRADUATION, we have added a reference to the applicable Administrative Code provision and have updated a citation.

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

In anticipation of STAAR (State of Texas Assessments of Academic Readiness), the new state testing system that will launch in the 2011–12 school year, we have updated a provision on page 4 requiring districts to provide ACCELERATED INSTRUCTION to students who do not perform satisfactorily on an end-of-course examination.

For local policy decisions regarding end-of-course examinations, please see the TASB Policy Service *STAAR Program Starting Points* available on myTASB at [http://www.tasb.org/services/policy/mytasb/starting\\_points/staar/index.aspx](http://www.tasb.org/services/policy/mytasb/starting_points/staar/index.aspx).

We have also reordered the items at DEFINITION OF AT-RISK STUDENT, beginning on page 2, to match the order these items appear in statute.

### EHBE (LEGAL) SPECIAL PROGRAMS BILINGUAL EDUCATION/ESL

Changes at HOME LANGUAGE SURVEY, on page 2, come from existing statutory text and include:

- Clarification that the parent of a prekindergarten student must sign the home language survey;
- Addition of a provision limiting one home language survey per student; and
- Clarification that students with disabilities must be tested in accordance with the two sections of the Administrative Code listed in the policy.

### EI (LEGAL) ACADEMIC ACHIEVEMENT

In accordance with the new STAAR program, districts must include a student's end-of-course assessment results on the student's transcript. See ACADEMIC ACHIEVEMENT RECORD on page 1.

### EI (LOCAL) ACADEMIC ACHIEVEMENT

Changes recommended at CERTIFICATE OF COURSEWORK COMPLETION are editorial in nature.

At PARTIAL CREDIT, we recommend revisions to simplify and clarify the text for when a student earns a passing grade in only one semester of a two-semester course.

In anticipation of policy provisions on end-of-course assessments at EIA, we have added a cross-reference to that policy.

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### EIA (LEGAL) ACADEMIC ACHIEVEMENT GRADING/PROGRESS REPORTS TO PARENTS

In accordance with the new STAAR program, districts must adopt local policy requiring a student's performance on an END-OF-COURSE ASSESSMENT to count for 15 percent of the student's final grade for the course. Districts have discretion whether to count RETAKES of an end-of-course assessment in the final course grade calculation.

For local policy decisions regarding end-of-course examinations, please see the TASB Policy Service *STAAR Program Starting Points* available on myTASB at [http://www.tasb.org/services/policy/mytasb/starting\\_points/staar/index.aspx](http://www.tasb.org/services/policy/mytasb/starting_points/staar/index.aspx).

Repeated from DGBA for easy reference are existing statutory provisions limiting the circumstances in which an examination or course grade issued by a classroom teacher may be changed. See FINALITY OF GRADE.

### EIA (LOCAL) ACADEMIC ACHIEVEMENT GRADING/PROGRESS REPORTS TO PARENTS

For local policy decisions regarding end-of-course examinations and grading, please see the TASB Policy Service *STAAR Program Starting Points* available on myTASB at [http://www.tasb.org/services/policy/mytasb/starting\\_points/staar/index.aspx](http://www.tasb.org/services/policy/mytasb/starting_points/staar/index.aspx).

### EIC (LOCAL) ACADEMIC ACHIEVEMENT CLASS RANKING

For local policy decisions regarding end-of-course examinations and class rank, please see the TASB Policy Service *STAAR Program Starting Points* available on myTASB at [http://www.tasb.org/services/policy/mytasb/starting\\_points/staar/index.aspx](http://www.tasb.org/services/policy/mytasb/starting_points/staar/index.aspx).

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

In addition to articulating district standards for mastery and promotion, most districts' EIE(LOCAL) policies restate the grade advancement testing provisions requiring students in grades 5 and 8 to meet the passing standard on applicable state-mandated assessment instruments to be promoted to the next grade. TEA's House Bill 3 Transition Plan explains that performance standards for grades 3 through 8 will not be established until fall 2012, which is several months after students have taken the first round of assessments in spring 2012. Because of this timeline, the Student Success Initiative (SSI) promotion requirements will not include use of the STAAR results in the 2011–12 school year only.

To suspend the local policy provision requiring students to pass the grade 5 and 8 assessments, Policy Service suggests that the board consider adopting a resolution to this effect for the 2011–12 school year. Otherwise, a district would need to revise board policy twice—once to remove the provision and a second time to add back the requirement before the 2012–13 school year. A sample resolution has been included in the TASB Policy Service *STAAR Program Starting Points* available on myTASB at [http://www.tasb.org/services/policy/mytasb/starting\\_points/staar/index.aspx](http://www.tasb.org/services/policy/mytasb/starting_points/staar/index.aspx).

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### EIF (LEGAL) ACADEMIC ACHIEVEMENT GRADUATION

Changes to the provisions on GRADUATION OF SPECIAL EDUCATION STUDENTS, beginning on page 7, come from Administrative Code rules revised, effective August 22, 2011, to incorporate the new STAAR program.

The rules specify that to receive a high school diploma under the Recommended or Advanced/Distinguished Achievement Programs, a student receiving special education services must achieve satisfactory performance on the required state assessments.

For graduation under the Minimum Program and for students receiving modified instruction, a student receiving special education services must participate in state assessments, but the student's ARD committee determines whether the student must achieve satisfactory performance on the required state assessments for graduation.

New text was added to define employability and self-help skills.

### EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

We have made extensive changes to this legally referenced policy based on implementation of the new STAAR program in the 2011–12 school year, including reordering provisions on the development of criterion-referenced alternative assessment instruments for students receiving SPECIAL EDUCATION services and state testing requirements for MILITARY DEPENDENTS. We have also updated the list of required TESTING IN GRADES 3–8, beginning on page 3.

Beginning on page 4, specific provisions on END-OF-COURSE (EOC) ASSESSMENTS include the following:

- The assessments will be given in 12 courses: Algebra I and II; geometry; biology; chemistry; physics; English I, II, and III; world geography; world history; and U.S. history. Students on the Minimum graduation plan must take an EOC assessment for any class with an EOC assessment in which the student is enrolled.
- To graduate, students must achieve SATISFACTORY PERFORMANCE on the EOC assessments. Satisfactory performance will require a student to achieve a cumulative score for each foundation subject. The cumulative score will be the number of EOC tests per content area times the scale score for satisfactory performance. If a student does not meet the minimum score on an EOC assessment, which is set near but below the passing score, the student must retake the EOC assessment.
- A student's EOC assessment score must count for 15 percent of the student's final grade for the course. See IMPACT ON GRADES.
- TEA may develop EOC assessments in additional subjects.
- EOC assessment RETAKES are required if a student fails to achieve the minimum score on the assessment, which is set near but below the passing standard. Students may retake EOC assessments for any reason at any of the scheduled testing administrations. A student does not have to retake a course to retake the EOC assessment. See the explanatory note for EIA(LEGAL), above, for information about retakes and course grades.
- Districts must provide notice TO PARENTS AND STUDENTS if the student performs well on questions designed to identify students who are likely to succeed in an advanced high school course.

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- Districts must provide ACCELERATED INSTRUCTION to students who do not perform satisfactorily on an EOC examination.
- If the district determines that a student who has completed grade 11 is not likely to achieve the required cumulative score, the student must enroll in a COLLEGE PREPARATORY COURSE if available. The student will be given an EOC assessment for the course, which may be used toward satisfying the cumulative score requirements.

### F (LEGAL) STUDENTS

The F section table of contents has been revised to add a new policy, FBA, on service animals and to reflect the title change of FNCE to Personal Telecommunications/Electronic Devices.

### FB (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

Existing provisions from the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act addressing DISABILITY DISCRIMINATION have been added to this legally referenced policy. Specifically, we have added general statements prohibiting a district from excluding a qualified individual with a disability from participating in or receiving the benefits of the services, programs, or activities of the district or otherwise subjecting the student to discrimination. A definition of "QUALIFIED INDIVIDUAL WITH A DISABILITY" has been provided, on page 3. We have also added provisions stating that a district must make a REASONABLE MODIFICATION when it is necessary to avoid disability discrimination, unless the modification would fundamentally alter the nature of the service, program, or activity.

New ADA regulations, effective March 15, 2011, addressing DIRECT THREAT have been added. A district does not have to allow an individual to participate in or benefit from the district's services, programs, or activities if the individual poses a direct threat to the health or safety of others. A definition of "direct threat" has been provided.

### FBA (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY SERVICE ANIMALS

On September 15, 2010, the Department of Justice amended regulations implementing Titles II and III of the Americans with Disabilities Act (ADA), effective March 15, 2011. A summary of the changes is available at: <http://www.ada.gov/regs2010/ADAREgs2010.htm>. As a result of these regulations, we have included this new code on service animals.

The rules define "SERVICE ANIMAL" as a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability. The work or tasks performed by the animal must be directly related to the person's disability. Other animals, including dogs that are not trained to perform tasks that mitigate the effects of a disability and dogs that are used purely for emotional support, are not service animals. The rule permits the use of trained miniature horses as alternatives to dogs, subject to certain limitations. To allow flexibility in situations where using a horse would not be appropriate, the final rule does not include miniature horses in the definition of "service animal."

As reflected at ACCESS, individuals with a disability must be permitted to have their service dogs in all areas of a district's facilities where members of the public or participants in services, programs, or activities are allowed to go. EXCEPTIONS exist for service animals that are out of control or not housebroken.

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Districts are limited in the INQUIRIES they can make about service animals. When it is not readily apparent, a district may ask if the animal is required because of a disability and what work or tasks the animal has been trained to perform, but may not require other documentation. Nor may a district ask for or require SURCHARGES or apply other requirements not applicable to people without pets.

The new rules require public entities to modify POLICIES, PRACTICES, OR PROCEDURES to permit the use of a service animal by an individual with a disability unless the district can show that the modification would fundamentally alter the nature of the service, program, or activity. See page 1. A district does not have to allow an individual to participate in or benefit from the district's services, programs, or activities if the individual poses a direct threat to the health or safety of others. See EXCEPTIONS.

Districts are also required to make reasonable modifications to policies, practices and procedures to permit the use of MINIATURE HORSES for individuals with disabilities, but can consider factors such as the size of the horse and whether the facility can accommodate the horse, whether the handler has sufficient control, whether the horse is housebroken, and whether the horse's presence compromises safety requirements.

In addition to these provisions from federal regulations, we have also added existing state law provisions addressing ASSISTANCE ANIMALS, on page 3. The rules applying to assistance animals differ slightly from those that apply to service animals and miniature horses. For example, in regard to assistance animals, the district is permitted to require a parent to supply documentation that the student has completed a training course and that the animal has been trained by a recognized organization. For more information on assistance animals, see [http://governor.state.tx.us/disabilities/resources/assistance\\_animals](http://governor.state.tx.us/disabilities/resources/assistance_animals).

To assist districts in complying with the new rules on service animals, TASB Policy Service has created a sample administrative regulation on student use of service and assistance animals, available on myTASB at [http://www.tasb.org/services/policy/mytasb/alerts/service\\_animals.aspx](http://www.tasb.org/services/policy/mytasb/alerts/service_animals.aspx).

#### FFAA (LEGAL) WELLNESS AND HEALTH SERVICES PHYSICAL EXAMINATIONS

For ease of reference, we have repeated from EF(LEGAL) existing provisions from the Protection of Pupil Rights Amendment regarding policies and parental notification and opt-out for physical examinations or screenings. See page 5. Please note, new local policy is not required in response to these pre-existing provisions.

#### FL (LEGAL) STUDENT RECORDS

Several existing statutory provisions have been added to this legally referenced policy, including:

- Provisions requiring a district to furnish records to a new school district within ten working days after the date the district receives a request and requiring the district to notify a parent or other person with legal control of the student who makes a request for records that the person can pick up an unofficial copy of the records to deliver to the new school. See ENROLLMENT RECORDS on page 4.
- An explanation of "biometric record" at PERSONALLY IDENTIFIABLE INFORMATION and definitions of "RECORD" and "SIGNED AND DATED WRITTEN CONSENT," on page 5.
- For ease of reference, we have repeated from EF(LEGAL) existing provisions from the Protection of Pupil Rights Amendment regarding parental notification and opt-out for surveys that collect the listed student information. See page 10. Please note, new local policy is not required in response to these pre-existing provisions.



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FMH (LOCAL) STUDENT ACTIVITIES  
COMMENCEMENT

In accordance with the new STAAR program, students entering grade 9 in the 2011–12 school year must achieve certain scores on the end-of-course assessments in order to graduate. Students in grades 10 and above during the 2011–12 school year must still pass exit-level TAKS tests to graduate. To accommodate both graduation requirements, we recommend replacing the reference to “exit-level” testing with “state” testing. Other changes are editorial in nature.

We have retained with minor editing the district's conditions for participation in commencement activities.

FNC (LOCAL) STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT CONDUCT

At BEHAVIORAL STANDARDS, recommended changes reflect corresponding terminology changes made at the policies listed.

Editorial changes have been made throughout the policy.

FNCE (LEGAL) STUDENT CONDUCT  
PERSONAL TELECOMMUNICATIONS/ELECTRONIC DEVICES

As mentioned above, we have changed the subtitle of this policy code to clarify that it applies to *personal* telecommunications and electronic devices, not district-owned or -issued devices.

FNCE (LOCAL) STUDENT CONDUCT  
PERSONAL TELECOMMUNICATIONS/ELECTRONIC DEVICES

Recommended changes to this local policy stem from our review of the technology policies at Update 90.

Throughout, we have clarified that this policy refers to “personal” telecommunications devices to differentiate between those devices and district-owned devices, which are addressed at CQ. The subtitle of this policy has been changed accordingly.

We have added a **Note** at the beginning of the policy to refer to policy FNF for searches of student-owned telecommunications and other electronic devices.

New margin notes distinguish existing provisions addressing PERSONAL USE from the new provisions on INSTRUCTIONAL USE. Also at PERSONAL USE, we have clarified that only “authorized” employees may confiscate telecommunications devices.

In response to the growing district practice of permitting students to use their own electronic devices for INSTRUCTIONAL USE, we recommend new provisions requiring students to obtain prior approval before doing so, to comply with relevant administrative regulations, and to sign a user agreement.

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FNF (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES  
INTERROGATIONS AND SEARCHES

To assist districts in understanding the rules applicable to SEARCHES OF TELECOMMUNICATIONS/ELECTRONIC DEVICES that are owned by students, we have added provisions from the Stored Wire and Electronic Communications and Transactional Records Access Act. This Act limits access to electronic communications while they are in electronic storage, as defined in the policy, which could include communications stored on a student-owned electronic device. An EXCEPTION exists if the student gives permission for the district to view the electronic communications.

GBAA (LEGAL) INFORMATION ACCESS  
REQUESTS FOR INFORMATION

We have moved from BBD(LEGAL) the provision requiring the PUBLIC INFORMATION COORDINATOR to obtain training on the Public Information Act. The district must make available documentation about the coordinator's completion of the training. See page 2.

GKB (LEGAL) COMMUNITY RELATIONS  
ADVERTISING AND FUND RAISING IN THE SCHOOLS

This legally referenced policy on advertising has been reworked to incorporate changes from Department of Transportation rules, effective July 1, 2011, and to provide more comprehensive material on signs.

We have added a GENERAL DEFINITIONS section and references to the relevant Transportation Code chapters for district signs visible from interstates, state highways, public roads, rural roads, and toll roads. In addition, references to the relevant Administrative Code provisions for electronic and directional signs have been added. Further information may be found on the Texas Department of Transportation's Web site at: [http://www.txdot.gov/business/doing\\_business/outdoor\\_signs.htm](http://www.txdot.gov/business/doing_business/outdoor_signs.htm).

GRA (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES  
LOCAL GOVERNMENTAL AUTHORITIES

To better match statutory language regarding when law enforcement will provide notice to the superintendent about a registered SEX OFFENDER, we have added text to the notification provision. We also deleted the corresponding margin note for clarity.