

**AGENDA ITEM  
BOARD OF TRUSTEES  
AGENDA**

<input type="checkbox"/> <b>Workshop</b>	<input checked="" type="checkbox"/> <b>Regular</b>	<input type="checkbox"/> <b>Special</b>
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- (A)  **Report Only**  **Recognition**

**Presenter(s):**

**Briefly describe the subject of the report or recognition presentation.**

- (B)  **Action Item**

**SAMUEL MIJARES, SUPERINTENDENT**

**Presenter(s): JESUS ARTURO COSTILLA, EXECUTIVE DIRECTOR FOR HUMAN RESOURCES**

**Briefly describe the action required.**

CONSIDER AND TAKE APPROPRIATE ACTION ON THE REQUEST TO APPROVE POLICY UPDATE 118 AS RECEIVED FROM THE TEXAS ASSOCIATION OF SCHOOL BOARDS (TASB).

- (C) **Funding source: Identify the source of funds if any are required.**

- (D) **Clarification: Explain any questions or issues that might be raised regarding this item.**

# Legal Issues in Update 118

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# Legal Issues in Update 118

To the District's Policy Contact:

Each time TASB Policy Service updates the model policies, your district has a new opportunity to review TASB's recommendations and consider, or revisit, your local policy choices. The purpose of this memorandum is to identify to the board potential legal problems and best practices that may arise as a result of the district's unique local choices in the policy codes affected by Update 118.

**Please note that your district may not have locally developed provisions in a policy code affected by Update 118 as addressed by this memo. For each policy code in which your district does have locally developed provisions or is considering adopting local changes to the TASB model policy, we suggest you review the recommendations below. You can identify a policy with locally developed provisions by looking at the bottom of the policy. A policy that is unique to the district will be indicated with an "X" by the policy code in the footer ("\_\_(LOCAL)-X," for example). A TASB-recommended policy will be indicated by any letter other than an "X" ("\_\_(LOCAL)-A," for example).**

In addition, the last paragraphs of this memorandum address general policy writing tips to keep in mind when making any policy revisions.

If you have any questions or concerns about the guidance in this memo, please contact TASB Legal Services at [legal@tasb.org](mailto:legal@tasb.org) or 800.580.5345.

## I. Common Legal Issues in Revising Update 118 Local Policies

### EHBC(LOCAL)—Special Programs: Compensatory/Accelerated Services

#### Local Criteria for At-Risk Students

- **COMMON ISSUE:** Local policy includes district-developed criteria for at-risk students.

If a district adds a locally developed definition of "at-risk student" into local policy, the district may risk exceeding the number of students set by law. Although the board can adopt local eligibility criteria so that a student who satisfies the local eligibility criteria may receive instructional services as a student at risk of dropping out of school, the number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students identified under the statutory list who received services from the district during the preceding school year. Tex. Educ. Code § 29.081(d), (g).

If a district defines "at-risk student" broadly, the district will need to ensure that the number of students receiving services under the district's local eligibility criteria do not exceed this statutory limit.

- **LEGAL TIP:** The district must ensure that the number of students receiving services under the district's definition of at-risk student does not exceed the legal limit.

## Legal Issues in Update 118

### EIE(LOCAL)—Academic Achievement: Retention and Promotion

#### Standards for Mastery Unclear

- **COMMON ISSUE:** Requirements for promotion for students are not clear.

If a local policy is unclear in stating promotion requirements for certain students, it may not comply with state law. Note that Texas Education Code section 28.021(d) indicates that, by the start of the school year, a district must make public the requirements for student advancement. Tex. Educ. Code § 28.021(d). A local policy should provide sufficient notice to parents and students of the standards for mastery. Therefore, if the district would like to maintain the option to retain students, the policy must either specify or incorporate by reference specific standards for mastery, including all the potential alternate assessment methods.

- **LEGAL TIP:** Local policy should include specific standards for mastery for relevant grade levels.

### FEA(LOCAL)—Attendance: Compulsory Attendance

#### Withdrawal after Five Days

- **COMMON ISSUE:** Local policy allows for withdrawal of a student after five consecutive days of nonattendance.

Local policy should not provide that a district may initiate withdrawal of a student under a certain age for nonattendance if the student has been absent for five consecutive days, even if attempts to locate the student have been unsuccessful. Although the withdrawal date for a student who has not initiated the withdrawal is a local decision, the district may find that a longer timeline is more effective. The TASB model policy language for FEA(LOCAL) uses a ten-day timeline. In light of the district's obligation to adopt and apply truancy prevention measures, we do not recommend unilaterally withdrawing a student for unexcused absences unless the absences are consecutive, for a significant number of days, and the district's documented attempts to contact the student and parent were unsuccessful.

- **LEGAL TIP:** Local policy should not authorize withdrawal for fewer than ten consecutive absences.

### FEC(LOCAL)—Attendance: Attendance for Credit

#### Required Attendance Higher Than 90 Percent

- **COMMON ISSUE:** Local policy sets required attendance for class credit.

If a district has set a minimum attendance for credit in local policy, it may conflict with state law on attendance for credit. Texas Education Code section 25.092 states that a student may not receive credit for a class unless the student is in attendance at least 90 percent of the days the class is offered, subject to exceptions in law. State law also requires that promotion must be

## Legal Issues in Update 118

based on content mastery. Tex. Educ. Code § 28.021. Consequently, class credit should not be denied to a student who has demonstrated academic proficiency, except for the 90-percent rule in state law.

- **LEGAL TIP:** Local policy should not create an attendance requirement stricter than state law.

### FL(LOCAL)—Student Records

#### District Does Not Designate Categories of Directory Information

- **COMMON ISSUE:** Local policy designates no or almost no directory information.

A local policy may lawfully designate no or almost no directory information. However, strictly limiting directory information may have unintended consequences. Under the Family Educational Rights and Policy Act (FERPA), parents are entitled to notice of the categories of directory information in the district's annual FERPA notice. As a result, districts may not add categories of directory information midyear. Instead, the district must obtain specific parental permission before releasing any identifiable information. For example, the district won't be able to share the names of student athletes or honor graduates with the local newspaper. Most districts would find this overly restrictive.

- **LEGAL TIP:** If local policy limits directory information, understand the implications of this local decision.

#### Policy Disallows Release of Directory Information to Certain Requestors

- **COMMON ISSUE:** Local policy lists requestors not authorized to receive directory information.

Under Texas Education Code section 26.013, school districts may designate directory information for use only for limited school-sponsored purposes, such as student directories, yearbooks, or school district publications. If any such purpose has been designated by a district, the directory information remains otherwise confidential and may not be released under the Texas Public Information Act (PIA). Districts may also designate directory information for all other purposes. Based on this law, school districts have the opportunity in local policy to designate directory information by *purpose*.

On the other hand, TASB Legal Services advises that local policy should not limit the release of directory information based on the *identity* of the requestor. Student records that are not directory information or are designated as directory information only for school-sponsored purposes are not subject to the PIA. Nevertheless, we consider it noteworthy that under the PIA, districts are prohibited from inquiring into reasons for requested information or treating requestors differently. Tex. Gov't Code §§ 552.222–.223.

- **LEGAL TIP:** Local policy should not include provisions conditioning release on the identity of the requestor.

# Legal Issues in Update 118

## II. General Policy Development Tips

Creating local policies for school district operations is one of the board's most important roles. Through developing strong board policies, a district can communicate a coherent educational mission and provide clear guidance to help employees implement their duties lawfully and consistently. Good local policies can also reduce the risk of legal challenges. In order to be effective, a board policy must be written as clearly as possible. TASB Legal Services offers the following suggestions as general guidance when a board is considering local policy language.

### Locally Defined Terms

As a general matter, school boards should avoid creating local definitions of terms that are defined differently in statute or through case law. For example, policies sometimes attempt to define the circumstances that can lead to a contract employee's termination for good cause. When a contract employee requests a hearing under Chapter 21, however, "good cause" is determined first by an independent hearing examiner based on previous termination cases and legal precedent. Other terms like "fraud" are defined in the Texas Penal Code. In the context of student and employee searches, the term "reasonable suspicion" means something very different from "probable cause." Creating local definitions that conflict even slightly with legally defined terms can inject confusion into local decision-making.

### Mixing the (LEGAL) with the (LOCAL)

The district's policy manual contains both "legal" and "local" policies. Legal policies are restatements of the current law as it relates to Texas school districts generally. Occasionally, a district chooses to incorporate language from a legal policy into its local policy. Unique local policy provisions may not be automatically updated when the law changes. Absent diligent administrative review by the district, any change in state or federal law could cause the district's local policy to be out of date and conflict with governing law. TASB Legal Services recommends that school districts avoid reciting or summarizing legal policy language in local policy. It is vital that boards not adopt legal policies. Legal policies contain citations to the statutes, rules, and case law governing a particular topic. They are compiled by TASB Legal Services and Policy Service to provide the legal framework for key areas of district operations. Legal policies reflect current law and are updated by TASB as the laws change. Legal and local policies function differently, and it is imperative that only local policies should be acted upon when a board updates policy.

### Want More?

You can find TASB Legal Services' [Policy Development Tips](#) for other parts of your district's policy manual in the TASB Policy Service Resource Library. Policy Development Tips are a work in progress, and new topics will be added over time.



## (LOCAL) Policy Comparison Packet

This packet is generated by an automated process that compares the updated policy to the district's current policy as found in TASB records.

In this packet, you will find:

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

Annotations are shown as follows.

- *Deletions* are shown in a red strike-through font: ~~deleted text~~.
- *Additions* are shown in a blue, bold font: **new text**.
- Blocks of text that have been *moved* without alteration are shown in green, with double underline and double strike-through formatting to distinguish the text's destination from its origin: ~~moved text~~ becomes ~~moved text~~.
- *Revision bars* appear in the right margin, as above.

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

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

<b>Contact:</b>	<b>School Districts and Education Service Centers</b>	<b>Community Colleges</b>
	<a href="mailto:policy.service@tasb.org">policy.service@tasb.org</a>	<a href="mailto:colleges@tasb.org">colleges@tasb.org</a>
	800.580.7529 512.467.0222	800.580.1488 512.467.3689

ACCOUNTING  
ACTIVITY FUNDS MANAGEMENT

CFD  
(LOCAL)

**Fiduciary  
Responsibility**

The Superintendent, principal, and sponsor, as applicable, shall be responsible for the proper administration of District and campus activity funds and student activity funds in accordance with state law and local policy, District-approved accounting practices and procedures, and the Texas Education Agency (TEA) *Financial Accountability System Resource Guide*.

**Student Activity  
Funds**

The Superintendent ~~or designee~~ shall ensure that student activity accounts are maintained to manage all class funds, ~~organization funds,~~ and any other funds raised and collected by student clubs or organizations ~~from students~~ for a school-related purpose. The principal or designee shall issue receipts for all funds prior to their deposit into the appropriate District account at the District depository.

Student activity funds shall be included in the annual audit of the District's fiscal accounts. [See CFC]

**Use and  
Expenditure**

Funds collected by student groups shall be used only for purposes authorized by the student club or organization. ~~or upon approval of the sponsor.~~ The principal and sponsor ~~or designee~~ shall manage and approve all disbursements. All funds raised by student organizations must be expended for the benefit of the students.

**District and Campus  
Activity Funds**

The Superintendent shall ensure District accounting practices and procedures ~~addresses~~ ~~establish regulations governing~~ the expenditure of District and campus activity funds generated from vending machines, rentals, gate receipts, concessions, and other local sources of revenue over which the District has direct control. Funds generated from such sources shall be expended for the benefit of the District or its students and shall be related to the District's educational purpose.

**Approval**

Approval from the immediate supervisor or designee shall be obtained prior to a disbursement being made to any employee, including the principal.

**Carryover Funds**

All funds shall be left in the appropriate account and each sponsoring group shall retain the carryover funds for the next fiscal year. If a club ~~or an~~ organization ceases to function or exist, the unexpended funds ~~of the organization~~ shall be credited to the appropriate administrative activity account.



**Plan** The District shall develop a cybersecurity plan to secure the District's cyberinfrastructure against a cyberattack or any other cybersecurity incidents, determine cybersecurity risk, and implement appropriate mitigation planning.

**Coordinator** The Superintendent shall designate a cybersecurity coordinator. The cybersecurity coordinator shall serve as the liaison between the District and the Texas Education Agency (TEA) in cybersecurity matters and as required by law report to TEA breaches of system security.

**Training** The Board delegates to the Superintendent the authority to:

1. Determine the cybersecurity training program to be used in the District; ~~annually completed by each employee and Board member; and~~
2. Verify and report compliance with staff training requirements in accordance with guidance from the Department of Information Resources; and
- 2.3. Remove access to the District's computer systems and databases for noncompliance with training requirements as appropriate.

The District shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

**Security Breach Notifications** Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law. The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Email, if the District has email addresses for the affected persons.
3. Conspicuous posting on the District's websites.
4. Publication through broadcast media.

The District ~~District's cybersecurity coordinator~~ shall disclose a breach involving sensitive, protected, or confidential student information as required by ~~TEA and parents in accordance with law.~~

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LOCAL)

**General  
Requirements**

All resignations shall be submitted in writing to the Superintendent or other person designated by Board action in accordance with this policy ~~designee~~. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

**At-Will Employees**

The Superintendent or ~~designee~~ shall be authorized to accept the resignation of an at-will employee at any time. The Superintendent may delegate to other administrators the authority to accept a resignation of an at-will employee.

**Contract Employees**

The Superintendent or other person designated by Board action ~~designee~~ shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action. The resignation requires no further action by the District and is accepted upon receipt by the Superintendent or other person designated by Board action.

The Superintendent or other person designated by Board action shall be authorized to accept a contract employee's resignation submitted or effective at any other time. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action. The Superintendent or other person designated by Board action ~~The Superintendent or other Board designee~~ shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

**Withdrawal of  
Resignation**

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

PERSONNEL POSITIONS

DP  
(LOCAL)

**Principal  
Qualifications**

In addition to the minimal certification requirement, the principal shall have at least:

1. Working knowledge of curriculum and instruction;
2. The ability to evaluate instructional program and teaching effectiveness;
3. The ability to manage budgets and personnel and to coordinate campus functions;
4. The ability to explain policy, procedures, and data;
5. Strong communications, public relations, and interpersonal skills;
- ~~6. Three years' experience as a classroom teacher;~~
- ~~7.6. Prior experience in instructional leadership roles; and~~
1. Other qualifications deemed necessary by the Board and included in the job description.

**School Counselors**

In accordance with law, a school counselor shall spend 80 percent of the counselor's work time on duties that are components of a comprehensive school counseling program (CSCP). [See FFEA]

- ~~8.7.~~ If the Board approves a determination by the administration that due to District or campus staffing needs or other reasons a school counselor is prevented from spending 80 percent of the counselor's work time on duties that are components of a CSCP, the Board shall direct the Superintendent to develop a revised job description for the school counselor that addresses the percentage of the school counselor's time that shall be spent on duties related to the components of a CSCP and the duties the school counselor is expected to perform in the remaining work time. The Superintendent shall report to the Board regarding adjustments to a school counselor's duties under this provision. -

**BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)**

**EHAA  
(LOCAL)**

**Human Sexuality  
Instruction**

The following process shall apply regarding the adoption of curriculum materials for the district's human sexuality instruction:

1. The Board shall adopt a resolution convening the District's school health advisory council (SHAC) to recommend curriculum materials for the instruction.
2. The SHAC shall hold at least two public meetings on the curriculum materials before adopting recommendations to present to the Board.
3. The SHAC recommendations must comply with the instructional content requirements in law; be suitable for the subject and grade level for which the materials are intended, and be reviewed by academic experts in the subject and grade level for which the materials are intended.
4. The SHAC shall present its recommendations to the Board at a public meeting.
5. After the Board ensures the recommendations from the SHAC meet the standards in law, the Board shall take action on the recommendations by a record vote at a public meeting.

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LOCAL)

~~Each student~~ ~~Students at all grade levels~~ who have been identified as being at risk of dropping out of school, who are not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment, shall be provided accelerated and/or compensatory educational services.

**Accelerated  
Instruction**

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily based on a state-mandated needs assessment. ~~The principal shall ensure that each identified student is receiving services.~~

**Accelerated  
Learning Committee**

When a student fails to perform satisfactorily on a math or reading state-mandated assessment in grades 3, 5, or 8, an accelerated learning committee shall develop a written educational plan in accordance with law. If a parent requests that the student be assigned to a particular teacher the following school year, the request shall be addressed in accordance with the District's administrative procedures.

A parent complaint about the content or implementation of the educational plan shall be filed in accordance with FNG. ~~The services provided each student shall be consistent with the goals and strategies established in the District and campus improvement plans and shall be reviewed for effectiveness at the close of each grading period. Parents shall be encouraged to participate in the planning of educational services for their child and shall be kept informed regarding the child's progress toward educational goals.~~

~~Parents of students who are not successful in meeting requirements for promotion shall be informed of any available options, such as an extended year program or summer school.~~

{See EIE}

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LOCAL)

**Curriculum Mastery**

Promotion and course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory, intensive, and/or accelerated services. [See EHBC]- The District shall comply with applicable state and federal requirements when determining methods for students with disabilities [see FB] or students who are English language learners [see EHBE and EKBA] to demonstrate mastery of the curriculum.

**Students Receiving  
Special Education  
Services**

Any modified promotion standards for a student receiving special education services shall be determined by the student's admission, review, and dismissal (ARD) committee and documented in the student's individualized education program (IEP). [See EHBA series and EKB]

**Standards for  
Mastery**

In addition to the factors in law that must be considered for promotion, mastery shall be determined as follows:

1. Course assignments and unit evaluation shall be used to determine student grades in a subject. An average of 70 or higher shall be considered a passing grade.
2. Mastery of the skills necessary for success at the next level shall be validated by assessments that may either be incorporated into unit or final exams or may be administered separately. Mastery of at least 70 percent of the objectives shall be required.

**Kindergarten and  
Grade 1**

The kindergarten–grade 1 programs shall be considered a developmental continuum of curriculum and student learning.

In kindergarten, promotion to the next grade level shall be based on demonstrated proficiency at or above established grade-level standards in reading and mathematics.

In grade 1, promotion to the next grade level shall be based on demonstrated proficiency at or above established grade-level standards in reading and mathematics and a grade average of 70 or above in reading and mathematics.

**Grades 2–6**

In grades 2–6, promotion to the next grade level shall be based on an overall average of 70 on a scale of 100 based on course-level, grade-level standards (essential knowledge and skills) for all subject areas ~~reading, language arts, mathematics, science, and social studies~~, and a grade of 70 or above in reading, language arts, and mathematics.

**Grades 7–8**

In grades 7–8, promotion to the next grade level shall be based on an overall average of 70 on a scale of 100 based on course-level,

	<p>grade-level standards (essential knowledge and skills) for all subject areas and a grade of 70 or above in language arts and mathematics and either science or social studies.</p>
<p>Grades 9–12</p>	<p>Grade-level advancement for students in grades 9–12 shall be earned by course credits. [See EI]</p>
<p><b>Accelerated Instruction</b></p>	<p><del>If a student fails to demonstrate proficiency on a state-mandated assessment, the student shall be provided accelerated instruction in accordance with state law. Additionally, students in grades 5 and 8 shall be subject to all provisions of GRADE ADVANCEMENT TESTING, below.</del></p>
<p><b>Grade Advancement Testing</b></p>	<p><del>Except when a student will be assessed in reading or mathematics above his or her enrolled grade level, students in grades 5 and 8 must meet the passing standard on the applicable state-mandated assessments in reading and mathematics to be promoted to the next grade level, in addition to the District's local standards for mastery and promotion.</del></p>
<p>Definition of 'Parent'</p>	<p><del>For purposes of this policy and decisions related to grade advancement requirements, a student's "parent" shall be defined to include either of the student's parents or guardians; a person designated by the parent, by means of a power of attorney or an authorization agreement as provided in Chapter 34 of the Family Code, to have responsibility for the student in all school-related matters [see FD]; a surrogate parent acting on behalf of a student with a disability; a person designated by the parent or guardian to serve on the grade placement committee (GPC) for all purposes; or in the event that a parent, guardian, or designee cannot be located, a person designated by the Superintendent or designee to act on behalf of the student. [See EIE(LEGAL)]</del></p>
<p>Alternate Assessment Instrument</p>	<p><del>The Superintendent or designee shall select from the state-approved list, if available, for each applicable subject an alternate assessment instrument that may be used for the third testing opportunity. Each student's GPC shall decide whether he or she shall be given the statewide assessment instrument or the applicable alternate instrument for the third testing opportunity. The committee's decision shall be based on a review of the student's performance in the previous testing opportunities, local assessments, and any other circumstances it deems appropriate.</del></p>
<p>Standards for Promotion Upon Appeal</p>	<p><del>If a parent initiates an appeal of his or her child's retention following the student's failure to demonstrate proficiency after the third testing opportunity, the GPC shall review all facts and circumstances in accordance with law.</del></p> <p>The student shall not be promoted unless:</p>

- ~~1. All members of the GPC agree that the student is likely to perform on grade level if given additional accelerated instruction during the following school year in accordance with the educational plan developed by the GPC; and~~
- ~~2. The student has completed required accelerated instruction in the subject area for which the student failed to demonstrate proficiency.~~

~~Whether the GPC decides to promote or to retain a student in this manner, the committee shall determine an accelerated instruction plan for the student for the following school year, providing for interim reports to the student's parent and opportunities for the parent to consult with the teacher or principal as needed. The principal or designee shall monitor the student's progress during the following school year to ensure that he or she is progressing in accordance with the plan.~~

**Transfer Students**

~~When a student transfers into the District having failed to demonstrate proficiency on applicable assessment instruments after two testing opportunities, a GPC shall convene for that student. The GPC shall review any available records of decisions regarding testing and accelerated instruction from the previous district and determine an accelerated instruction plan for the student.~~

~~If a parent initiates an appeal for promotion when a student transfers into the District having failed to demonstrate proficiency after three testing opportunities, the GPC shall review any available records of decisions regarding testing, accelerated instruction, retention, or promotion from the previous district and issue a decision in accordance with the District's standards for promotion.~~

**Assignment of Retained Students**

~~In the event a student is not promoted to the next grade level, the District shall nevertheless assign the student to an age-appropriate campus, unless:~~

- ~~1. The student's parent requests that the student be assigned to the same or a similar campus setting; or~~
- ~~2. The student's GPC determines that it would be in the student's best interest to be assigned to the same or a similar campus setting. Criteria to be considered for this decision may include:
  - ~~a. Recommendations from the student's teachers.~~
  - ~~b. Observed social and emotional development of the student.~~~~



ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LOCAL)

**Reducing Student  
Retention**

~~The District shall establish procedures designed to reduce retaining students at a grade level, with the ultimate goal being elimination of the practice of retaining students. [See EHBC]~~

**Safe Schools Data**

The Superintendent shall ensure that the District complies with Texas Education Agency (TEA) guidelines for the collection and maintenance of data regarding:

1. Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD]; and
2. Any student who becomes a victim of one of the following violent criminal offenses, as defined by the Penal Code, while on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property:
  - a. Attempted murder;
  - b. Indecency with a child;
  - c. Aggravated kidnapping;
  - d. Aggravated assault on someone other than a District employee or volunteer;
  - e. Sexual assault or aggravated sexual assault against someone other than a District employee or volunteer;
  - f. Aggravated robbery; or
  - g. Continuous sexual abuse of a young child or disabled individual children.

**School Safety Transfers**

The parent of a student who becomes a victim of a violent criminal offense as described in the state guidance for unsafe school choice options or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

**From a Persistently Dangerous School**

The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent an application for transfer. The Superintendent shall complete the transfer prior to the beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

ADMISSIONS  
SCHOOL SAFETY TRANSFERS

FDE  
(LOCAL)

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

**For a Victim of a  
Violent Criminal  
Offense**

Within 14 calendar days after a violent criminal offense described above occurs in or on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent an application for transfer. The Superintendent shall approve or disapprove the request within 14 calendar days of its submission.

Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.

For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.

**Additional Transfer  
Options**

In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus.

[For other transfer provisions, see also FDA and FDB.]

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LOCAL)

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

**Excused Absences**

In addition to excused absences required by law, the District shall excuse absences for the following purposes. A student shall be required to submit verification of these absences in accordance with administrative regulations.

Higher Education  
Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education. ~~A student shall be required to submit verification of such visits in accordance with administrative regulations.~~

Armed Services  
Enlistment

The District shall excuse a student 17 years of age or older for up to four days during his or her enrollment in high school for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard. ~~A student shall be required to submit verification of such activities in accordance with administrative regulations.~~

Early Voting or  
Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk. ~~A student shall be required to submit verification of service in accordance with administrative regulations.~~

Learner or Driver's  
License

The District shall excuse a student 15 years of age or older for one day during his or her enrollment in high school for each of the following:

- Visiting a driver's license office to obtain a learner license; or
- Visiting a driver's license office to obtain a driver's license.

[For extracurricular activity absences, see FM.]

**Withdrawal for  
Nonattendance**

The District may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

[For District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

**Students Attending  
Homeschools**

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LOCAL)

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing  
Compulsory  
Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

ATTENDANCE  
ATTENDANCE FOR CREDIT

FEC  
(LOCAL)

This policy shall apply to a student who has not been in attendance for 90 percent of the days the class is offered.

**Consideration of All Absences Considered**

Except as otherwise provided by law, all absences incurred while enrolled in the District ~~All absences~~ shall be considered in determining whether a student has attended the required percentage of days under this policy.

**Attendance Committees**

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

~~The Superintendent or designee~~ shall make the specific appointments in accordance with legal requirements.

**Parental Notice of Of Excessive Absences**

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

**Methods for Regaining Credit or Awarding a Final Grade**

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

Petitions for credit or a final grade may be filed at any time the student receives notice but, in any event, no later than 30 days after the last day of classes.

The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit or a final grade. The attendance committee may also, whether a petition is filed or not, review the records of all students whose attendance drops below 90 percent of the days the class is offered.

~~A student~~ ~~Students who have~~ lost credit or ~~have~~ not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

**Personal Illness**

~~The~~ When a student's absence for personal illness exceeds four consecutive days, the principal or attendance committee may require verification that the student present a statement from a physician or health-care provider in accordance with administrative regulations ~~clinic verifying the illness or condition that caused the student's extended absence from school as a condition of classifying an~~ the absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding ~~If a student's~~ student has established a questionable pattern of absences and how, the student can be awarded credit ~~principal~~ or a final grade, the attendance committee shall attempt to ensure ~~may require~~ that its decision is in the best interest of the student. The Superintendent shall develop administrative regulations to document the attendance committee's decision ~~present a physician's or clinic's statement of illness after a single day's absence as a condition of classifying the absence as one for which there are extenuating circumstances.~~

**Guidelines on Extenuating Circumstances**

The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject. ~~adhere to the following guidelines to determine attendance for award of credit or a final grade:~~

~~When~~ Days of Attendance

1. If makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences ~~as that are allowed under compulsory attendance requirements shall be considered~~ days of attendance for award of credit or a final grade. [See FEA (LEGAL) at EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS]

Transfers / Migrant Students

2. A transfer or migrant student incurs absences only after his or her enrollment in the District.

Documentation

3. The attendance committee shall consider the acceptability and authenticity of documented reasons for the student's absences.

Consideration of Control

4. The committee shall consider whether the reasons for the absences were for reasons out of the student's or parent's or student's control and.

Student's Academic Record

5.2. The committee shall consider whether documentation for or not the absence is acceptable ~~student has completed assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.~~

ATTENDANCE  
ATTENDANCE FOR CREDIT

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(LOCAL)

~~Information from  
Student or Parent~~

6.3. The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

~~Best Interest  
Standard~~

~~In reaching consensus regarding a student's absences, the committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent or designee shall develop administrative regulations addressing the committee's documentation of the decision.~~

**Imposing Conditions  
for Awarding Credit  
or a Final Grade**

The attendance committee shall consider the student's unique circumstances and, if necessary, shall ~~may impose any of the following conditions for awarding students with excessive absences to regain credit or be awarded a final grade that permit the student to meet the instructional requirements of the class rather than assigning a student to attend a specified program for an amount of time equivalent to the student's absences.~~ Conditions may include:

1. Maintaining attendance standards for the rest of the semester.

1. Completing additional assignments, as specified by the committee or teacher.

~~2.1. Attending individual and/or group counseling sessions as assigned.~~

3.2. Attending tutorial sessions as scheduled, which may include Saturday classes or before- and after-school programs.

2. Completing other instructional programs, as specified by the committee.

~~4. Maintaining the attendance standards for the rest of the semester.~~

5.3. Taking an examination to earn credit. [See EHDB]

4. Attending individual and/or group counseling sessions as assigned.

~~6. Attending a flexible school day program.~~

~~7. Attending summer school.~~

In all cases, the student must ~~also~~ earn a passing grade in order to receive credit.

**Appeal Process**

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).



STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
(LOCAL)

**Program to Address  
Child Sexual Abuse,  
Trafficking, and  
Maltreatment**

The District's program to address child sexual abuse, trafficking, and other maltreatment of children, as included in the District improvement plan and the student handbook, shall include:

1. Methods for increasing staff, student, and parent awareness regarding these issues, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Age-appropriate, research-based antivictimization programs for students;
3. Actions that a child who is a victim should take to obtain assistance and intervention; and
4. Available counseling options for affected students.

Training

The District shall provide training to employees as required by law and District policy.— Training shall address techniques to prevent and recognize sexual abuse, trafficking, and all other maltreatment of children, including children with significant cognitive disabilities. [See DMA]

[See BBD for Board member training requirements and BJCB for Superintendent continuing education requirements.]

**Reporting Child  
Abuse and Neglect**

Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a legal responsibility, under state law, to immediately report the suspected abuse or neglect to an appropriate authority.

As defined in state law, child abuse and neglect include both sex and labor trafficking of a child.

The following individuals have an additional legal obligation to submit a written or oral report within 48 hours of learning of the facts giving rise to the suspicion of abuse or neglect:

1. Any District employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect.
2. A professional who has reasonable cause to believe that a child has been or may be abused or neglected or may have been a victim of indecency with a child. A professional is anyone licensed or certified by the state who has direct contact with children in the normal course of duties for which the individual is licensed or certified.

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
(LOCAL)

A person is required to make a report if the person has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]

**Restrictions on Reporting**

In accordance with law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

**Making a Report**

Reports may be made to any of the following:

1. A state or local law enforcement agency;
2. The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (DFPS) at (800) 252-5400 or the [Texas Abuse Hotline Website](#)<sup>1</sup>;
3. A local CPS office; or
4. If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility. As defined by law, a person responsible for the care, custody, or welfare of a child includes school personnel and volunteers and day-care workers.  
[See FFG(LEGAL)]

An individual does not fulfill his or her responsibilities under the law by only reporting suspicion of abuse or neglect to a campus princi-

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

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pal, school counselor, or another District staff member. Furthermore, the District is prohibited from requiring an employee to first report his or her suspicion to a District or campus administrator.

**Confidentiality**

In accordance with state law, the identity of a person making a report of suspected child abuse or neglect shall be kept confidential and disclosed only in accordance with the rules of the investigating agency.

**Immunity**

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

**Failing to Report Suspected Child Abuse or Neglect**

By failing to report suspicion of child abuse or neglect, an employee:

1. May be placing a child at risk of continued abuse or neglect;
2. Violates the law and may be subject to legal penalties, including criminal sanctions for knowingly failing to make a required report;
3. Violates Board policy and may be subject to disciplinary action, including possible termination of employment; and
4. May have his or her certification from the State Board for Educator Certification suspended, revoked, or canceled in accordance with 19 Administrative Code Chapter 249.

It is a criminal offense to coerce someone into suppressing or failing to report child abuse or neglect.

**Responsibilities Regarding Investigations**

In accordance with law, District officials shall be prohibited from:

1. Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect;
2. Requiring that a parent or school employee be present during the interview; or
3. Coercing someone into suppressing or failing to report child abuse or neglect.

District personnel shall cooperate fully and without parental consent, if necessary, with an investigation of reported child abuse or neglect. [See GKA]

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<sup>1</sup> Texas Abuse Hotline Website: <http://www.txabusehotline.org>

STUDENT RECORDS

FL  
(LOCAL)

**Comprehensive System**

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school officials.

**Cumulative Record**

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See CPC]

**Medicaid Records**

For students receiving Medicaid reimbursable services from the District, the District's current billing practice transmits certain individually identifiable health information electronically so that the District may receive Medicaid payments for such services. This information qualifies as an "education record" and is generally protected from public disclosure under the Family Educational Rights and Privacy Act (FERPA). [See also FLA(LOCAL)]

**Custodian of Records**

The principal ~~principal~~ is custodian of all records for currently enrolled students. The Superintendent ~~The Superintendent~~ is the custodian of records for students who have withdrawn or graduated. The student handbook made available to all students and parents shall contain a listing of the addresses of District schools, as well as the Superintendent's business address.

**Types of Education Records**

The record custodian shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any documentation of discussion or action by an accelerated

STUDENT RECORDS

FL  
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- learning-a-grade-placement committee convened for the student.
5. Health services record, including:
    - a. The results of any tuberculin tests required by the District.
    - b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]
    - c. Immunization records. [See FFAB]
  6. Attendance records.
  7. Student questionnaires.
  8. Records of teacher, school counselor, or administrative conferences with the student or pertaining to the student.
  9. Verified reports of serious or recurrent behavior patterns:
  10. Copies of correspondence with parents and others concerned with the student.
  11. Records transferred from other districts in which the student was enrolled.
  12. Records pertaining to participation in extracurricular activities.
  13. Information relating to student participation in special programs.
  14. Records of fees assessed and paid.
  15. Records pertaining to student and parent complaints.
  16. Other records that may contribute to an understanding of the student.

**Access by Parents**

The District shall make a student's records available to the student's parents, as permitted by law. The records custodian or designee shall use reasonable procedures to verify the requester's identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular school hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and records to be viewed shall be restricted to use only in the Superintendent's, principal's, or school counselor's office, or

other restricted area designated by the records custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

Copies of records are available at a per copy cost, payable in advance. Copies of records must be requested in writing. Parents may be denied copies of records if they fail to follow proper procedures or pay the copying charge. If the student qualifies for free or reduced-price lunches and the parents are unable to view the records during regular school hours, upon written request of a parent, one copy of the record shall be provided at no charge.

A parent may continue to have access to his or her child's records under specific circumstances after the student has attained 18 years of age or is attending an institution of postsecondary education. [See FL(LEGAL)]

**Access by School Officials**

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, "school officials" shall include:

1. An employee, Board member, or agent of the District, including an attorney, a consultant, a contractor, a volunteer, a school resource officer, and any outside service provider used by the District to perform institutional services.
2. An employee of a cooperative of which the District is a member or of a facility with which the District contracts for placement of students with disabilities.
3. A contractor retained by a cooperative of which the District is a member or by a facility with which the District contracts for placement of students with disabilities.
4. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
5. A person appointed to serve on a team to support the District's safe and supportive school program.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a "legitimate educational interest" in a student's records when he or she is:

1. Working with the student;