



UNITED INDEPENDENT SCHOOL DISTRICT INFORMATIONAL ITEM

TOPIC: Review of LEGAL Policies in TASB Update 115

SUBMITTED BY: Gloria S. Rendon **OF:** Deputy Superintendent for Administration & Operations

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: August 18, 2020

INFORMATIONAL REPORT:

Review of LEGAL Policies in TASB Update 115

See Attached List

Explanatory Notes

TASB Localized Policy Manual Update 115

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ATTN(NOTE)

GENERAL INFORMATION ABOUT THIS UPDATE

Update 115 includes new Title IX regulations, effective August 14, 2020, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment. The final Title IX regulations and related materials are available on the U.S. Department of Education [Office for Civil Rights](#) website.

Multiple changes at Update 115 are based on legislation from the Regular Session of the 86th Texas Legislature that impose changes effective with the 2020–21 school year. Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 86th Legislature.

An overview video of the local policy changes is available under Policy Manual Update Resources in the myTASB [Policy Service Resource Library](#). **(LEGAL) policies provide the legal framework for key areas of district operations; they are not adopted by the board.**

AF(LEGAL)

INNOVATION DISTRICTS

Revisions to the Administrative Code, effective January 2020:

- Specify that an innovation district may not be exempted from Education Code Chapters 48 (Foundation School Program) and 49 (Options for Local Revenue Levels in Excess of Entitlement); and
- Authorize the commissioner to terminate district of innovation status for a district's failure to comply with the duty to discharge or refuse to hire certain employees or applicants as required by state law.

AIA(LEGAL)

ACCOUNTABILITY: ACCREDITATION AND PERFORMANCE INDICATORS

Administrative rule changes, effective August 2019, specify that districts with a local accountability system must use the local accountability system rating standards established by the commissioner. These standards will be updated annually and published in the *Local Accountability System Manual*.

Definitions for the various accreditation statuses have also been added.

AIB(LEGAL)

ACCOUNTABILITY: PERFORMANCE REPORTING

TEA has renamed the Performance-Based Monitoring Analysis System (PBMAS) to the Results Driven Accountability (RDA) system, effective December 3, 2019. This was to align with the Office of Special Education Programs (OSEP) framework.

AIC(LEGAL)

ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS

Beginning with the 2020–21 school year, HB 4205 creates a new option for campuses that are required to submit campus turnaround plans—an accelerated campus excellence (ACE) turnaround plan. The commissioner is required to approve an ACE turnaround plan if the commissioner determines that the plan meets the statutory requirements.

Other changes are from revised Administrative Code rules, effective March 31, 2020. The rules clarify interventions and sanctions provisions, including campus intervention team membership and participation and campus turnaround plan submission, approval, and implementation processes.

Additional detail has been included about the required notice the campus intervention team must provide regarding the public meeting for soliciting input on development of a targeted improvement plan.

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BBA(LEGAL)

BOARD MEMBERS: ELIGIBILITY/QUALIFICATIONS

This legally referenced policy on eligibility and qualifications for board members has been revised to clarify that a person cannot *run* for the board if the person has a final felony conviction from which the person has not been pardoned or had the disabilities removed (see Eligibility). The provision at Ineligibility indicating that a person cannot *serve* as a member of the board if the person has been convicted of a felony remains unchanged.

BBBB(LEGAL)

ELECTIONS: POST-ELECTION PROCEDURES

HB 2640 deleted the requirement for the presiding officer of the board to prepare a report of precinct results for the secretary of state.

BBD(LEGAL)

BOARD MEMBERS: TRAINING AND ORIENTATION

Extensive changes to this legally referenced policy on board member training and orientation are from revised Administrative Code rules, effective March 24, 2020. See the TASB Board Development Services website for helpful overviews of the [training requirements](#).

BDF(LEGAL)

BOARD INTERNAL ORGANIZATION: CITIZEN ADVISORY COMMITTEES

HB 18 revised the list of persons that a board may appoint to the school health advisory council (SHAC). The bill also added requirements for a district to publish in the student handbook and on the district's website certain information on student physical and mental health resources, policies, and procedures and whether each campus has a full-time nurse or school counselor. The 2020–21 [TASB Model Student Handbook](#) has been updated to meet this requirement.

BF(LOCAL)

BOARD POLICIES

A revision to this local policy clarifies that a district's legally referenced policies are not adopted by the board.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to [this policy topic](#).

BQ(LEGAL)

PLANNING AND DECISION-MAKING PROCESS

HB 18 revised the list of strategies for improvement of student performance that must be included in the district improvement plan (DIP) to include positive behavior interventions and support and implementation of a comprehensive school counseling program. In addition, the DIP must include:

- Strategies for providing elementary school students information about higher education; and
- The district's procedures on mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

Details about dating violence have been moved to FFH addressing harassment; details about sexual abuse, sex trafficking, and other maltreatment of children have been moved to FFG addressing child abuse and neglect.

BQA(LEGAL)

PLANNING AND DECISION-MAKING PROCESS: DISTRICT-LEVEL

Provisions on the district-level decision-making committee's responsibilities have been revised to better match statute.

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BQB(LEGAL)

PLANNING AND DECISION-MAKING PROCESS: CAMPUS-LEVEL

Provisions on the campus-level decision-making committee's responsibilities have been revised to better match statute.

CBB(LEGAL)

STATE AND FEDERAL REVENUE SOURCES: FEDERAL

The Note on page 5 has been adjusted to include a link to a USDA memo addressing micro-purchase and simplified acquisition thresholds for federal child nutrition programs.

CCA(LEGAL)

LOCAL REVENUE SOURCES: BOND ISSUES

TASB Policy Service engaged an outside law firm with expertise in the area of bonds to review the federal securities law provisions in this legally referenced policy, which resulted in revisions throughout that section of the policy.

In addition, we have included two existing statutory provisions on:

- Attorney general review and approval of a public security and the record of proceedings, and
- Authority of the issuer of public securities to contract for certain services.

CCG(LEGAL)

LOCAL REVENUE SOURCES: AD VALOREM TAXES

At Tax Rate Adoption, we have added information on the maximum compressed rate from HB 3 and new Administrative Code rules effective April 10, 2020.

HB 492 repeals existing law regarding reappraisal of property damaged in a disaster area. However, an amendment to the Texas constitution approved by voters in November 2019 authorizes a temporary exemption for property damaged in a disaster. These new provisions have been added to CCGA(LEGAL) addressing ad valorem tax exemptions.

A board must conduct an efficiency audit before holding an election seeking voter approval to adopt an M&O tax rate. In conducting the audit, the auditor selected by the board must follow the Legislative Budget Board (LBB) guidelines, to which we have included a link.

CCGA(LEGAL)

AD VALOREM TAXES: EXEMPTIONS AND PAYMENTS

HB 492 provides for a temporary exemption for property damaged in a disaster, as authorized in an amendment to the Texas Constitution approved by voters in November 2019.

CCGB(LEGAL)

AD VALOREM TAXES: ECONOMIC DEVELOPMENT

Revisions to this legally referenced policy reflect amended Administrative Code rules, effective February 6, 2020, and include:

- The exclusion of any employee names or other personal identifying information from the definition of *substantive documents* submitted to the comptroller in connection with economic development applications,
- Clarification of the procedures for an applicant to obtain continued eligibility for a limitation on appraised value, and
- Extended timelines for the comptroller to review a written agreement for a limitation on appraised value.

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CCH(LEGAL)

LOCAL REVENUE SOURCES: APPRAISAL DISTRICT

Effective September 1, 2020, SB 2 requires an appraisal district board in a county with a population of a million or more to increase the size of the appraisal review board (ARB) to an appropriate number of members. The ARB must establish special panels to conduct protest hearings.

CFA(LEGAL)

ACCOUNTING: FINANCIAL REPORTS AND STATEMENTS

Revisions to the provisions on the Annual Local Debt Report are from amended Administrative Code rules, effective April 5, 2020.

Other revisions are to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

CFC(LEGAL)

ACCOUNTING: AUDITS

This legally referenced policy on audits has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

CKA(LEGAL)

SAFETY PROGRAM/RISK MANAGEMENT: INSPECTIONS

This legally referenced policy on asbestos has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

CKE(LEGAL)

SAFETY PROGRAM/RISK MANAGEMENT: SECURITY PERSONNEL

Revisions regarding training are from amended Administrative Code rules, effective February 5, 2020, and require district police officers and school resource officers to receive a school-based law enforcement proficiency certificate within 180 days of commission or placement in the district.

CKEA(LEGAL)

SECURITY PERSONNEL: COMMISSIONED PEACE OFFICERS

The addition of provisions regarding reporting on appointment and separation of licensed peace officers was prompted by amended Administrative Code rules, effective February 5, 2020.

CMD(LEGAL)

EQUIPMENT AND SUPPLIES MANAGEMENT: INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

Revisions to the provisions prohibiting certain expenditures of funds from the instructional materials allotment are from amended Administrative Code rules, effective February 6, 2020.

CO(LEGAL)

FOOD AND NUTRITION MANAGEMENT

A Note has been added pointing to the Texas Department of Agriculture's Records Retention List, which can assist districts with retaining documentation to demonstrate program compliance.

CQ(LEGAL)

TECHNOLOGY RESOURCES

This legally referenced policy has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources. Citations to various laws pertaining to unlawful interception, use, or disclosure of communications have also been added to this policy for reference.

CQA(LEGAL)

TECHNOLOGY RESOURCES: DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

Online posting provisions have been updated to:

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- Clarify that notification by the campus intervention team regarding public input on development of a targeted improvement plan must be published on the district and campus websites,
- Add the requirement to post a completed campus turnaround plan 30 days before the final plan is submitted to the board,
- Add details about posting of the Annual Local Debt Report,
- Add the requirement to post information on designated agents under the Digital Millennium Copyright Act for districts seeking to limit liability, and
- Add the requirement to post the district's family engagement plan.
- Add contact information for the district's Title IX coordinator and the district's policy of nondiscrimination; and
- Add materials used to train the Title IX coordinator and other individuals who are relevant to resolving complaints under Title IX.

CQB(LEGAL)

TECHNOLOGY RESOURCES: CYBERSECURITY

We have removed provisions on the Electronic Communication Privacy Act that address the criminal consequences of the Act. A high-level reference to this information has been added to CQ(LEGAL).

CRE(LEGAL)

INSURANCE AND ANNUITIES MANAGEMENT: WORKERS' COMPENSATION

We have removed case law addressing enforcement of a reasonable absence-control rule because the case is also included in DEC(LEGAL).

CS(LEGAL)

FACILITY STANDARDS

Provisions on termination of LP-gas service have been revised as a result of amended Administrative Code rules, effective January 6, 2020.

CY(LEGAL)

INTELLECTUAL PROPERTY

This legally referenced policy on intellectual property has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

D(LEGAL)

PERSONNEL

The D Section table of contents has been revised to rename DBAA Pre-Employment Reviews.

DAA(LEGAL)

EMPLOYMENT OBJECTIVES: EQUAL EMPLOYMENT OPPORTUNITY

This legally referenced policy has been revised at Bankruptcy Discrimination to better match statute.

The provisions addressing compliance coordinators for federal nondiscrimination laws have been updated in response to the new Title IX regulations.

DBAA(LEGAL)

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: PRE-EMPLOYMENT REVIEWS

This legally referenced policy has been retitled and reorganized to include various pre-employment reviews. As a result, provisions on the required pre-employment affidavit and the Do Not Hire Registry have been moved to this policy from DC(LEGAL).

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Provisions have been added on the U.S. Department of Transportation's (DOT) national commercial driver license drug and alcohol clearinghouse. A district may not employ a driver subject to DOT drug and alcohol testing who will perform a safety-sensitive function without first conducting a pre-employment inquiry through the clearinghouse.

DC(LEGAL) **EMPLOYMENT PRACTICES**

As mentioned above, provisions on the required pre-employment affidavit and the Do Not Hire Registry have been moved to DBAA(LEGAL), which now addresses pre-employment reviews.

DED(LOCAL) **COMPENSATION AND BENEFITS: VACATIONS AND HOLIDAYS**

Recommended revisions to this local policy on vacations and holidays address the board's authorization of these programs, including which employees are eligible for the benefits, and refer to administrative procedures for details to promote consistent application and prevent conflict between policy and administrative procedures. Please confirm that the eligibility information, which was pulled from the district's existing policy, is accurate.

TASB HR Services has a framework to help districts develop administrative procedures on vacation and holiday programs.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

DF(LEGAL) **TERMINATION OF EMPLOYMENT**

Failure to terminate an employee on the Do Not Hire Registry has been added as a reason for which the State Board for Educator Certification may impose sanctions on an educator. This change is from amended Administrative Code rules, effective March 5, 2020.

DHC(LEGAL) **EMPLOYEE STANDARDS OF CONDUCT: REPORTS TO TEXAS EDUCATION AGENCY**

Changes to this legally referenced policy on reports to TEA regarding non-certified employee misconduct are from revised Administrative Code rules, effective December 31, 2019. The rules clarify the information that must be in a report and include several relevant definitions.

DHE(LEGAL) **EMPLOYEE STANDARDS OF CONDUCT: SEARCHES AND ALCOHOL/DRUG TESTING**

Information on postaccident alcohol or controlled substances testing has been incorporated from DHE(EXHIBIT), which is being deleted.

Additional detail has been included regarding required Department of Transportation drug and alcohol testing of commercial vehicle operators.

DHE(EXHIBIT) **EMPLOYEE STANDARDS OF CONDUCT: SEARCHES AND ALCOHOL/DRUG TESTING**

This exhibit on postaccident alcohol or controlled substances testing is being deleted, as the content has been incorporated into DHE(LEGAL).

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DIA(LEGAL)

EMPLOYEE WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

The Note pointing to other relevant policies has been updated to reflect Title IX changes. We have added the recent U.S. Supreme Court case, *Bostock v. Clayton County, Georgia*, which held that firing an employee on the basis of homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. Margin notes have also been updated.

DIA(LOCAL)

EMPLOYEE WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

Recommended revisions to this policy incorporate the recent United States Supreme Court decision *Bostock v. Clayton County, Georgia*, which held that an adverse employment action against an employee on the basis of homosexuality or transgender status violates Title VII's prohibition on sex discrimination in employment. As a result, the policy clarifies that discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Based on the new Title IX regulations, recommended revisions include the following.

- The definition of Prohibited Conduct has been revised to include conduct that meets the Title IX definition of sexual harassment, but the policy retains the broader definitions of prohibited conduct in districts' current policies to ensure that all prohibited conduct is addressed.
- Text at Sex-Based Harassment and Investigation of Reports Other than Title IX directs readers to new provisions on responding to allegations of prohibited conduct that if proved would meet the definition of sexual harassment under Title IX, as the law requires a specific response process for these allegations. Allegations of prohibited conduct not based on sex or that would not meet the definition of sexual harassment under Title IX will follow the district's existing investigation process.
- The Title IX regulations provide that a district has actual knowledge of sexual harassment if notice or allegations are made to any employee; therefore, a new provision at Notice of Report requires any employee who receives a report of prohibited conduct based on sex to notify the Title IX coordinator.
- Text at Response to Sexual Harassment—Title IX addresses legally required actions when the district receives notice or allegations of conduct that would meet the definition of sexual harassment under Title IX.
- New provisions direct the superintendent to develop a Title IX formal complaint process that will apply following a formal complaint and that must comply with the elements in the new regulations, as included in FFH(LEGAL).
- To determine responsibility in a Title IX formal complaint of sexual harassment, the policy designates that the district will use a *preponderance of the evidence* standard. **If the board wishes to instead use the *clear and convincing evidence* standard, which is a higher standard of evidence, please contact the district's policy consultant.** The district must use the same standard of evidence for investigation of all formal Title IX sexual harassment complaints, including complaints by students.
- Provisions on retaliation and records retention have been updated.

Policy Service also recommends updates to the examples for harassment to include cyberharassment and electronic communications and clarification of the provisions on distribution of the policy and any accompanying procedures.

TASB's Title IX model procedures are available in [TASB School Law eSource](#).

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The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

DIA(EXHIBIT)

EMPLOYEE WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

The new Title IX regulations require districts to notify employees, students, parents, and others of the Title IX coordinator's contact information, which now must include an email address. For consistency, Policy Service recommends adding an email address for the ADA/Section 504 coordinator, if applicable to your district.

If you have not already completed the survey from Policy Service regarding coordinator contact information, including providing email addresses for each coordinator, please do so in order for your policy consultant to update this exhibit.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

DMA(LEGAL)

PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

HB 18 revises both optional and required training for district staff development. Required training, which must be provided annually, focuses on various aspects of student mental health, as listed in the policy. Suicide prevention training must address the specific components indicated.

Details about required mental health support programs have been updated in accordance with HB 18 and moved to FFEB addressing student mental health.

Provisions addressing required training on child abuse, trafficking, and maltreatment have been updated based on revised Administrative Code rules, effective November 6, 2019.

DMD(LOCAL)

PROFESSIONAL DEVELOPMENT: PROFESSIONAL MEETINGS AND VISITATIONS

Policy Service recommends that the administrative details regarding professional meetings be removed from the local policy manual, as board-adopted policy is not required.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

DP(LEGAL)

PERSONNEL POSITIONS

This legally referenced policy on personnel has been revised to include provisions on various physical and mental health professionals, including:

- School nurses,
- Certified school counselors,
- Nonphysician mental health professionals, and
- Licensed specialists in school psychology (LSSPs).

EEL(LEGAL)

INSTRUCTIONAL ARRANGEMENTS: CONTRACTS WITH OUTSIDE AGENCIES

In accordance with new federal provisions, districts that have Junior Reserve Officers' Training Corps programs must permit homeschooled students to participate in the program.

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EHAA(LEGAL)

BASIC INSTRUCTIONAL PROGRAM: REQUIRED INSTRUCTION (ALL LEVELS)

Provisions on coordinated health programs have been updated based on HB 18.

HB 18 amends the SHAC's duties to include making recommendations about various aspects of student mental health.

EHB(LEGAL)

CURRICULUM DESIGN: SPECIAL PROGRAMS

New provisions on dyslexia compliance monitoring are from revised Administrative Code rules, effective December 25, 2019.

SB 2075 requires that a district notify the parent of a student who has or is at risk for dyslexia or a related disorder that the Texas State Library and Archives Commission provides audiobooks free of charge to students with eligible disabilities.

EHBA(LEGAL)

SPECIAL PROGRAMS: SPECIAL EDUCATION

Provisions on off-campus programs to provide special education and related services during school hours in a non-district facility are from new Administrative Code rules, effective November 10, 2019. The rules address placement in the programs, notification to and review by TEA, contract requirements, and changes of student residence.

EHBAB(LEGAL)

SPECIAL EDUCATION: ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care. For such students who transfer into the district, the rules require the receiving district to:

- Accept a referral done by a previous district for a special education evaluation and complete any written report of a full individual and initial evaluation by the timelines in law, and
- Ensure that the district meets student transfer requirements relating to the ARD committee for a student who is already eligible for services.

EHBE(LEGAL)

SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

This legally referenced policy on bilingual education has been revised throughout as a result of amended Administrative Code rules, effective April 10, 2020. The rules address requirements for administering the home language survey, parental notice and consent, and assessment options for students in a two-way dual language immersion program.

Other revisions are to better match statute.

EHBG(LEGAL)

SPECIAL PROGRAMS: PREKINDERGARTEN

Amended Administrative Code rules, effective February 13, 2020, prompted revisions throughout the high-quality prekindergarten program provisions.

EHBJ(LEGAL)

SPECIAL PROGRAMS: INNOVATIVE AND MAGNET PROGRAMS

Changes to the application process for requesting approval from the State Board of Education or the commissioner to offer an innovative course are from amended Administrative Code rules, effective December 25, 2019.

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EHDD(LEGAL)

ALTERNATIVE METHODS FOR EARNING CREDIT: COLLEGE COURSE WORK/DUAL CREDIT

Provisions on dual credit agreements have been updated based on amended Administrative Code rules, effective November 24, 2019. We have also added some existing statutory provisions on dual credit programs to address faculty supervision and student transcripts.

EI(LEGAL)

ACADEMIC ACHIEVEMENT

Provisions on partial award of credit have been updated to reflect revised Administrative Code rules, effective March 15, 2020. The rules revised terminology regarding awarding of credit proportionately when a student receives a passing grade in "half" of a course, rather than per "semester."

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care and require districts to:

- Adopt local policy to assist with awarding credit for a course that was earned prior to the student enrolling in or transferring to the district [see FD(LOCAL) recommendations in Update 115],
- Develop credit recovery plans for students who were denied credits outside the district or if the student's credit deficit would impede on-time promotion or graduation,
- Create course transition plans for students who were denied credit,
- Develop and administer personal graduation plans for junior or middle school students, and
- Comply with existing Education Code provisions regarding awarding of diplomas.

EI(LOCAL)

ACADEMIC ACHIEVEMENT

New Administrative Code rules address transition assistance for highly mobile students who are homeless or in substitute care. Because these new rules address similar concepts as the district's current text on late enrollment or withdrawal of migrant or homeless students and to avoid conflict with the new rules, Policy Service recommends deleting this provision from local policy. Any specific practices in this area will need to align with the new rules and could be included in administrative procedures. See also FD(LOCAL) in this update for recommended changes addressing the new Administrative Code rules.

Please note: We have retained unchanged the district's locally developed text addressing credit averaging and credit validation for foreign language courses. If you would like to review the TASB recommended language regarding partial credit that has been updated to reflect revised Administrative Code rules, please contact your policy consultant.

EIF(LEGAL)

ACADEMIC ACHIEVEMENT: GRADUATION

Beginning with students enrolled in the 12th grade in the 2021–22 school year, HB 3 will require a student to complete and submit a federal or Texas application for financial aid to graduate. The provision has been added to the policy manual now in case the district starts receiving questions about this provision. TEA will be issuing rules with more details.

Details on forming an individual graduation committee, including acceptable alternate members, have been added from amended Administrative Code rules, effective February 10, 2020.

Administrative Code rules effective November 24, 2019, provide that a student who completes the core curriculum of an institution of higher education meets the curriculum requirements for the foundation high school program, earns an endorsement and the distinguished level of achievement, and is entitled to a high school diploma.

Provisions on transitioning to the foundation high school program have been deleted from law.

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EKB(LEGAL)

TESTING PROGRAMS: STATE ASSESSMENT

Changes to this legally referenced policy on assessments include:

- Additional detail on end-of-course assessments, for more complete information;
- Deletion of detailed provisions on use of the TSI as a substitute assessment in lieu of a statutory reference; and
- Revisions to testing requirements for accountability purposes based on amended Administrative Code rules, effective February 23, 2020.

EKC(LEGAL)

TESTING PROGRAMS: READING ASSESSMENT

Effective with the 2020–21 school year, HB 3 requires a district to administer the commissioner-adopted reading instrument or the commissioner-approved alternative reading instrument to students at the kindergarten level and report results of reading instruments to parents within 60 calendar days of administration.

ELA(LEGAL)

CAMPUS OR PROGRAM CHARTERS: PARTNERSHIP CHARTERS

This legally referenced policy on partnership charters has been significantly revised in accordance with amended Administrative Code rules, effective March 31, 2020. The rules:

- State that operating partners have final and sole authority over certain campus decisions;
- Add numerous requirements for performance contracts; and
- Update the TEA approval process.

In accordance with amended Administrative Code rules, effective September 1, 2019, a performance contract for a partnership charter only needs to include assurances that the district has consulted with relevant campus personnel if the partnering entity is an open enrollment charter school and not for other partnering entities approved by TEA.

F(LEGAL)

STUDENTS

Update 115 includes reorganization of student mental health provisions. As a result:

- FFE has been renamed Counseling and Mental Health;
- FFEA has been renamed Counseling; and
- FFEB has been renamed Mental Health.

FB(LEGAL)

EQUAL EDUCATIONAL OPPORTUNITY

The provisions on required grievance procedures and retaliation have been updated based on the new Title IX regulations.

FB(LOCAL)

EQUAL EDUCATIONAL OPPORTUNITY

The provision on the Title IX coordinator has been updated in response to the new Title IX regulations. Corresponding wording changes were made to the ADA/Section 504 coordinator text.

Please note: We recommend deletion of the district's locally developed text referencing the Title IX coordinator for employees, as this information is maintained in policy DIA and the corresponding exhibit. This policy addresses equal educational opportunities for students and the corresponding exhibit identifies the Title IX coordinator for students.

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Also, BJA(LOCAL) permits the superintendent to delegate responsibilities to other employees as permitted by law; therefore, references to the superintendent's designee have been removed.

Please contact your policy consultant if you have any questions.

FB(EXHIBIT) EQUAL EDUCATIONAL OPPORTUNITY

The new Title IX regulations require districts to notify employees, students, parents, and others of the Title IX coordinator's contact information, which now must include an email address. For consistency, Policy Service recommends adding an email address for the district's ADA/Section 504 coordinator.

If you have not already completed the survey from Policy Service regarding coordinator contact information, including providing email addresses for each coordinator, please do so in order for your policy consultant to update this exhibit.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to [this policy topic](#).

FD(LOCAL) ADMISSIONS

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care and require districts to adopt local policy to assist with awarding credit to a student who is homeless or in substitute care for a course that was earned prior to the student enrolling in or transferring to the district. See Transition Assistance for recommended text to comply with this local policy requirement.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to [this policy topic](#).

FDB(LEGAL) ADMISSIONS: INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

Clarification has been added regarding transfer of a student with a disability who receives special education services and who engaged in bullying.

FEA(LEGAL) ATTENDANCE: COMPULSORY ATTENDANCE

From HB 3, we have added a provision, effective September 1, 2020, clarifying that a student is not required to attend school for the additional instructional days for which a district receives a financial incentive under Education Code 48.0051. See FEB(LEGAL) for more information.

FEB(LEGAL) ATTENDANCE: ATTENDANCE ACCOUNTING

Amended Administrative Code rules, effective December 25, 2019, delete the reference to taking attendance during the second or fifth instructional hour and specify that attendance shall be taken at the official attendance-taking time during the campus's instructional day. There is no requirement to include the official attendance-taking time in policy; it may be designated in district procedures.

From HB 3, we have added a provision, effective September 1, 2020, under which a district may receive a financial incentive for offering an additional 30 days of half-day instruction above the required minimum number of minutes for students in prekindergarten through fifth grade.

FEB(LOCAL) ATTENDANCE: ATTENDANCE ACCOUNTING

Recommended revisions to this local policy on attendance accounting are to address amended Administrative Code rules that delete the reference to taking attendance during the second or fifth instructional hour and specify that attendance shall be determined at the official attendance-taking time during the campus's instructional day. The recommended text assigns to the superintendent the responsibility of

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designating the district's official attendance-taking time. Note that there is no requirement to include the official attendance-taking time in policy; it may be designated in district procedures.

See FEB in the *TASB Regulations Resource Manual*.

FFAC(LEGAL)

WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Provisions on nursing peer review committees have been moved to DP(LEGAL).

Provisions on psychotropics and psychiatric evaluations have been moved to FFEB(LEGAL).

FFAE(LEGAL)

WELLNESS AND HEALTH SERVICES: SCHOOL-BASED HEALTH CENTERS

HB 18 permits the board (in addition to a local health education and health-care advisory council) to initiate the establishment of a school-based health center at a campus. The bill also expands the list of services that may be provided at school-based health centers to include physical health care, treatment of mental health conditions, and treatment for substance abuse.

Other changes from HB 18 address parental consent for referrals, the membership of the advisory council, and coordination with existing providers.

FFB(LEGAL)

STUDENT WELFARE: CRISIS INTERVENTION

Provisions on the recommended best practice programs and research-based practices on student mental health have been moved to FFEB(LEGAL).

FFC(LEGAL)

STUDENT WELFARE: STUDENT SUPPORT SERVICES

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care. The rules address processes and practices on the following:

- Transferring student records;
- Developing systems to ease transition for students, including welcome packets, introductions, and mechanisms for receiving school nutrition program benefits;
- Convening enrollment conferences;
- Determining appropriate placement in educational programs and courses;
- Facilitating participation in extracurricular programs;
- Promoting postsecondary information; and
- Notifying the educational decision-maker and caseworker of events that significantly impact the student's education.

FFE(LEGAL)

STUDENT WELFARE: COUNSELING AND MENTAL HEALTH

Provisions on counseling have been moved to FFEA.

FFEA(LEGAL)

COUNSELING AND MENTAL HEALTH: COUNSELING

This legally referenced policy has been reorganized to focus on both behavioral and academic counseling programs. As a result:

- Personnel provisions on school counselors and their duties have been moved to DP(LEGAL), and

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- Various provisions regarding consent to counseling services previously at FFE(LEGAL) have been moved to this code.

From HB 18, we have added a provision requiring a school counselor to work with various stakeholders to plan, implement, and evaluate a comprehensive school counseling program.

From HB 114, we have added a provision applicable with the 2020–21 school year requiring a school counselor to provide information regarding availability of college credit for military experience, education, and training obtained during military service.

FFEB(LEGAL)

COUNSELING AND MENTAL HEALTH: MENTAL HEALTH

This legally referenced policy has been added to focus on student mental health programs. As a result, provisions on psychotropics and psychiatric evaluations previously at FFAC(LEGAL) have been moved to this code.

The policy now addresses the various mental health programs, as revised by HB 18, for which the district must develop practices and procedures. The practices and procedures must be included in the student handbook and district improvement plan. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

FFG(LEGAL)

STUDENT WELFARE: CHILD ABUSE AND NEGLECT

This legally referenced policy on child abuse and neglect has been significantly revised based on amended Administrative Code rules, effective November 6, 2019. The rules address the required policy on sexual abuse, trafficking, and other maltreatment of students that must be included in the district improvement plan and the student handbook. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement. The rules also revise the elements of the required child abuse and neglect reporting policy.

FFG(LOCAL) has been revised to comply with these rule changes.

FFG(LOCAL)

STUDENT WELFARE: CHILD ABUSE AND NEGLECT

This local policy on child abuse and neglect has been significantly revised based on amended Administrative Code rules.

Recommended text is included to provide the required policy addressing sexual abuse, trafficking, and other maltreatment of students that must be included in the district improvement plan and the student handbook. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

The rules also revise the elements of the required child abuse and neglect reporting policy. To ensure all the policy elements are addressed in board-adopted local policy, we have revised and moved provisions from FFG(EXHIBIT) into this local policy and recommend deletion of the exhibit.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

FFG(EXHIBIT)

STUDENT WELFARE: CHILD ABUSE AND NEGLECT

As mentioned at FFG(LEGAL), Administrative Code rules on child abuse and neglect were recently revised. To ensure that all required policy elements are addressed in board-adopted local policy, we have revised and moved provisions from this exhibit into FFG(LOCAL). This exhibit is recommended for deletion.

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FFH(LEGAL)

STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

This legally referenced policy addressing discrimination, harassment, and retaliation against students has been significantly revised to include the new Title IX regulations, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment.

The final Title IX regulations and related materials are available on the U.S. Department of Education [Office for Civil Rights](#) website.

Provisions on dating violence have been moved from BQ(LEGAL) to this code on discrimination, harassment, and retaliation.

FFH(LOCAL)

STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

Based on the new Title IX regulations, recommended revisions include the following.

- The definition of Prohibited Conduct has been revised to include conduct that meets the Title IX definition of sexual harassment, but the policy retains the broader definitions of prohibited conduct in districts' current policies to ensure that all prohibited conduct is addressed.
- Text at Sex-Based Harassment and Investigation of Reports Other than Title IX directs readers to new provisions on responding to allegations of prohibited conduct that if proved would meet the definition of sexual harassment under Title IX, as the law requires a specific response process for these allegations. Allegations of prohibited conduct not based on sex or that would not meet the definition of sexual harassment under Title IX will follow the district's existing investigation process.
- The provision requiring an employee to report prohibited conduct has been updated to include either direct or indirect reports.
- Text at Response to Sexual Harassment—Title IX addresses legally required actions when the district receives notice or allegations of conduct that would meet the definition of sexual harassment under Title IX.
- New provisions direct the superintendent to develop a Title IX formal complaint process that will apply following a formal complaint and that must comply with the elements in the new regulations, as included in FFH(LEGAL).
- To determine responsibility in a Title IX formal complaint of sexual harassment, the policy designates that the district will use a *preponderance of the evidence* standard. **If the board wishes to instead use the *clear and convincing evidence* standard, which is a higher standard of evidence, please contact the district's policy consultant.** The district must use the same standard of evidence for investigation of all formal Title IX sexual harassment complaints, including complaints by employees.
- Provisions on retaliation and false claims have been updated and moved to the end of the policy.

Policy Service also recommends updates to the examples for harassment to include cyberharassment and electronic communications.

Please note: The list of protected characteristics continues to reflect the district's additional items of sexual orientation and gender identity and expression at Statement of Nondiscrimination, Discrimination, and Prohibited Harassment. If additional edits are needed, please contact your policy consultant.

TASB's Title IX model procedures are available in [TASB School Law eSource](#).

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FFH(EXHIBIT)

STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

The new Title IX regulations require districts to notify employees, students, parents, and others of the Title IX coordinator's contact information, which now must include an email address. For consistency, Policy Service recommends adding an email address for the district's ADA/Section 504 coordinator.

If you have not already completed the survey from Policy Service regarding coordinator contact information, including providing email addresses for each coordinator, please do so in order for your policy consultant to update this exhibit.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

FM(LEGAL)

STUDENT ACTIVITIES

The detailed list of honors classes for purposes of eligibility to participate in extracurricular activities has been deleted in lieu of a reference to the Administrative Code.

Existing statutory provisions on before- and after-school programs for elementary and middle school grades have been added.

FMF(LOCAL)

STUDENT ACTIVITIES: CONTESTS AND COMPETITION

This local policy on student contests and competition is recommended for deletion. There is no requirement for board policy on these issues; the district's practices can be included in administrative procedures.

FNG(LOCAL)

STUDENT RIGHTS AND RESPONSIBILITIES: STUDENT AND PARENT COMPLAINTS/GRIEVANCES

Policy Service has reordered the list of protected characteristics at Other Complaint Processes, item 1, to align with the list at FFH(LOCAL), above. We also have included text to acknowledge other locally designated protected characteristics listed at FFH(LOCAL).

A recommended revision specifies that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

See FNG in the *TASB Regulations Resource Manual* for updated complaint forms.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

GBAA(EXHIBIT)

INFORMATION ACCESS: REQUESTS FOR INFORMATION

This exhibit referring to the attorney general's guidelines for charges under the Public Information Act is being deleted. The citation to the Administrative Code where these charges are found has been added to GBAA(LEGAL).

See GBAA in the *TASB Regulations Resource Manual* for updated forms related to requests for information.

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GF(LOCAL)

PUBLIC COMPLAINTS

A recommended revision specifies that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

See GF in the *TASB Regulations Resource Manual* for updated complaint forms.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

GKA(LEGAL)

COMMUNITY RELATIONS: CONDUCT ON SCHOOL PREMISES

Provisions on drones have been updated based on changes to federal law and replace previous provisions on model aircraft.