

**Cedar Hill Independent School District  
BOARD OF TRUSTEES**

**Meeting Date:** January 11, 2009  
**Presented by:** Mr. Horace Williams, Superintendent of Schools  
**Subject:** Consider Policy Update 86 on Second Reading

**Information Item**

**BOARD GOAL:**

This agenda item may be indirectly responsive to multiple goals. However, it is directly and entirely consistent with the implicit goal / expectation that CHISD will remain current / compliant on all local/state/federal matters and generally accepted standards of sound management practice.

**BACKGROUND INFORMATION:**

Update 86 addresses a plethora of 81<sup>st</sup> Legislative topics from elections to activity funds management and pest management to student discipline. Perhaps most importantly, it addresses grading, promotion/retention and graduation requirements. All of these topics and more are addressed in the attached Vantage Points.

A memo from TEA Commissioner Robert Scott follows the Vantage Points. It speaks directly to the SB 2033 Grading Policy issue.

**RECOMMENDATION:**

It is recommended that the Board consider Update 86 as presented herewith.

This will constitute the second reading of the Update.

**BOARD ACTION REQUIRED:**

Motion to approve Policy Update 86 on second reading. TASB suggests the following language for the motion:

“ I move that the Board add, revise or delete local policies as recommended by the TASB Policy Service and according to the TASB Localized Policy Manual Update 86”.

**POLICY AUTHORIZATION:**

BF (Local) – Board Policies

**CONTACT PERSON:**

L. Kim Lewis, Chief Operating Officer

**FUNDING SOURCE:**

N/A

**ENCLOSURES:**

Vantage Points executive summary of Update 86.  
TEA Correspondence

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# Vantage Points

A Board Member's Guide to Update 86



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

**PLEASE NOTE:** This Update 86 ***Vantage Points*** and the Localized Update 86 packet may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

We welcome your comments or suggestions for improving ***Vantage Points***. Please write to us at TASB Policy Service, P.O. Box 400, Austin, TX 78767-0400, e-mail us at [policy.service@tasb.org](mailto:policy.service@tasb.org), or call us at 800-580-7529 or 512-467-0222.

For further information about Policy Service, check out our Web site at <http://www.tasb.org/policy>.

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Update 86 encompasses changes in law from the 81st Legislative Session and addresses topics throughout the policy manual, including election procedures, activity funds management, purchasing, integrated pest management, transportation safety, criminal history checks, employee grievances, grading, promotion and retention, graduation requirements, physical education, military dependents, student absences, student discipline, and the Public Information Act.

## Board Issues

### Elections

Several bills from the 81st Legislative Session affected provisions regarding board member elections, as reflected at BBB(LLEGAL):

- House Bill (HB) 401, effective May 13, 2009, allows a district that holds its election in May to change to the November uniform election date, provided it does so by December 31, 2010.
- Senate Bill (SB) 1970, effective September 1, 2009, prompts several changes to election procedures, including:
  - A requirement that the election order and election notice now include a listing of each early voting polling place;
  - A requirement that a district post a public notice containing filing information for school board candidates; and
  - More detailed procedures for canceling an election.
- HB 1493, effective May 27, 2009, adds an exception to the prohibition on the use of wireless communication devices at polling places to allow use by a person working at the polling place.
- HB 1285, effective June 19, 2009, amends the list of individuals authorized to administer the oath of office.

### Political Advertising

At BBBB(LLEGAL), HB 1720 and SB 2085, both effective September 1, 2009, clarify that an officer or employee must *knowingly* use district funds for political advertising in order for such use to constitute a misuse of public funds. The two bills also prohibit the use of district funds for any communication about a measure that the officer or employee knows is false and is likely to influence voting on the measure. A district can now request an advance written advisory opinion from the Texas Ethics Commission stating whether the district's communication complies with these prohibitions.

**District and  
Campus  
Improvement  
Plans**

HB 1041, effective June 19, 2009, adds a new provision to BQ(LEGAL) requiring a district to include in the district improvement plan and the student handbook a "policy" addressing sexual abuse of children. While not included in local policy, this requirement is addressed in the post-legislative supplement to the *TASB Model Student Handbook* released in July.

Also at BQ(LEGAL), SB 892, effective June 19, 2009, requires that the campus improvement plan for each elementary or junior high campus include goals and objectives for the coordinated health program.

**School Health  
Advisory  
Council**

As reflected at BDF(LEGAL), SB 283, effective September 1, 2009, requires that the school board now appoint at least five members to the school health advisory council. A majority of the appointees must be parents, and one must serve as the chair or co-chair of the council. The bill also requires the council to submit an annual written report to the board detailing its recommendations regarding the health education curriculum, modifications to previous recommendations, and an explanation of the council's activities since its last report. The initial report is due by April 1, 2010.

**District  
Operations**

We have added a new policy at CFD(LEGAL) to house provisions from HB 3646, effective September 1, 2009. The bill requires a district to adopt a local policy addressing the expenditure of funds from vending machines, rentals, gate receipts, or other local funds over which the district has direct control. Any expenditure must relate to the district's educational purpose, provide a commensurate benefit to the district or its students, and comply with prohibitions on the gift of public funds.

**Activity Funds**

**CFD(LOCAL) POLICY CONSIDERATIONS:**

New recommended text addresses the HB 3646 local policy requirement and charges the superintendent with developing regulations governing the expenditure of district and campus activity funds generated from vending machines, rentals, gate receipts, concessions, and other local funds over which the district has direct control.

Provisions regarding fiduciary responsibility have been expanded to apply to these district and campus activity funds in addition to student activity funds, and to include the superintendent as one of the district employees responsible for administering such funds.

**Purchasing and Contracts**

Legislative changes prompted numerous revisions to policies dealing with purchasing and contracts. At CH(LEGAL):

- HB 4102, effective June 19, 2009, permits a board to delegate to the superintendent or designee, in the event of a disaster or emergency, the authority to contract for the replacement or repair of school equipment if it is necessary for the health and safety of district students and staff. Such delegation will occur at the time of the disaster, and districts should not include a delegation statement in local policy.
- HB 987, also effective June 19, 2009, increases the dollar amount that triggers competitive procurement procedures from \$25,000 to \$50,000. The bill also now permits districts to receive electronic bids or proposals, if the board adopts rules to ensure that the bids or proposals are secure and remain unopened until the proper time.

These same legislative changes also apply to CV(LEGAL) regarding contracts for facilities construction.

**CV(LOCAL) POLICY CONSIDERATIONS:**

To correspond to the HB 987 increase in the dollar amount that triggers competitive procurement procedures, we recommend a revision to this local policy to increase the dollar amount that triggers a board determination of the project delivery/contract award method from \$25,000 to \$50,000.

The district should also review the dollar amount determining which construction contracts the superintendent must bring to the board for approval. This dollar amount is not dependent on the dollar amount that triggers competitive purchasing and may differ.

Provisions governing district purchasing procedures for personal property valued between \$10,000 and \$25,000 and purchasing procedures governing produce or fuel were repealed by HB 987 and have been deleted from CH(LEGAL). The provisions regarding purchasing produce have also been deleted from COA(LEGAL).

**Funding for Instructional Materials**

At CMD(LEGAL) and EFAA(LEGAL), HB 4294, effective June 19, 2009, provides a funding method and approval process for electronic textbooks, instructional materials, and technological equipment. HB 2488, effective September 1, 2009, includes similar provisions for use of open-source textbooks. Also from HB 4294 and reflected at EFAA(LEGAL), an existing statute

making it a criminal offense for a trustee, administrator, or teacher to receive commissions, rebates, gifts, services, or favors related to textbook purchases has been expanded to cover electronic textbooks, instructional materials, and technological equipment.

## **Facilities**

Several legislative changes affected provisions on facility standards at CS(LEGAL):

- HB 2763, effective September 1, 2009, requires relocatable educational facilities (portable, modular buildings that can be relocated) that are purchased or leased after January 1, 2010, to comply with all provisions applicable to industrialized buildings.
- HB 4127, effective September 1, 2009, requires that playground equipment and surfacing comply with applicable consumer safety performance standards and that metal platforms, steps, and slides be covered from direct sunlight.
- HB 3918, applicable for the 2009–10 school year, changes the required test for LP-gas piping systems from a pressure test to a leakage test and adds documentation requirements.

Reflected at CH(LEGAL) and CL(LEGAL), SB 300, effective June 19, 2009, requires districts to reduce annual energy consumption by five percent beginning with the 2008 fiscal year according to a board-established long-range plan, replacing the previous requirement for districts to reduce consumption by five percent each year for six years.

Also at CL(LEGAL), SB 1732, effective September 1, 2009, requires that a public swimming pool meet state Health and Human Services Commission pool safety standards.

## **Pest Management**

New rules on integrated pest management (IPM), effective July 7, 2009, from the Texas Department of Agriculture (TDA) have prompted changes at CLB(LEGAL). The rules require a district to establish, implement, and maintain an IPM program; adopt a board-approved local policy containing certain elements; employ or contract with a licensed applicator, who may also be the IPM coordinator; give prior notice of pesticide applications; and comply with other safety standards.



**CLB(LOCAL) POLICY CONSIDERATIONS:**

We have revised this local policy to add recommended text addressing TDA's new pest management policy requirements: a statement committing the district to follow IPM guidelines, a definition of IPM, a cite to statutory standards, information about who can apply pesticides, and a statement requiring the superintendent to designate an IPM coordinator who must receive training and be registered with TDA.

**Transportation  
Safety**

Revisions related to transportation and safety are found at CNC(LEGAL):

- HB 55, effective September 1, 2009, prohibits a vehicle operator from using a wireless communication device within a school crossing zone, unless the vehicle is stopped or the device is used hands-free.
- HB 3646 requires that school buses and school activity buses purchased on or after September 1, 2010, be equipped with three-point seat belts for each passenger and the operator. A district is required to comply with this new law only if TEA pays the district for the expenses incurred in complying with this requirement.
- In accordance with SB 300, districts are now encouraged, but no longer required, to conduct school bus emergency evacuation training. However, specific guidance is included in the policy if the district decides to provide this training.

**Employee Issues**

**Criminal History  
Checks**

HB 2730, effective September 1, 2009, makes significant changes to policies regarding the confidentiality of criminal history background checks. At DBAA(LEGAL), new provisions from the bill:

- Clarify that criminal history record information (CHRI) refers to the information contained in a document's original or subsequent form, rather than a specific document provided by DPS.
- Prohibit a district or individuals from confirming or denying that the district has received CHRI from DPS regarding a specific person.
- Clarify that CHRI is confidential both in the original record and when it is used "in a subsequent form," thus protecting CHRI data incorporated by the district into reports or spreadsheets from being released to the public.

- Allow an employee to obtain from the district a copy of any CHRI related to the employee.
- Require the destruction of CHRI after the data is used or within one year after the district obtains the information, whichever is earlier.

HB 2730 also affects provisions at CJA(LEGAL) regarding criminal history checks for contractors and subcontractors. Subcontractors must now obtain the criminal history records of their employees, and contractors are responsible for ensuring that subcontractors obtain the required CHRI. The bill also prohibits an employee of a contractor or subcontractor from providing services at a school if that person has been convicted of a felony or misdemeanor that would disqualify him or her from obtaining certification as an educator.

**Job Vacancies**

SB 300 requires that districts post notices of job vacancies at the central and campus administrative offices *or* on the district's Web site. Previously, districts had to post vacancy notices at the relevant administrative offices *and* on the district's Web site. See DC(LEGAL).

**Compensation**

DEA(LEGAL) includes salary provisions from HB 3646, as well as a new provision from HB 2360, effective September 1, 2009, requiring districts to provide notice regarding the federal earned income tax credit.

DEAA(LEGAL) reflects changes to the District Awards for Teacher Excellence (DATE) incentive program. HB 3646 expands the program to include principals and requires districts to notify teachers and principals of the criteria and any formulas on which the awards will be based before the beginning of the period on which awards will be based.

**Leaves and Absences**

As reflected at DEC(LEGAL), SB 522, effective May 12, 2009, prohibits a district from restricting the order in which an employee may use various types of leave. In addition, HB 1470, effective June 19, 2009, requires districts to provide notice of assault leave rights in any informational handbook distributed to employees.

**Grievances**

HB 2512, effective September 1, 2009, requires a district grievance policy to permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of the grievance is investigated or discussed. The district is not required to provide the audio recording equipment or delay timelines because of this requirement. See DGBA(LEGAL).

**DGBA(LOCAL) POLICY CONSIDERATIONS:**

Pursuant to HB 2512, we have added a provision to this local policy permitting an employee to make an audio recording of a conference or hearing conducted in accordance with this policy at which the substance of the employee's complaint is discussed. The recommended language requires the employee to notify others who are present that an audio recording is being made.

**Discrimination**

HB 978, effective September 1, 2009, modified the Texas Commission on Human Rights Act to more closely conform to the Americans with Disabilities Act Amendments Act of 2008. As a result, we have updated citations throughout DAA(LEGAL). We have also made revisions to emphasize that an individual cannot bring a reverse disability discrimination claim—a claim in which an individual without a disability alleges he or she was discriminated against because of the lack of a disability.

**School Bus Drivers**

DBA(LEGAL) has been revised to reflect new Texas Administrative Code rules regarding school bus driver qualifications, including application requirements, annual driver's license checks, and grounds for disqualification. At DBB(LEGAL), provisions regarding medical examinations for school bus drivers have been updated in accordance with revised Texas Department of Public Safety (DPS) rules.

**Mentor Teachers**

In accordance with SB 1290, effective June 19, 2009, teachers are no longer required to be new to the profession to be eligible for a mentor. Mentors may now be assigned to teachers with less than two years of teaching experience in the subject or grade level to which the teacher is assigned. See DEAA(LEGAL).

**Instruction**

**Grading**

Several legislative changes related to grading provisions are included at EIA(LEGAL):

- SB 2033, effective June 19, 2009, requires a district to adopt a grading policy before each school year. The grading policy must include provisions for the assignment of grades on class assignments and examinations; must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment; may not require a teacher to assign a minimum grade for an assignment without regard to the student's quality of work, and may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

- HB 3, effective for the 2009–10 school year, revises the accountability information that must be included in each student's first report card and requires the district to provide parents with comparisons of student performance and information about online educational resources if the parent's child failed an assessment instrument.

***EIA(LOCAL) POLICY CONSIDERATIONS:***

While this local policy already includes provisions for establishing grading guidelines, in accordance with SB 2033 grading guidelines should be reviewed each year and should now ensure that grading reflects a student's relative mastery of an assignment.

A new provision in this policy allows a student a reasonable opportunity in accordance with grading guidelines to redo a class assignment or retake a test for which the student received a failing grade.

In light of the new law prohibiting a grading policy from requiring a teacher to assign a minimum grade for an assignment without regard to the student's quality of work, if the district's policy requires a 50 to be recorded in the cumulative record when the student's average is less than a 50, we recommend that the district discuss this practice with its attorney. If the district wishes to continue this practice, then this provision would be more appropriately addressed in the grading guidelines and deleted from policy.

**State  
Assessment  
Requirements**

In accordance with HB 3, effective for the 2009–10 school year, special education students are no longer exempt from state assessments; however, the ARD committee is still authorized to select an appropriate assessment in accordance with procedures developed by TEA. See EKB(LEGAL).

HB 3 also prompts changes to state assessment requirements for limited English proficiency (LEP) students, as reflected at EKBA(LEGAL).

**Retention and  
Promotion**

HB 3, effective for the 2009–10 school year, makes several changes to retention and promotion requirements at EIE(LEGAL):

- In determining promotion, the district must now consider the recommendation of the student's teacher, the student's grade in each subject or course, the student's score on a state-mandated assessment instrument, and any other necessary academic information as determined by the district. The district must give notice of its promotion standards by the start of each school year.

- Students are no longer required by law to pass the third grade reading assessment instrument in order to be promoted to fourth grade.
- New provisions require accelerated instruction for all students in grades three through eight who fail an assessment instrument.
- If the grade placement committee decides to promote a fifth or eighth grade student who failed to pass an assessment instrument, the student must complete accelerated instruction before being promoted to the next grade level. The student must also be assigned to a highly qualified teacher in the subject of the failed assessment.

***EIE(LOCAL) POLICY CONSIDERATIONS:***

We have added to this local policy recommended language referencing the factors from HB 3 that must be considered for promotion and have deleted references to passage of the third grade assessment previously required for promotion to fourth grade. We have also included revisions to reflect the new accelerated instruction requirements from HB 3 for students whom the grade placement committee promotes.

**At-Risk Students**

HB 2703, effective June 19, 2009, revises the definition of "student at risk of dropping out of school" to exclude a student who did not advance from pre-kindergarten or kindergarten to the next grade level only because of the parent's request. See EHBC(LEGAL).

**Graduation Requirements**

Reflected at EIF(LEGAL), HB 3, effective for the 2009–10 school year, amends provisions regarding graduation requirements:

- In order for a student to enroll in the Minimum High School Program, the student's parent and a counselor or administrator must agree in writing, and the student must be at least 16 years old, must have completed two credits required for graduation in each of the foundation curriculum subjects, or must have failed to be promoted to the tenth grade on one or more occasions. A district must also provide to the parent a written notice, to be developed by TEA, explaining the benefits of the Recommended High School Program.
- By removing the State Board of Education's authority over the enrichment curriculum for the Recommended High School Program, HB 3 changed the graduation requirements for this program. Legal references in the policy have been adjusted accordingly. Correspondence from TEA about

implementation of the new graduation requirements, including district authority to continue existing requirements, can be found at <http://www.tea.state.tx.us/graduation.aspx>.

- Provisions addressing the number of P.E. credits required for graduation have been adjusted since the credits required are dependent on the graduation program in which a student enrolls.

***EIF(LOCAL) POLICY CONSIDERATIONS:***

Because graduation requirements for physical education credits now depend on which graduation program a student is enrolled in, we recommend deleting from this local policy the specific number of required physical education credits listed in the section regarding P.E. substitutions.

The number of P.E. credits required for each student may be affected by locally established graduation requirements and should be communicated to students in the same manner as the district communicates other graduation requirements. Commonly, this information is published in the course catalog or student handbook.

**Automatic Admissions**

SB 175, effective June 19, 2009, amends the automatic admission statute that guarantees students in the top ten percent of their class admission to institutions of higher education. As reflected at EIC(LEGAL), beginning with the 2011–12 academic year, the University of Texas at Austin may cap the number of students it admits under this law to 75 percent of the enrollment for incoming resident undergraduate students.

Several new notice provisions from SB 175 regarding automatic admissions are included at EIC(LEGAL) and EJ(LEGAL).

**Human Sexuality Instruction**

At EHAA(LEGAL), SB 283 requires that a district provide notice to parents before each school year regarding whether the district will provide human sexuality instruction. A provision regarding this new requirement was added to the 2009 *TASB Model Student Handbook*.

**Other Instructional Requirements**

Several bills prompted revisions to instructional requirements at EHAC(LEGAL):

- HB 3 adds a fine arts requirement for students in grades 6–8, effective with the 2010–11 school year.

- In accordance with HB 3076, effective June 19, 2009, a district is now required to use the parenting awareness program developed by the State Board of Education in its high school health curriculum and may use the program in its middle school curriculum.
- SB 1344, effective June 19, 2009, requires a district to choose an alcohol awareness program from a list maintained by TEA for the district to use in its health curriculum.

SB 891, effective June 19, 2009, requires districts to establish specific objectives and goals for their physical education curriculum, including student-to-teacher ratios. See EEB(LEGAL) and EHAA(LEGAL).

**Class Size**

In accordance with SB 300, exceptions to class size limits are now valid for an entire school year, rather than for a semester, as before. See EEB(LEGAL).

**Prekindergarten**

Several bills affect provisions regarding prekindergarten. At EHBG(LEGAL), changes include the following:

- SB 891 mandates that districts now require full-time prekindergarten students, and to the extent practicable half-day students, to participate in 30 minutes of daily physical activity.
- HB 3643, effective June 19, 2009, expands the number of children eligible to enroll in free prekindergarten classes by broadening the definitions of "child" to include a stepchild and "parent" to include a stepparent.
- HB 136, effective September 1, 2009, requires that a district now report to TEA the strategies that the district has implemented to increase community awareness of prekindergarten programs.

**College Credit Program**

At EHDD(LEGAL), HB 3646 clarifies that a district is not required to pay a student's tuition or other costs associated with taking a course under a college credit program. The bill also provides that the time a student spends in a course under the college credit program be included when calculating the minimum instructional hours required for a student to be considered a full-time student in average daily attendance (ADA).

**Student Issues**

New provisions regarding military dependents are now at FDD, while provisions on school safety transfers, formerly at FDD, have been moved to FDE.

**Military Dependents**

With SB 90, effective May 5, 2009, Texas joined the Interstate Compact on Educational Opportunity for Military Students. The purpose of the Compact is

to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents. FDD(LEGAL), the code now dedicated to provisions regarding military dependents, addresses applicability of the Compact; eligibility for students to enroll in the district; education records; and grade-level, course, and educational program placement. Provisions from the Compact relating to military dependents are also included at the following codes:

- EHBAB(LEGAL), regarding special education services
- EIF(LEGAL), regarding graduation requirements
- EKB(LEGAL), regarding assessment instruments
- FB(LEGAL), regarding evaluation and placement of disabled students
- FEA(LEGAL), regarding excused absences for deployment-related activities
- FFAB(LEGAL), regarding immunizations and transfer of immunization records
- FM(LEGAL), regarding participation in extracurricular activities

**School Safety Transfers**

**FDE(LOCAL) POLICY CONSIDERATIONS:**

Provisions on School Safety Transfers have been moved from FDD(LOCAL) to FDE(LOCAL). TEA has revised its 2009–2010 Guidance on the School Safety Choice Option to include aggravated robbery as one of the violent criminal offenses for which a student who is a victim must be offered a transfer. The text of this policy has been revised accordingly.

**Attendance**

FEA(LEGAL) has been rearranged to group together absences that districts *must* excuse for compulsory attendance purposes and absences that districts *may* excuse for compulsory attendance purposes.

- Legislation that adds to the list of reasons for which a district *must* excuse a student from attending school under compulsory attendance includes the following:
  - HB 192, effective June 19, 2009, adds appearing at a governmental office to complete paperwork required to obtain U.S. citizenship and taking part in a U.S. naturalization oath ceremony.



- HB 192 also clarifies that temporary absences for health-care appointments include absences for a student with autism spectrum disorder attending an appointment with a health-care practitioner to receive services for autism.
- SB 1134, effective September 1, 2009, adds serving as an election clerk.
- From HB 2542, effective June 19, 2009, districts *may* excuse a student for up to two days during the student's junior year and for up to two days during the student's senior year to visit an institution of higher education. The district must adopt a policy to determine when an absence will be excused for this purpose and develop a procedure to verify the visit.

If a student is absent for any of the above reasons when attendance is taken, the student may be considered in attendance for attendance accounting purposes. See FEB(LEGAL).

**FEA(LOCAL) POLICY CONSIDERATIONS:**

Pursuant to HB 2542, we have added a new provision permitting an excused absence for up to two days during a student's junior year and up to two days during the student's senior year for visits to an institution of higher education, the maximum amount stated in law. However, the district may revise this text to grant fewer days of absence or not to grant any absences for this purpose.

The recommended text requires students to submit verification of the visit in accordance with administrative regulations.

**FEC(LOCAL) POLICY CONSIDERATIONS:**

As described above, the legislature expanded the list of reasons for which a student's absence will be counted as a day of attendance for compulsory attendance purposes. While excused absences that are counted as days of attendance for purposes of compulsory attendance do not automatically count toward days of attendance for purposes of receiving credit, the majority of districts do consider these absences to be extenuating circumstances if all required documentation has been submitted and makeup work has been completed satisfactorily. For this reason, we have added to the list of absences that shall be considered days of attendance for credit: activities re-

lated to obtaining U.S. citizenship, serving as an election clerk, and visiting an institution of higher education.

We have added recommended text to the list of options the attendance committee may choose from in imposing conditions for awarding credit, which now includes attending a flexible school day program. We have also added summer school to the list to reflect common district practice.

Other non-legislative changes have been included to reflect widespread district practice in the section of the policy addressing personal illness, where recommended revisions clarify that either the principal or attendance committee may require a medical statement concerning a student's illness for the purpose of classifying the absence as one for which there are extenuating circumstances.

**Average Daily Attendance**

HB 4102 adds a provision to FEB(LLEGAL) that the Commissioner shall adjust a district's ADA if all or part of the district is declared a disaster area by the governor and the district's ADA has declined as a result of the disaster. The adjustment will last for two years after the governor declares the disaster.

**Discipline**

As reflected at FNCG(LLEGAL) and FOD(LLEGAL), HB 1020, effective June 19, 2009, provides an exception from mandatory expulsion for a student's use, exhibition, or possession of a firearm at an approved off-campus target range while participating in or preparing for certain shooting sports competitions or activities sponsored by the district or affiliated with the Texas Parks and Wildlife Department.

At FO(LLEGAL), HB 171, effective June 19, 2009, requires the Student Code of Conduct to specify that the district will consider self-defense, intent, disciplinary history, and disability when making decisions regarding a student's out-of-school suspension, placement in a DAEP, expulsion, or placement in a JJAEP, regardless of whether the decision involves a mandatory or discretionary action. Previously, consideration of these factors was left to the district's discretion. This provision is addressed in the 2009 *TASB Model Student Code of Conduct*.

A provision from HB 1425, effective June 19, 2009, allows counties with a population greater than 125,000 that meet certain criteria to be treated as if they have a population less than 125,000 for purposes of establishing JJAEPs. See FODA(LLEGAL).

**Child Abuse Reporting**

SB 643, effective June 1, 2009, increases the penalty for failing to report child abuse or neglect from a class B to a class A misdemeanor. See FFG(LLEGAL).

**Wellness**

**FFAD(LOCAL) POLICY CONSIDERATIONS:**  
This local policy on communicable diseases is recommended for deletion. Information on exclusion and readmittance of students due to a communicable condition is available at FFAD(LEGAL), and the Texas Guide to School Health Programs, published by the Texas Department of State Health Services, contains school attendance guidelines and a table of diseases for which students should be excluded from schools.

At FFAB(LEGAL), new Texas Administrative Code rules from the Texas Department of State Health Services, effective March 5, 2009, require that students in grades 7–12 have the meningococcal vaccine.

**Student Activities**

FM(LEGAL) contains new provisions requiring a school that sponsors, promotes, or is otherwise associated with a rodeo in which its students are likely to participate to conduct a mandatory safety education program for the participating students. These provisions are from SB 2505 and apply to rodeos held after January 1, 2010.

**Public Information**

As reflected at GBA(LEGAL), SB 1068, effective June 4, 2009, allows a district to redact certain personal information of an employee or board member without first seeking an attorney general opinion, though the district must provide notice to the requestor regarding the redaction. The same redaction provisions apply to information regarding peace or security officers.

Also at GBA(LEGAL), legislative changes expand the list of information excepted from public disclosure:

- SB 1068 adds information that, if released by the district, would subject an employee or board member to a substantial threat of physical harm.
- HB 2730 adds information collected to perform a criminal history check, including CHRI the district receives from DPS. See also DBAA(LEGAL).

At GBAA(LEGAL), provisions have been simplified and rearranged. The procedures the district follows when responding to a request for information have been revised based on legislative changes.

**More Information**

For further information on these policy changes, refer to the policy-by-policy Explanatory Notes—customized for each district’s policies—and the policies themselves, found in your localized update packet.

## TEA Correspondence

A Microsoft Word version of this letter is available for download and **PRINTING**.

October 16, 2009

TO THE ADMINISTRATOR ADDRESSED:

Subject: Senate Bill (SB) 2033 School District Grading Policy

SB 2033, passed by the 81st Texas Legislature, requires each school district to adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. A district grading policy:

- (1) must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;
- (2) may not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and
- (3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

TEA understands this legislation to also require honest grades for each grading period including six weeks, nine weeks, or semester grades for two reasons. First, if actual grades on assignments are not used in determining a six weeks grade, the purpose of the legislation has been defeated. Second, since 1995, Texas Education Code, §28.021, has required decisions on promotion or course credit to be based on "academic achievement or demonstrated proficiency." If the six weeks grades do not reflect the actual assignment grades, they would not reflect academic achievement or demonstrated proficiency.

This legislation permits a district, through local policy, to allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade. By allowing students to make up work, a district would ensure six weeks grades reflect relative mastery of assignments, even if making up a prior deficit, rather than awarding an automatic grade to a student who has received a failing grade.

If you have questions regarding SB 2033, please contact Monica Martinez, Policy Director in the Curriculum Division, at (512) 463-9581 or via e-mail at [monica.martinez@tea.state.tx.us](mailto:monica.martinez@tea.state.tx.us).

Sincerely,

Robert Scott  
Commissioner of Education

RS/mgm



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