



Texas Association of School Boards • Policy Service
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Serving Texas Schools Since 1949

IMPORTANT INFORMATION

To: District Superintendent and Policy Contact
From: TASB Policy Service
Date: August 2010
Subject: Timeline for Adopting Updates

As you consider the policy recommendations in Update 88, we would like to inform you that Update 89 will be coming soon. Our current plans are to mail Update 89 to districts during December 2010 and January 2011. We hope this general timeline information will assist you in planning your administrative review and board adoption of the policy updates. Taking Update 88 to the board before December 2010 will help the district stay current on the updates.

As you know, timely adoption of your localized updates is important to ensure that your manual contains the most current reflection of the law. If your district uses Policy On Line, remember to notify us whether you accept or decline the recommended revisions so the online copy of your manual and our files can be updated, as appropriate.

We will continue to update the information on the TASB Policy Service Web page (http://www.tasb.org/services/policy/resources/update_preview.aspx) about the anticipated mailing of coming updates to assist you in planning your internal review and adoption process. Should you have any questions regarding the update timelines, please contact your policy consultant.

Vantage Points

A Board Member's Guide to Update 88

Vantage Points is an executive summary, prepared specifically for board members, of the TASB Localized Update. 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 88 ***Vantage Points*** and the Localized Update 88 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, 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/services/policy>.

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Much of Update 88 incorporates rule changes from the Administrative Code, with topics including curriculum requirements, student assessments, retention and promotion, district awards for teacher excellence, and performance appraisals. Changes not originating from Administrative Code revisions include local policy text addressing employee use of electronic media and notification requirements in the event of a security breach of electronic data.

**Electronic
Communication**

**Data
Management**

At CQ(LEGAL), we have added details regarding the district's obligations to notify affected persons in the event of a breach of system security affecting sensitive personal information. The persons that a district must notify in such circumstances and the timelines that a district must comply with vary depending on whether the district owns or only maintains the data, as provided by the Business and Commerce Code.

CQ(LOCAL) POLICY CONSIDERATIONS:

Although a district must comply with the legal provisions governing to whom it must give notice and the timing of the notice, the district may establish its own policy addressing notification *methods* in the event of a breach of system security as long as the policy follows the disclosure and timing requirements found in the Business and Commerce Code.

While the district is not required to adopt a policy addressing notification methods to be used in the event of a breach of security, the recommended provisions included in this local policy simplify the Business and Commerce Code requirements and allow for notification to be made through written notice, e-mail, posting on the district's Web site, or through broadcast media. A district that chooses not to adopt local policy provisions would be required to comply with the more detailed notification procedures found in the Business and Commerce Code.

Electronic Media

DH(LOCAL) POLICY CONSIDERATIONS:

At this code on employee standards of conduct, we have added recommended text on employee use of electronic media. The enclosed policy broadly defines electronic media to include all forms of social media, such as text or instant messaging, e-mail, blogs, chat rooms, video-sharing sites, and posting editorial comments on Web sites, as well as all forms of telecommunication, such as landlines, cell phones, and Web-based applications.

The policy allows for limited communications with students. In accordance with administrative regulations, a certified or licensed employee, or any other

employee with specific approval, may communicate with currently enrolled students through electronic media about matters within the scope of the employee's professional responsibilities, such as communications about an assignment or project. All other employees are prohibited from communicating with students using electronic media. Detailed provisions included in TASB HR Services' *Model Employee Handbook*, which may serve as the district's administrative regulations, address exceptions for family and social relationships and the circumstances under which an employee may use text messaging to communicate with students. The policy also includes a reminder about complying with the district's record retention policies.

In addition, the policy provides that the district's professional standards of conduct apply to an employee's personal use of electronic media. If such use violates law or district policy or interferes with the employee's ability to effectively perform his or her job duties, the employee may be subject to disciplinary action. Detailed provisions on personal use of electronic media are also included in the *Model Employee Handbook*.

Instruction

**Required
Instruction**

At EHAA(LEGAL), we have incorporated amended Administrative Code rules on curriculum requirements, which state that a physical education course must now offer students an opportunity to choose among many types of physical activity, offer both cooperative and competitive games, and be an enjoyable experience for students. On a weekly basis, at least half of a physical education class must be dedicated to moderate or vigorous physical activity.

Changes at EHAC(LEGAL) are the result of revised Administrative Code rules addressing curriculum and reflect new provisions on flexible learning arrangements for students in grades 6–8, information regarding new fine arts requirements for students entering grade 6 in the 2010–11 school year, the change in Foundations of Personal Fitness from a required course for grades 9–12 to an optional one, and revisions to the list of career and technical education career clusters. In addition, details have been added regarding the alcohol awareness program now required as part of any health education course.

**Career and
Technical
Education**

At EHB(LEGAL), we have added a list of career and technical student organizations recognized by the U.S. Department of Education and TEA. We have also revised the policy title from "Career and Technology Education" to "Career and *Technical* Education" to reflect new terminology in federal law and in the Administrative Code. The list of enrichment curriculum subjects at EHAA(LEGAL) has been similarly modified to reflect this new terminology.

Optional Flexible School Day Program

We have added existing Administrative Code provisions at EHBC(LEGAL) to clarify that a student enrolled in an optional flexible school day program (OFSDP) may participate in a UIL activity only if the student meets all UIL eligibility criteria, and each district must conduct an annual performance review of student performance under the OFSDP.

High School Equivalency Program

At EHBL(LEGAL), amended Administrative Code rules on high school equivalency reflect that a student may now attend a maximum of ten hours of instruction per day in a high school equivalency program (HSEP), an increase from the previous limit of six hours, and that a student who first enters grade 9 during or after the 2011–12 school year must take certain end-of-course exams before entering an HSEP. We have also added an existing Administrative Code provision prohibiting a student enrolled in an HSEP from participating in a UIL activity.

Automatic Admissions

New Administrative Code provisions concerning automatic admission to an institution of higher education have been incorporated at EIC(LEGAL):

- The policy now includes information on admission of students in the top 25 percent of their high school class to certain universities.
- In addition to existing requirements for admission, by the end of the student's junior year, a student must now submit an official transcript or diploma that indicates whether the student has satisfied the requirements regarding successful completion of the Recommended or Advanced/Distinguished Achievement graduation program.
- In providing information about automatic admission to junior and senior students, districts must now obtain written acknowledgment of the notification from the student and student's parent.
- Automatic admissions decisions must be based on the most recent available class rank, which cannot be earlier than the end of grade 11.

Retention and Promotion

Major revisions to Administrative Code rules addressing retention and promotion prompted substantial changes at EIE(LEGAL) to address notification of grade advancement requirements, promotion standards, clarification of which students are subject to grade advancement, details on accelerated instruction, grade placement committee procedures, and exceptions to grade advancement testing.

EIE(LOCAL) POLICY CONSIDERATIONS:

For consistency with the changes made at EIE(LEGAL), recommended changes to this local policy text address the requirement that any student in grades 3–8 who fails to demonstrate proficiency on a state-mandated assessment receive accelerated instruction, while students in grades 5 and 8 are also subject to grade advancement testing requirements, previously referred to in the Administrative Code as the “student success initiative.” The standards for promotion upon appeal previously listed in the policy are recommended for deletion, as they no longer appear in the Administrative Code. The grade placement committee must consider the standards listed in EIE(LEGAL) and additional standards, if any, adopted by the board.

In addition, we have made a recommended revision to indicate that a “parent,” for purposes of decisions related to grade advancement requirements, may include a person designated by an authorization agreement to have responsibility for a student in all school-related matters.

Assessments

Provisions throughout EKBA(LEGAL) regarding assessment of limited English proficient (LEP) students reflect significant changes to the Administrative Code made as a result of House Bill 3, passed during the 81st Texas Legislative Session. Changes include new documentation requirements for the language proficiency assessment committee (LPAC); a new provision allowing postponement of the exit-level assessment during an LEP student’s first 12 months of enrollment in a U.S. school; provisions on excluding asylee and refugee test results from the district’s accreditation and performance ratings; new documentation requirements on testing and exemptions of LEP students in special education; and a new provision that subjects LEP students to grade advancement requirements, unless they are otherwise eligible for an exemption or exclusion.

We have added at EKB(LEGAL) new Administrative Code provisions regarding the implementation schedule for end-of-course assessments.

Juvenile Residential Facilities

A new policy at EEM(LEGAL) provides an overview of instructional services for students in juvenile residential facilities. A district is obligated to provide educational services to these students because of their status as district residents if educational services are not otherwise being provided.

Employees Fair Labor Standards Act	We have incorporated at DEA(LEGAL) existing law regarding breaks for non-exempt employees and have added new provisions requiring districts to provide nonexempt employees breaks for breastfeeding. Districts are not required to pay a nonexempt employee for a breastfeeding break, and districts with fewer than 50 employees are exempt from the provision.
Awards and Grants	<p>New Administrative Code rules prompted changes at DEAA(LEGAL) regarding the District Awards for Teacher Excellence (DATE) program. The policy now specifies that principals are eligible for DATE awards, includes additional information on exclusions from the awards, and clarifies that the district planning committee, not the board, makes exceptions to minimum award amounts.</p> <p>New Administrative Code rules also prompted revisions at this policy regarding master teacher grant programs. Grant funds for certified master teachers may now be used to pay a stipend to a master teacher whose primary duties are to teach reading, mathematics, technology, or science.</p>
Family and Medical Leave	The National Defense Authorization Act for Fiscal Year 2010 expands employee leave benefits for a qualifying exigency arising from a relative's military service. Previously this type of leave was available only if the relative was serving in the reserves. Now it is available if the relative is on "covered active duty." This change is reflected at DECA(LEGAL), where we have also added citations to the definitions of relevant terms for ease of use.
Work Load	At DL(LEGAL), we have added two existing statutory provisions regarding lunchtime duties for classroom teachers and librarians. Implementation of the required 30-minute duty-free lunch period may not result in a lengthened school day, and a teacher or librarian may not be required to supervise students during lunch for more than one day per week.
Staff Development	<p>In changes reflected at DMA(LEGAL), Senate Bill 451, passed by the 81st Texas Legislature, requires the district to provide certain educators who work primarily outside the area of special education with staff development relating to instruction of students receiving special education services. We have also incorporated at this policy existing statutory provisions requiring teachers of elective Bible courses to complete Commissioner-developed training and requiring certain middle school teachers to attend a reading academy if their campus fails to meet performance standards on the state reading assessment instrument.</p> <p>Revised Administrative Code rules have been incorporated to provide that an athletic trainer who has completed the educational and continuing education</p>

requirements for licensure does not have to complete extracurricular safety training.

Performance Appraisals

At DNA(LEGAL), we have deleted several detailed provisions addressed in TEA's *Professional Development System and Appraisal Teacher Manual* and have incorporated changes from amended Administrative Code rules:

- A district must submit to its regional ESC a summary of the evaluation scoring from each campus in the district, in addition to the district's choice of appraisal system.
- A district must provide each teacher with an annual review of the district's teacher appraisal policy and of Administrative Code provisions addressing teacher appraisal.
- A campus administrator who is a certified PDAS appraiser must conduct an appraisal, not necessarily "the teacher's supervisor."

Existing Administrative Code rules have also been added addressing development of an intervention plan for a teacher identified as a "teacher in need of assistance."

Students

Admissions

We have revised the text at FD(LEGAL) to better match the holding of the U.S. Supreme Court case *Plyler v. Doe* that denying enrollment "based upon immigration status" to children who are not legally admitted into the U.S. violates the Equal Protection Clause. We have also added a link to the authorization agreement form issued by the Texas Department of Family and Protective Services, which parents may use to authorize nonparent relatives to make decisions and perform certain acts in regard to their child.

Attendance

Revisions at FEA(LEGAL) and FEB(LEGAL) reflect Administrative Code changes addressing allowable travel for certain excused absences. A student who is absent to complete paperwork regarding citizenship proceedings, to participate in a naturalization oath ceremony, or to serve as an election clerk is allowed one day of excused absence for traveling to the site and one day of excused absence for traveling from the site.

Also reflected at FEB(LEGAL), Administrative Code changes now require a student to be enrolled for at least two hours "of instruction" to be considered in attendance for one-half day, and for at least four hours "of instruction" to be considered in attendance for one full day.

Communicable Diseases

In accordance with revised Administrative Code rules, a local school authority, defined as the superintendent or superintendent's designee, must report a child who is attending school and is suspected, based on medical evidence, of having a sexually transmitted disease or who is an HIV-exposed infant. This change is reflected at FFAD(LEGAL).

At that same code, we have added existing Administrative Code rules providing that, for purposes of readmittance, an advanced nurse practitioner or physician assistant may make a certification of a student's health. We have also added a link to the DSHS Communicable Disease Chart for Schools and Child-Care Centers.

DAEP

At FOC(LEGAL), we have added an existing Education Code provision that requires a board or educator to recommend DAEP placement for a student who commits the misdemeanor offense of being a member of, pledging to become a member of, or soliciting another person to join a public school fraternity, sorority, secret society, or gang.

Public Information

At GBA(LEGAL), we have incorporated a provision from HB 3544, from the 81st Texas Legislature, which creates an exception to the rule that e-mail addresses used by members of the public to communicate with the district are confidential. The exception allows that an e-mail address provided to the district for the purpose of receiving decisions from the district or to comment on or receive notices related to an application for a license is not confidential.

We have revised GBAA(LEGAL) to include additional information from several relevant attorney general opinions addressing a district's response to a request for public information when either:

- the district has previously requested and received a determination from the attorney general concerning exactly the same information, or
- the requested information falls within a *category* of information about which the attorney general has issued a previous determination.

Colleges and Universities

GNC(LEGAL) has been reorganized and expanded to consolidate into one policy the relevant statutory text addressing various relationships with colleges and universities.

District Operations

Changes relating to the business and operations of the district include the following:

- At CCG(LEGAL), a cite to a new Administrative Code provision addresses the duration of a tax exemption for a homestead that has

been rendered uninhabitable or unusable. We have also added an existing Tax Code provision that allows the board to designate an area that is entirely within the territory of the school district as a reinvestment zone in certain circumstances.

- In *United States v. Texas* (2010), the Fifth Circuit Court of Appeals held that some districts are now exempt from Civil Order 5281, which requires certain districts to notify the Commissioner when real property is sold, leased, or otherwise conveyed. This ruling is reflected at CDB(LEGAL).
- At CFA(LEGAL), amendments to the Administrative Code prompted changes to the public hearing and notice requirements for the annual financial management report.
- New Administrative Code provisions regarding instructional materials resulted in changes at CMD(LEGAL), as follows:
 - The district will be responsible for the amount that exceeds the reduced state maximum cost set by SBOE for nonconforming instructional materials.
 - Several changes have been incorporated regarding the district's required certification to the SBOE.
 - A district is only eligible for a textbook credit in the first year of implementation.
 - The district must provide notification to TEA of how the district used the textbook credit.
- Based on recent amendments to Administrative Code provisions, we have revised the text on reporting leaks of LP-gas systems at CS(LEGAL). If an employee of a school district performs the initial test, the rules prohibit a school employee from performing the subsequent test.

**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 district's localized update packet.

Localized Policy Manual

Update 88

Aubrey ISD

Update 88 addresses numerous changes from the Administrative Code. Many of these rule changes are in response to legislation from the 81st Texas Legislative Session. Major topics affected by the rule changes include textbooks, district awards for teacher excellence, Family Medical Leave for military service of relatives of district employees, performance appraisals, student physical education, curriculum, automatic admission, assessments, retention and promotion, limited English proficient students, and compulsory attendance.

Changes not stemming from Administrative Code revisions include new local policy text addressing notification to affected individuals in the event of a security breach of electronic data and employee use of electronic media, and new legal provisions addressing juvenile residential facilities and Public Information Act requests.

Please bear in mind that the (LEGAL) policies reflect the ever-changing legal context for governance and management of the district. They should NOT be adopted but, rather, should inform local decision making. The (LOCAL) policy recommendations in this update will need close attention by both the administration and the board to ensure that they reflect the practices of the district and the intentions of the board. Board action is needed to adopt, revise, or repeal (LOCAL) policy.

In addition to the updated policies, your Localized Update 88 packet contains:

- **INSTRUCTIONS** . . . providing specific, policy-by-policy directions on how this update, if accepted as prepared, should be incorporated into your Localized Policy Manual.
- **EXPLANATORY NOTES** . . . summarizing changes to the policies in each code. Please note that, where appropriate, the Explanatory Notes ask you to **verify that a particular policy reflects your current practice and to advise us of changes needed** so that our records and your manual accurately track the district's practice.

Vantage Points—A Board Member's Guide to Update 88 may be found in the separately wrapped package accompanying this packet. ***Vantage Points*** offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute the enclosed copies of *Vantage Points* to your board members at the earliest possible opportunity, preferably with their review copies of this update.**

Update 88 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this Update, please call your policy consultant at 800-580-7529 or 512-467-0222.

Regarding board action on Update 88 . . .

- Board action on Localized Update 88 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as "Policy Update 88, affecting (LOCAL) policies (see attached list)." Policy On Line districts have access to a list of the (LOCAL) policies included in the update through the Local Manual Updates application in myTASB. Other districts may generate a list of the (LOCAL) policy codes added, revised, or deleted (and the titles/subtitles of those policies) using the Instruction Sheet as a guide and attach that list to the posting. BoardBook compilers should use "Policy Update 88, affecting (LOCAL) policies" as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.
- A suggested motion for board action on Localized Update 88 is as follows:
"I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 88 [with the following changes:]"
- The board's action on Localized Update 88 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the minutes where they make up the authoritative record of your board's actions. Include a copy of new, replaced, or rescinded (LOCAL) policies.
- In constructing the separate historical record of the manual, the emphasis is on tracking the history of individual policies. For guidance on maintaining this record, please refer to the *Policy Administrator's Guide* at http://www.tasb.org/services/policy/mytasb/admin_guide/index.aspx.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district's Localized Policy Manuals as soon as practicable. If the district uses Policy On Line, you will need to notify us of the board's action on Update 88 so that your district's Localized Policy Manual as it appears on TASB's Web server can be updated. Policy On Line staff may be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618, using the tan form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (<http://www.tasb.org/policy/pol/private/polfdbk.html>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 88 policy changes should be inspected and revised by the district as needed.

PLEASE NOTE: This Localized Update packet and the Update 88 *Vantage Points* may not be considered as legal advice and are not intended as a substitute for the advice of the board's own legal counsel.

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Instruction Sheet

TASB Localized Policy Manual Update 88

District Aubrey ISD

Code	Action To Be Taken	Note
CCG (LEGAL)	Replace policy	Revised policy
CDB (LEGAL)	Replace policy	Revised policy
CFA (LEGAL)	Replace policy	Revised policy
CMD (LEGAL)	Replace policy	Revised policy
CQ (LEGAL)	Replace policy	Revised policy
CQ (LOCAL)	Replace policy	Revised policy
CS (LEGAL)	Replace policy	Revised policy
DBD (LEGAL)	Replace policy	Revised policy
DEA (LEGAL)	Replace policy	Revised policy
DEAA (LEGAL)	Replace policy	Revised policy
DECA (LEGAL)	Replace policy	Revised policy
DECB (LEGAL)	Replace policy	Revised policy
DH (LOCAL)	Replace policy	Revised policy
DL (LEGAL)	Replace policy	Revised policy
DMA (LEGAL)	Replace policy	Revised policy
DNA (LEGAL)	Replace policy	Revised policy
E (LEGAL)	Replace table of contents	Revised table of contents
EEM (LEGAL)	ADD policy	See explanatory note
EFAA (LEGAL)	Replace policy	Revised policy
EHAA (LEGAL)	Replace policy	Revised policy
EHAC (LEGAL)	Replace policy	Revised policy
EHBC (LEGAL)	Replace policy	Revised policy
EHBF (LEGAL)	Replace policy	Revised policy
EHBL (LEGAL)	Replace policy	Revised policy
EIC (LEGAL)	Replace policy	Revised policy
EIE (LEGAL)	Replace policy	Revised policy
EIE (LOCAL)	Replace policy	Revised policy
EK (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy
EKBA (LEGAL)	Replace policy	Revised policy
FD (LEGAL)	Replace policy	Revised policy
FEA (LEGAL)	Replace policy	Revised policy

Instruction Sheet
TASB Localized Policy Manual Update 88

FEB (LEGAL)	Replace policy	Revised policy
FFAD (LEGAL)	Replace policy	Revised policy
FOC (LEGAL)	Replace policy	Revised policy
FODA (LEGAL)	Replace policy	Revised policy
GBA (LEGAL)	Replace policy	Revised policy
GBAA (LEGAL)	Replace policy	Revised policy
GNC (LEGAL)	ADD policy	See explanatory note

Explanatory Notes

TASB Localized Policy Manual Update 88

District: Aubrey ISD

CCG (LEGAL) LOCAL REVENUE SOURCES
AD VALOREM TAXES

A new Administrative Code provision, effective March 1, 2010, is cited at HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE, on page 10, and addresses the duration of the homestead exemption in these circumstances.

At REINVESTMENT ZONES—DISTRICT DESIGNATED on page 12, we have added an existing statutory provision that allows the board to designate an area that is entirely within the territory of the school district as a reinvestment zone in certain circumstances. The board's designation of the area must either be reasonably likely to contribute to the expansion of primary employment in the reinvestment zone or attract major investment in the reinvestment zone that would benefit the property and the school district and contribute to the economic development of the region of the state in which the school district is located.

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

Text at SALE, LEASE, OR CONVEYANCE OF ANY INTEREST IN REAL PROPERTY, on page 3, has been revised to reflect modifications to Civil Order 5281 by the Fifth Circuit Court of Appeals in *United States v. Texas* (2010). In this most recent decision, the Fifth Circuit held that some districts are now exempt from Civil Order 5281, which requires certain districts to notify the Commissioner when real property is sold, leased, or otherwise conveyed. For further information on exemption status, see TEA's April 8, 2010, To the Administrator Addressed Letter at <http://ritter.tea.state.tx.us/taa/legal040810.html>.

CFA (LEGAL) ACCOUNTING
FINANCIAL REPORTS AND STATEMENTS

Changes to the PUBLIC HEARING and notice requirements for the annual financial management report are prompted by amendments to the Administrative Code, effective May 31, 2010. See page 3.

The amendments clarify that the district must give notice of the public hearing to property owners in the geographic boundaries of the district and to parents of district students. Likewise, notice of the hearing must be provided to a newspaper of general circulation in the geographic boundaries of the district. Although not included in policy, the Administrative Code revisions also include changes to the "School FIRST Rating Worksheet" that explains the indicators that TEA uses to assign school district financial accountability ratings and that specifies the minimum financial accountability rating information that the district must report to parents and taxpayers in the district. The revised form may be found at <http://info.sos.state.tx.us/fids/201002534-1.pdf>.

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

New Administrative Code provisions effective February 22, 2010, affected several sections of this policy:

Explanatory Notes

TASB Localized Policy Manual Update 88

- A new funding provision at TEXTBOOK FUNDING—MAXIMUM COST requires the State Board of Education (SBOE) to reduce the approved maximum cost for each nonconforming instructional material according to the calculation described in Administrative Code 66.51(a)(11). A district will be responsible for the cost that exceeds the reduced state maximum cost for these materials.
- The district's required CERTIFICATION to the SBOE and the Commissioner stating that the district provides students with textbooks, electronic textbooks, or instructional materials that cover all elements of the TEKS now must be made "prior to the beginning of each school year" instead of "annually"; includes enrichment curriculum subjects in addition to foundation curriculum subjects; and must be submitted in a format approved by the Commissioner. See page 5.
- A district is still eligible to receive a TEXTBOOK CREDIT for textbooks purchased at a cost below the price limit set by the SBOE but is only eligible for the credit in the first year of implementation. See page 6.
- In addition, the district must provide NOTIFICATION TO TEA of how the district used the textbook credit and submit an itemized expenditure report to TEA.

We have updated the policy throughout with citations to the new TAC provisions.

CQ (LEGAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

Beginning at SECURITY BREACH NOTIFICATION on page 5, we have added more detail about a district's obligations to notify affected persons in the event of a breach of system security affecting sensitive personal information, including definitions for "breach of system security" and "sensitive personal information."

The persons that a district must notify in such circumstances and the timelines that a district must comply with vary, as provided by Business and Commerce Code 521.053. According to the statute, if a district owns or licenses the computerized data, the district must notify any Texas resident whose personal information was, or is reasonably believed to have been, acquired. In this case, notification must be made as quickly as possible or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. If a district only maintains, but does not own, the computerized data, the district must immediately notify the owner or license holder. There are exceptions to these timelines if a criminal investigation is pending. In addition, a district required to notify more than 10,000 persons at one time must also notify each consumer reporting agency without unreasonable delay.

Although the district must comply with these legal provisions governing to whom it must give notice and the timing of the notice, a district may use the notification *methods* set out in the district's policy rather than using the notification methods included in the Business and Commerce Code.

To assist districts in creating such a policy, this update includes provisions that address notification methods in the event of a security breach. See CQ(LOCAL), below.

CQ (LOCAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

As described above at CQ(LEGAL), districts may establish their own policies addressing notification methods in the event of a breach of system security affecting sensitive personal information as long as the policies follow the disclosure and timing requirements found in the Business and Commerce Code. A district that establishes and follows its own notification procedures will be in compliance with the law if it notifies affected persons in accordance with its policy.

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While the district is not required to adopt a policy addressing notification methods to be used in the event of a breach of security, the recommended provisions included here simplify the Business and Commerce Code requirements and therefore should be beneficial in the event of a security breach. A district that chooses not to adopt local policy provisions would be required to comply with the more detailed notification procedures found in section 521.053 of the Business and Commerce Code.

The recommended text included at this update allows SECURITY BREACH NOTIFICATION to be made through several methods: written notice, e-mail, posting on the district's Web site, or through broadcast media.

If your district does not wish to add these notification procedures to local policy, please contact your policy consultant.

CS (LEGAL) FACILITY STANDARDS

We have deleted from this policy, at RELOCATABLE EDUCATIONAL FACILITY, a repealed provision requiring inspection of portable, modular buildings purchased or leased between September 1, 2007, and December 31, 2009.

On page 8, we have revised the text on REPORTING LEAKS of LP-gas systems based on recent amendments to the relevant Administrative Code provisions, effective December 28, 2009. In the event of a leak, the district must still remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. However, if an employee of a school district performs the initial test, the rules prohibit a school employee from performing the subsequent test. New definitions have been added for "school district facility" and "school LP-gas system."

We have also added a citation to the testing procedures at REQUIREMENTS OF TEST on page 7 and updated citations throughout the policy.

DBD (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CONFLICT OF INTEREST

Changes at TEXTBOOK VIOLATIONS, on page 3, reflect the expanded existing statute prohibiting the receipt of commissions, rebates, gifts, services, or favors related to textbook purchases to also apply to electronic textbooks, instructional materials, and technological equipment. This change is from the 81st Texas Legislative Session and was added at EFAA, Textbook Selection and Adoption, at Update 86.

DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

Rewording of provisions at HEALTH-CARE SUPPLEMENT FOR SUPPORT STAFF, beginning on page 2, clarifies that the salary allotment funds that TEA distributes to districts for the annual health-care supplementation given to certain employees are in addition to wages a district would otherwise pay the employee during the school year and do not constitute an annual salary increase.

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Changes at FAIR LABOR STANDARDS ACT, beginning on page 4, incorporate existing law on BREAKS FOR NONEXEMPT EMPLOYEES and add new provisions requiring districts to provide BREAKS FOR BREASTFEEDING. A district must pay nonexempt employees for rest breaks, including coffee or snack breaks, of up to 20 minutes. Meal breaks of 30 minutes or more are unpaid as long as the employee is completely relieved of job duties during the break. The new breastfeeding provisions require districts to provide a nonexempt employee a reasonable break to express breast milk each time the employee needs to do so for up to one year after a child's birth. The district must make available to the employee a location, other than a bathroom, that is shielded from coworkers and the public. The district is not required to pay a nonexempt employee for a breastfeeding break. Exemptions from the provisions on breaks for breastfeeding apply to districts that employ fewer than 50 employees.

DEAA (LEGAL) COMPENSATION AND BENEFITS INCENTIVES AND STIPENDS

As a result of new Administrative Code rules, effective June 24, 2010, we have revised text on the DISTRICT AWARDS FOR TEACHER EXCELLENCE (DATE) program. Changes include:

- Clarification that principals are eligible for DATE awards.
- Revision of the text at EXCLUSION OF CERTAIN EMPLOYEES, allowing a district to exclude principals from the awards and to clarify that a teacher or principal who is no longer at a campus because the employee retired may not be excluded.
- Revision of the text regarding AWARD AMOUNTS to indicate that the district planning committee rather than the board makes exceptions to the minimum award amounts and to indicate that "educators" rather than "teachers" are eligible for awards.

As a result of new Administrative Code rules, effective February 15, 2010, on master technology teachers, we have revised the text at MASTER TEACHER GRANT PROGRAMS on page 2. Grant funds for certified master teachers may now be used to pay a stipend to a master teacher whose primary duties are to teach reading, mathematics, technology, or science.

DECA (LEGAL) LEAVES AND ABSENCES FAMILY AND MEDICAL LEAVE

The National Defense Authorization Act for Fiscal Year 2010, effective October 28, 2009, expands employee leave benefits for a qualifying exigency arising out of a relative's military service. Previously this type of leave was available only if the relative was serving in the reserves. Now it is available if the relative is on "covered active duty," which includes regular service in the armed forces if the relative is being deployed to a foreign country. See QUALIFYING REASONS FOR LEAVE, item 5, on page 2.

Throughout this policy we have added citations to the definitions of relevant terms for ease of use. In addition, we have added a DEFINITIONS section, beginning on page 3, with the definitions of NEXT OF KIN, PARENT, SON OR DAUGHTER, and SPOUSE, since these definitions are frequently needed for reference.

Minor editorial revisions have been made at PREGNANCY OR BIRTH on page 3, FAILURE TO PAY PREMIUMS on page 10, DESIGNATION NOTICE on page 13, and MEDICAL CERTIFICATION OF SERIOUS HEALTH CONDITION on page 15.

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DECB (LEGAL) LEAVES AND ABSENCES MILITARY LEAVE

In addition to several minor editorial changes to make the policy easier to read, we have added margin notes for REEMPLOYMENT after FEDERAL MILITARY LEAVE and for an EXCEPTION to reemployment. Also, the definition of "uniformed services" is now a separate paragraph.

DH (LOCAL) EMPLOYEE STANDARDS OF CONDUCT

To ensure clear guidance on employee use of electronic media, we have included recommended text at this code, which addresses employee standards of conduct. This text was developed in conjunction with sample text on employee use of electronic media included in the TASB HR Services *Model Employee Handbook* for the 2010–11 school year, available to members of TASB HR Services at http://www.tasb.org/services/hr_services/resources/3lp_meh.aspx. If your district included text on use of electronic media in this year's employee handbook, you will need to be sure that the policy and handbook text are consistent.

The enclosed policy broadly defines ELECTRONIC MEDIA to include all forms of social media, such as text or instant messaging, e-mail, blogs, chat rooms, video-sharing sites, and posting editorial comments on Web sites. All forms of telecommunication, such as landlines, cell phones, and Web-based applications, are also included in the definition.

The policy distinguishes between an employee's use of electronic media purely for personal use and when communicating with students. The included text allows for limited communications with students. In accordance with administrative regulations, a certified or licensed employee, or any other employee given specific approval, may communicate with currently enrolled students through electronic media about matters within the scope of the employee's professional responsibilities. For example, this might include communications about an assignment or project. All other employees are prohibited from communicating with students using electronic media. The detailed provisions included in the *Model Employee Handbook*, which may serve as the district's administrative regulations, address exceptions for family and social relationships established outside of the school environment, such as through a church or community group. In addition, the *Model Employee Handbook* text limits text messaging to use by a teacher, trainer, or other employee with extracurricular duties who needs to communicate about the extracurricular activity. Also included in the policy is a reminder about complying with the district's record retention policies.

In addition, the policy addresses employee use of electronic media for personal reasons. The intent is to reinforce that professional standards of conduct apply to any type of personal behavior, including the use of electronic media. If such use violates law or district policy or interferes with the employee's ability to effectively perform his or her job duties, the employee may be subject to disciplinary action. Detailed provisions on personal use of electronic media were also included in this year's *Model Employee Handbook*.

DL (LEGAL) WORK LOAD

For clarification, we have added two existing statutory provisions:

- At DUTY-FREE LUNCH, the implementation of the 30-minute duty-free lunch requirement may not result in a lengthened school day.

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- At EXCEPTION, a classroom teacher or librarian may not be required to supervise students during lunch for more than one day per week, even in the event of exceptional circumstances.

Cross-references to DEA for the definitions of classroom teacher and librarian have also been added.

DMA (LEGAL) PROFESSIONAL DEVELOPMENT REQUIRED STAFF DEVELOPMENT

Revisions at STAFF DEVELOPMENT—TRAINING SPECIFICS are from Senate Bill 451 passed by the 81st Texas Legislature, effective June 19, 2009. The law requires the district to provide staff development relating to instruction of students receiving special education services. The training must be designed for educators who work primarily outside the area of special education, but the district only has to provide the training to educators who do not possess the knowledge and skills necessary to implement an individualized education program for one of their students.

An existing statutory provision addressing READING ACADEMIES has also been added, beginning on page 1. This provision requires certain middle school teachers who work at a campus that fails to meet a state performance standard on the state reading assessment instrument to attend a reading academy. Only a full-time teacher who teaches English language arts, reading, mathematics, science, or social studies for at least 50 percent of the teacher's instructional duties must attend. Teachers who attend an academy are entitled to a stipend.

Another existing statutory provision has been added on page 3, addressing the staff development training requirements for teachers of an ELECTIVE BIBLE COURSE. These teachers must complete the Commissioner-developed training.

Clarification regarding the required EXTRACURRICULAR ACTIVITY SAFETY TRAINING, on page 4, is from revised Administrative Code rules, effective March 10, 2009. Trainers who have completed the educational requirements for licensure and continuing education requirements for a licensed athletic trainer do not have to complete the extracurricular safety training.

DNA (LEGAL) PERFORMANCE APPRAISAL EVALUATION OF TEACHERS

We have deleted several detailed provisions specifically addressed in the *Professional Development System and Appraisal Teacher Manual* published by TEA and have made editorial changes throughout the policy. The *Manual* may be accessed at <http://www5.esc13.net/pdas/docs/PDASTeacherManual.pdf>.

Amended Administrative Code rules, effective February 17, 2010, resulted in the following policy changes:

- Districts are required to submit to their regional ESC a summary of the evaluation scoring from all campuses in the district. A pre-existing rule also requires each district to notify the ESC of the district's choice of appraisal system. See INFORMATION TO SERVICE CENTER, on page 2.
- At least three weeks before the first formal observation, districts must provide all teachers with an annual review of the district's teacher appraisal policy and of Administrative Code provisions addressing teacher appraisal. See ORIENTATION AND ANNUAL REVIEW, also on page 2.
- As reflected at APPRAISERS on page 3, a campus administrator who is a certified PDAS appraiser must conduct the appraisal, not necessarily "the teacher's supervisor."
- In several locations, the term "appraiser" has been changed to "certified appraiser."

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In addition, we have added, on page 5, existing text from Administrative Code provisions addressing INTERVENTION PLANS. An intervention plan must be developed if, after an evaluation, a teacher is identified as a "teacher in need of assistance" and may be developed at any time if the appraiser has documentation that would potentially produce an evaluation rating of "below expectations" or "unsatisfactory."

E (LEGAL) INSTRUCTION

We have revised the E section table of contents to add new code EEM, Juvenile Residential Facilities, and to retitle EHF, Career and Technical Education.

EEM (LEGAL) INSTRUCTIONAL ARRANGEMENTS JUVENILE RESIDENTIAL FACILITIES

This new policy, providing an overview of instructional services to students in juvenile residential facilities is recommended for inclusion in the district's policy manual. The responsibility to educate these students stems from the general responsibility to educate district residents. Therefore, a district is obligated to provide educational services to these students if educational services are not otherwise being provided. Highlights of the policy include the following:

- Provisions on FUNDING for services provided to students in juvenile residential facilities have been moved unaltered from FODA(LEGAL).
- DEFINITIONS of relevant terms are included.
- Detailed ENROLLMENT procedures have been included. These require the school district providing educational services in a facility to ensure on the first day of the student's arrival at the facility that the student is enrolled in the district or, by local agreement, in the student's locally assigned district.
- CLASS SIZE must not exceed one certified teacher to 24 students.
- The providing district must administer a PRE-ASSESSMENT to students in a post-adjudication secure correctional facility.
- CURRICULUM must provide students with the subjects and courses necessary to complete the Minimum High School Program.
- Students must be given the appropriate AWARD OF CREDIT for coursework completed in the facility.
- The LENGTH AND NUMBER OF SCHOOL DAYS are the same as for students not enrolled in a facility. Students in a facility must be provided at least five and one-half hours of required secondary curriculum per day.

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

New Administrative Code rules, effective February 22, 2010, provide clarification on the requirement for each district to purchase a CLASSROOM SET OF TEXTBOOKS for each subject and grade level. A "classroom set" is defined as the total count of SBOE-adopted textbooks on the conforming or nonconforming list necessary to provide one copy to each student during the class period. Likewise, a classroom "kit" that includes materials for every student in the classroom also meets the definition of a classroom set. See page 2.

EHAA (LEGAL) BASIC INSTRUCTIONAL PROGRAM REQUIRED INSTRUCTION (ALL LEVELS)

Consistent with terminology used in updated Administrative Code rules, effective April 21, 2010, we have revised the list of ENRICHMENT CURRICULUM subjects to change career and "technology" to career and "technical" education. See also the explanatory note for EHBf, below.

From amended Administrative Code rules on curriculum requirements, effective December 23, 2009, a PHYSICAL EDUCATION course must now offer students an opportunity to choose among many types of physical activity, offer both cooperative and competitive games, and be an enjoyable experience for students. On a weekly basis, at least half of a physical education class must be used for actual physical activity, which, to the extent practical, must be at a moderate or vigorous level. See page 3.

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

Changes to this policy are based on revised Administrative Code rules addressing curriculum, effective April 21, 2010, and include:

- A new provision allowing districts to offer flexible learning arrangements, including mixed-age programs, for students in GRADES 6–8;
- Implementation information for the middle school FINE ARTS REQUIREMENT, which begins in fall 2010;
- At GRADES 9–12 COURSE OFFERINGS, deletion of the requirement for a student to take the Foundations of Personal Fitness course, making the course optional; and
- The addition of eight new career and technical education career clusters and revision of existing career clusters.

In addition, details on the ALCOHOL AWARENESS INSTRUCTION required as part of any health education course have been added, on page 6, as a result of amendments to Administrative Code provisions effective December 23, 2009.

EHBC (LEGAL) SPECIAL PROGRAMS COMPENSATORY/ACCELERATED SERVICES

Text from existing Administrative Code provisions on the optional flexible school day program (OFSDP) was added on page 6 to clarify that:

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- A student enrolled in an OFSDP may participate in a UIL activity only if the student meets all UIL eligibility criteria (see EXTRACURRICULAR PARTICIPATION); and
- Each district must conduct an ANNUAL PERFORMANCE REVIEW of student performance under the OFSDP disaggregated by race, ethnicity, gender, and socioeconomic status.

EHBF (LEGAL) SPECIAL PROGRAMS CAREER AND TECHNICAL EDUCATION

We have revised the title of this policy from "Career and Technology Education" to "Career and *Technical* Education" to reflect new terminology in federal law and, effective June 7, 2010, in the Administrative Code. This new terminology appears in multiple places throughout the policy. However, because the Education Code still uses the phrase "career and technology," provisions citing the Education Code have not been changed.

An existing statutory provision requiring the board to consider the state plan for career and technology education in developing a district career and technology program has been added along with a margin note, CAREER AND TECHNOLOGY PROGRAM, to page 1.

At STUDENT ORGANIZATIONS, on page 3, we have added a list of career and technical student organizations recognized by the U.S. Department of Education and TEA.

EHBL (LEGAL) SPECIAL PROGRAMS HIGH SCHOOL EQUIVALENCY

We have made the following changes to reflect amended Administrative Code rules on high school equivalency, effective April 28, 2010:

- The first paragraph of the policy, describing the purpose of a High School Equivalency Program (HSEP), has been rephrased.
- The maximum hours of instruction a student may attend per day in an HSEP has been revised from six hours to ten hours (see OPERATION OF PROGRAM).
- The previous requirements that the ANNUAL REVIEW progress report be submitted on a standard form and the results be disaggregated by ethnicity, age, gender, and socioeconomic status have been deleted.
- On page 2, the definition of a STUDENT AT RISK has been revised to eliminate from the definition certain students who left school before grade 9.
- At STATE ASSESSMENT, new references have been added to end-of-course exams for students who first enter grade 9 during or after the 2011–12 school year.

Finally, at EXTRACURRICULAR PARTICIPATION on page 3, we have added an existing Administrative Code provision prohibiting a student enrolled in an HSEP from participating in a UIL activity.

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EIC (LEGAL) ACADEMIC ACHIEVEMENT
CLASS RANKING

New Administrative Code provisions on AUTOMATIC ADMISSION TO AN INSTITUTION OF HIGHER EDUCATION, effective November 26, 2009, and May 26, 2010, are reflected throughout this policy. To be eligible for automatic admission, in addition to existing requirements, a student must submit an official transcript or diploma that, by the end of the student's junior year, indicates whether the student has satisfied the requirements regarding successful completion of the Recommended or Advanced/Distinguished Achievement graduation program. A cite to the relevant Administrative Code section provides more information on whether a student has successfully completed the graduation program. A student with a grade point average in the top ten percent of his or her class must also submit a completed application for admission in accordance with the institution of higher education's deadline.

Information on admission of students in the top 25 percent of their high school class to certain universities has been added to the eligibility requirements on page 1 and at CLASS RANK on page 3.

In providing information about automatic admission to junior and senior students, districts must now obtain written acknowledgment of receipt of the notification from the student and student's parent. See DISSEMINATION, beginning on page 2.

A change regarding the timing of the class rank calculation used for automatic admission decisions appears at CLASS RANK, on page 3. Under the new Administrative Code provisions, the admissions decision must be based on the most recent available class rank, which cannot be earlier than the end of grade 11. Previously, class rank was required to be based on the student's rank at the end of the eleventh grade, the middle of the twelfth grade, or at high school graduation, whichever was most recent at the time of the application deadline.

EIE (LEGAL) ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

We have made numerous changes to this policy as a result of major revisions to Administrative Code rules addressing retention and promotion, effective April 19, 2010. The Administrative Code revisions align the rules with Education Code provisions changed during the 81st Texas Legislative Session. Policy changes are as follows:

- We have added a new provision requiring districts to implement GRADE ADVANCEMENT REQUIREMENTS in accordance with the Administrative Code and TEA's Grade Placement Committee (GPC) Manual. We have revised the provision requiring notice to parents of the advancement requirements, which now must be provided at the beginning of the school year.
- Consistent with statute, at PROMOTION beginning on page 1, a student who does not demonstrate proficiency may advance to the next grade only if (1) the student has completed all required accelerated instruction; (2) the district has considered the recommendation of the student's teacher, the student's grades, the student's assessment scores, and any other necessary academic information; and (3) the student is assigned to a highly qualified teacher in the subject of the failed assessment.
- A student is an ELIGIBLE STUDENT, and thus subject to grade advancement requirements, if the student is enrolled in a district on any day between January 1 and the first assessment date. A student who enrolls after the first assessment date is not subject to the grade advancement requirements, but the district must still provide the student with the opportunity to test and access to accelerated instruction. See page 2.

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- As reflected on page 4, when a student demonstrates UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, accelerated instruction must be based on guidelines and strategies as outlined in the GPC manual. Details are no longer included in the Administrative Code.
- A student who demonstrates UNSATISFACTORY PERFORMANCE ON GRADE ADVANCEMENT TESTS must be provided the required accelerated instruction before the next assessment administration.
- At AFTER EARLY IDENTIFICATION OF AT-RISK STUDENTS on page 5, districts no longer need to consider the results of the reading inventory for students in grade 2 in identifying such students. Notice to parents must now include information about required accelerated instruction.
- We have added existing provisions requiring the superintendent to establish procedures for convening the GRADE PLACEMENT COMMITTEE and requiring the district to make a good faith effort to notify parents of the GPC meeting. Minor revisions to this section were made to align the text with changes to the Administrative Code.
- At RETENTION AND APPEAL, beginning on page 7, changes clarify that a student may be promoted only if the student has completed all required accelerated instruction. Likewise, the changes clarify that the GPC must follow the procedures in the GPC manual.
- We have deleted a specific statement requiring a district to determine a TRANSFER STUDENT'S testing history and accelerated instruction program, since it no longer appears in the Administrative Code. See page 9.
- We have added a reference to an exception from grade advancement testing for LIMITED ENGLISH PROFICIENT (LEP) STUDENTS.
- We have added a clarification that decisions regarding assessments for limited English proficient SPECIAL EDUCATION STUDENTS must be made by the ARD committee in conjunction with the language proficiency assessment committee.
- Throughout the policy, other minor conforming changes were made, and several provisions were reordered to be consistent with the Administrative Code provisions.

EIE (LOCAL) ACADEMIC ACHIEVEMENT RETENTION AND PROMOTION

As mentioned above at EIE(LEGAL), major revisions were made to the Administrative Code rules addressing retention and promotion, effective April 19, 2010. As a result, we have included several recommended changes to the district's local policy text.

At ACCELERATED INSTRUCTION FOR GRADES 3-8, a new paragraph is recommended to address the requirement that any student in grades 3-8 who fails to demonstrate proficiency on a state-mandated assessment receive accelerated instruction. Students in grades 5 and 8 are also subject to the GRADE ADVANCEMENT TESTING requirements, previously referred to as the "student success initiative" in the margin notes and text of the policy.

At DEFINITION OF PARENT, we have indicated that an authorization agreement may also be used to designate responsibility for a student in all school-related matters.

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The STANDARDS FOR PROMOTION UPON APPEAL previously listed in the policy are recommended for deletion as they no longer appear in the Administrative Code. The GPC must consider the standards listed at EIE(LEGAL), RETENTION AND APPEAL, and any additional standards adopted by the board. A slight rephrasing of the provision addressing promotion after an appeal clarifies that a student may not be promoted unless the student has first completed the required accelerated instruction. On July 1, 2010, TEA released a "To the Administrator Addressed" letter explaining that districts can request a waiver to adjust the timeline for accelerated instruction required after the third failed assessment. The letter may be accessed at <http://ritter.tea.state.tx.us/taa/studassmt070910.html>.

In addition, because the Commissioner does not currently publish a state approved list of ALTERNATE ASSESSMENT INSTRUMENTS, we recommended adding "if available" following the reference to the list in the policy.

We have also included revisions suggested during the recent Policy Review Session held June 15, 2010, to reflect current district practice regarding promotion standards for students in GRADES 1-5 and GRADES 6-8 as well as the ASSIGNMENT OF RETAINED STUDENTS.

EK (LEGAL) TESTING PROGRAMS

At LOCAL ACHIEVEMENT TESTING, we have deleted several provisions based on amendments to the Administrative Code, effective April 21, 2010. Because the Education Code no longer requires a company or organization that scores an assessment instrument to report the results electronically to the district and to TEA, that requirement has been deleted from the Administrative Code and this policy. Likewise, a district that develops its own assessment instrument is no longer required to report the results electronically to TEA. Also removed is the previous prohibition on a district using the same form of an assessment instrument for more than three years.

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

We have updated this policy to reflect new terminology used in amended Administrative Code rules, effective December 23, 2009. Where appropriate, references to "test" have been replaced with "assessment."

New material on the IMPLEMENTATION SCHEDULE of end-of-course assessments has been added from Administrative Code provisions, effective October 18, 2009, December 23, 2009, and February 22, 2010. See page 3.

At SPECIAL EDUCATION, on page 5, an existing statutory provision requiring each testing accommodation to be documented in the student's IEP has been added.

Citations have been updated throughout this policy.

EKBA (LEGAL) STATE ASSESSMENT LEP STUDENTS

Significant changes to the Administrative Code, effective February 22, 2010, and to this policy as a result, have been made to incorporate changes from House Bill 3 passed during the 81st Texas Legislative Session. In addition to reordering several provisions in this policy, we have:

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- Added new documentation requirements for the LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC) regarding assessment postponements and exemptions and exclusions of test results for limited English proficient (LEP) students;
- Deleted the DEFINITION of “recent immigrant”;
- Rephrased text at SUBSEQUENT YEARS, on page 2, to better match the statutory language;
- Added existing statutory detail at REFUSAL OF SERVICES to clarify that if a parent declines bilingual/ESL services, the student is not eligible for an exemption or postponement and the district may not exclude the test results;
- Amended the text at FEDERAL ACCOUNTABILITY TESTING on page 3 to delete the sentence providing that exempt students assessed only for federal accountability purposes are not subject to grade advancement provisions of the Student Success Initiative;
- Added a new provision at EXIT-LEVEL ASSESSMENT POSTPONEMENT that allows a postponement of the exit-level assessment during an LEP student's first 12 months of enrollment in a U.S. school, unless the student would not have another opportunity to take the assessment before graduation;
- Added existing Administrative Code provisions regarding ASSESSMENT IN SPANISH;
- Added new provisions on page 4 regarding ASYLEE AND REFUGEE TEST RESULT EXCLUSION from the district's accreditation and performance ratings;
- Added new documentation requirements regarding testing and exemptions of LEP STUDENTS IN SPECIAL EDUCATION; and
- Added a new provision on page 5 that subjects LEP students to GRADE ADVANCEMENT REQUIREMENTS, unless they are eligible for an exemption or exclusion.

FD (LEGAL) ADMISSIONS

We have rephrased the text at ILLEGAL ALIENS on page 4 to better match the holding of the U.S. Supreme Court case *Plyler v. Doe*. The text now reflects that denying enrollment “based upon immigration status” to children who are not legally admitted into the U.S violates the Equal Protection Clause.

We have added a link to the AUTHORIZATION AGREEMENT form published by the Department of Family and Protective Services that parents may use to authorize the nonparent relatives listed in the policy to perform certain acts in regard to their child.

Citations have also been adjusted.

FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

This policy was amended to reflect changes in Administrative Code rules, effective February 22, 2010, addressing allowable travel for certain excused absences. A student who is absent to complete paperwork regarding CITIZENSHIP PROCEEDINGS, to participate in a naturalization oath ceremony, or to serve as an ELECTION CLERK is allowed one day of excused absence for traveling to the site and one day of excused absence for traveling from the site. See pages 3 and 4.

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We have added an existing provision specifying that absences for HEALTH-CARE APPOINTMENTS should be supported by a document, such as a note from the health-care professional.

FEB (LEGAL) ATTENDANCE
ATTENDANCE ACCOUNTING

Administrative Rules, revised effective February 22, 2010, require a student to be enrolled for at least two hours "of instruction" to be considered in attendance for one half day, and for at least four hours "of instruction" to be considered in attendance for one full day. See MINIMUM ENROLLMENT, on page 1.

As with FEA(LLEGAL), this policy was amended to reflect allowable travel time for excused absences to attend CITIZENSHIP PROCEEDINGS, to participate in a naturalization oath ceremony, or to serve as an ELECTION CLERK. These changes, reflected on page 3, are from Administrative Code rules, revised effective February 22, 2010.

FFAD (LEGAL) WELLNESS AND HEALTH SERVICES
COMMUNICABLE DISEASES

In accordance with revised Administrative Code rules, effective January 1, 2010, we have made extensive revisions to this policy:

- A local school authority, defined as the superintendent or superintendent's designee, must report in accordance with 25 Administrative Code 97.131–.135 a child who is attending school and is suspected, based on medical evidence, of having a sexually transmitted disease or who is an HIV-exposed infant. See SEXUALLY TRANSMITTED DISEASES (STD) AND HIV.
- If the local school authority fails to make a required report, another person, as listed in the policy, is required to do so.
- Knowingly failing to report a reportable disease or health condition is a class B misdemeanor. See PENALTIES.

Changes at READMITTANCE are from existing Administrative Code rules and have been made to better match the text of the rules—the Department of State Health Services regional director assists with readmittance issues if there is no local health authority, and certification of the student's health may be made by an advanced nurse practitioner or physician assistant in addition to an attending physician.

In addition, at REPORTS, the reference to the Texas Board of Health has been updated to the Department of State Health Services and, at EXCLUSION, the reference to the Texas Board of Health has been updated to the commissioner of health.

We have also added, on page 2, a link to the DSHS Communicable Disease Chart for Schools and Child-Care Centers.

FOC (LEGAL) STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION
SETTING

At CERTAIN ORGANIZATION AND GANG MEMBERSHIP AND SOLICITATION on page 3, we have added an existing Education Code provision that requires a board or educator to recommend DAEP placement for a student who commits the misdemeanor offense of being a member of, pledging to become a member of, or soliciting another person to join a public school fraternity, sorority, secret society, or gang. This provision also appears in FNCC(LLEGAL).

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Revisions at NOT GUILTY/INSUFFICIENT EVIDENCE/CHARGES DROPPED and APPEAL AFTER PLACEMENT UPHELD, on pages 7 and 8, have been made to better track the statutory language.

FODA (LEGAL) EXPULSION
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

As mentioned previously, the provisions on funding for services provided to students in juvenile residential facilities have been moved to the new code EEM(LEGAL).

GBA (LEGAL) PUBLIC INFORMATION PROGRAM
ACCESS TO PUBLIC INFORMATION

HB 3544, from the 81st Texas Legislature, creates an exception to the general rule that E-MAIL ADDRESSES used by a member of the public to communicate with a district are confidential. The exception provides that an e-mail address provided to a district for the purpose of receiving decisions from the district or to comment on or receive notices related to an application for a license are not confidential. For a school district, this might apply, for example, if a citizen provides his or her e-mail address to receive notice of board activity or information on a professional license or certificate. See page 4.

GBAA (LEGAL) INFORMATION ACCESS
REQUESTS FOR INFORMATION

This policy has been revised, on page 8, regarding PREVIOUS DETERMINATIONS of the attorney general. Under current law, when the attorney general has issued a previous determination decision on information that is the subject of a request, the district may not request another attorney general decision on the SAME INFORMATION. A citation to the relevant open record decision, No. 673, has been added.

When the attorney general has issued a previous determination decision that a *category* of information is not subject to disclosure under the Public Information Act, a district may withhold information that falls within that category without first seeking an attorney general decision. Recently, the attorney general issued Open Record Decision 684 (2010), which provides a list of CATEGORIES OF INFORMATION for which the attorney general has issued a previous determination. If a district receives a request for information that falls within one of the categories, it may withhold the information without first seeking an attorney general decision. In addition to the categories addressed in ORD-684, the attorney general has previously determined that a district may withhold personally identifiable, non-directory information in "education records" as defined by FERPA. A citation to the relevant open record decision, No. 634, has been added.

GNC (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES
COLLEGES AND UNIVERSITIES

A review of your policy manual indicates that it is missing this legally referenced material addressing various relationships with colleges and universities, including agreements on use of facilities, partnerships with community college districts, and provisions requiring plans to increase higher education enrollment. We have enclosed the policy for inclusion in your manual.

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