



Policy Reference Manual

Update 90

TASB Policy Reference Manual Update 90 includes a variety of issues, with a key focus on technology and the new assessment system, the State of Texas Assessments of Academic Readiness (STAAR). New and revised technology policies address board member use of district technology resources, employee and student use of district technology resources, district Web sites, accessing and searching electronic communications, and student use of personal electronic devices for instructional purposes. Other topics include board member training requirements, intellectual property, employee standards of conduct, end-of-course assessments, and student use of service animals.

To maintain your *Policy Reference Manual* as an up-to-date resource on governance and management of public school districts throughout Texas, please incorporate Update 90 into the manual as soon as possible. Remember that the *Policy Reference Manual* is a comprehensive collection of federal and state statutes and regulations, case law, attorney general opinions, and commissioner's decisions affecting Texas school districts. As such, it is an excellent reference document that recites a broad array of legal requirements, many of which apply to all districts, others to only a certain few. For this reason, these (LEGAL) policies are not suitable for incorporation in localized policy manuals.

PLEASE NOTE: This Update 90 packet may not be considered as legal advice and is not intended as a substitute for the advice of a district's legal counsel.

If you have any questions concerning this update or the *TASB Policy Reference Manual*, please call 800-580-7529 or 512-467-0222.

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Instruction Sheet

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District Policy Reference Manual

Code	Action To Be Taken	Note
B (LEGAL)	Replace table of contents	Revised table of contents
BBD (LEGAL)	Replace policy	Revised policy
BBE (LEGAL)	Replace policy	Revised policy
BED (LEGAL)	Replace policy	Revised policy
BR (LEGAL)	Replace policy	Revised policy
BRB (LEGAL)	DELETE policy	See explanatory note
C (LEGAL)	Replace table of contents	Revised table of contents
CFA (LEGAL)	Replace policy	Revised policy
CFC (LEGAL)	Replace policy	Revised policy
CMD (LEGAL)	Replace policy	Revised policy
CNC (LEGAL)	Replace policy	Revised policy
CQ (LEGAL)	Replace policy	Revised policy
CQA (LEGAL)	ADD policy	See explanatory note
CRB (LEGAL)	Replace policy	Revised policy
CS (LEGAL)	Replace policy	Revised policy
CY (LEGAL)	ADD policy	See explanatory note
D (LEGAL)	Replace table of contents	Revised table of contents
DF (LEGAL)	Replace policy	Revised policy
DFE (LEGAL)	Replace policy	Revised policy
DH (LEGAL)	Replace policy	Revised policy
DH (EXHIBIT)	Replace exhibit	Revised exhibit
DMD (LEGAL)	DELETE policy	See explanatory note
E (LEGAL)	Replace table of contents	Revised table of contents
EF (LEGAL)	Replace policy	Revised policy
EFAA (LEGAL)	Replace policy	Revised policy
EFE (LEGAL)	DELETE policy	See explanatory note
EHAC (LEGAL)	Replace policy	Revised policy
EHAD (LEGAL)	Replace policy	Revised policy
EHBAB (LEGAL)	Replace policy	Revised policy
EHBAD (LEGAL)	Replace policy	Revised policy
EHBC (LEGAL)	Replace policy	Revised policy
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EI	(LEGAL)	Replace policy	Revised policy
EIA	(LEGAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
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FBA	(LEGAL)	ADD policy	See explanatory note
FFAA	(LEGAL)	Replace policy	Revised policy
FL	(LEGAL)	Replace policy	Revised policy
FNCE	(LEGAL)	Replace policy	Revised policy
FNF	(LEGAL)	Replace policy	Revised policy
GBAA	(LEGAL)	Replace policy	Revised policy
GKB	(LEGAL)	Replace policy	Revised policy
GRA	(LEGAL)	Replace policy	Revised policy

Explanatory Notes

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District: Policy Reference Manual
B (LEGAL) LOCAL GOVERNANCE

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

BBD (LEGAL) BOARD MEMBERS
TRAINING AND ORIENTATION

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

Specifically, we have:

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

BBE (LEGAL) BOARD MEMBERS
AUTHORITY

This legally referenced policy has been reorganized, and legal citations throughout have been updated to reflect the most current legal authority.

Several new provisions were added:

- At ACCESS TO INFORMATION, a provision from a 2004 attorney general opinion was added to provide more detail about board member access to records that are otherwise confidential or involve a security concern. In these circumstances, a board can establish procedures to preserve confidentiality, but the district cannot absolutely prohibit a board member's access.

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- A provision was added to explain that a board member can have ACCESS TO STUDENT RECORDS only when acting in his or her official capacity with a legitimate educational interest.
- New material at RESPONSIBILITY FOR RECORDS outlines a board member's obligations to maintain the integrity of public records, including prohibitions against distributing confidential records or destroying, mutilating, altering, concealing, or removing records.

BED (LEGAL) BOARD MEETINGS PUBLIC PARTICIPATION

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

BR (LEGAL) REPORTS

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

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

BRB (LEGAL) REPORTS WEB SITE POSTINGS

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

C (LEGAL) BUSINESS AND SUPPORT SERVICES

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

CFA (LEGAL) ACCOUNTING FINANCIAL REPORTS AND STATEMENTS

We have made a minor revision at ANNUAL FINANCIAL MANAGEMENT REPORT to delete the requirement for the Commissioner to develop a reporting procedure.

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CNC (LEGAL) TRANSPORTATION MANAGEMENT TRANSPORTATION SAFETY

Details on SCHOOL BUS EMERGENCY EVACUATION TRAINING from amended Administrative Code rules, effective December 27, 2010, have been added on page 2. A definition has been included for districts that conduct school bus emergency evacuation training in the fall, defined as July 1 to December 31. In addition, a link has been provided to the form districts must complete after the training.

CQ (LEGAL) TECHNOLOGY RESOURCES

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

- We have clarified that the required CERTIFICATIONS TO THE FCC regarding Internet safety must be made annually and have moved the filtering exception for adults conducting bona fide research directly under the margin note addressing the TECHNOLOGY PROTECTION MEASURE.
- To provide information about district ACCESS TO ELECTRONIC COMMUNICATIONS, we have added beginning on page 7 provisions from the federal Electronic Communication Privacy Act and from the Stored Wire and Electronic Communications and Transactional Records Access Act.
- The Electronic Communication Privacy Act generally prohibits the intentional interception, use, or disclosure of any wire, oral, or electronic communication except when the person is a party to the communication or when one of the parties has given prior consent. This provision does not prohibit a district from intercepting electronic mail transmissions and other use of the district's electronic communications system so long as users give permission by signing an acceptable use form.
- The Stored Wire and Electronic Communications and Transactional Records Access Act will assist districts in understanding the rules applicable to accessing electronic communications while in electronic storage. This Act limits access to electronic communications while they are in electronic storage, as defined in the policy. Again, in most instances, this Act will not prohibit the district from accessing e-mails and other electronic communications on district-owned devices or stored on the district's technology resources because students and employees consent to such access in the user agreement. See EXCEPTIONS on page 8.
- Definitions have been added for "electronic communication," "electronic storage," "electronic communications system," and "electronic communications service."
- At AUTHENTICATION OF ELECTRONIC COMMUNICATIONS on page 9, existing statutory text has been added to address requirements for when a district uses a digital signature to authenticate a written electronic communication sent to the district.

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

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

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CRB (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT LIABILITY INSURANCE

We have revised the name of the certificate obtained after MOLD REMEDIATION has been performed from the “certificate of mold remediation” to the “certificate of mold damage remediation.” See page 2.

CS (LEGAL) FACILITY STANDARDS

As a result of amendments to the Code of Federal Regulations, effective March 15, 2011, we have revised item 1 at READILY ACCESSIBLE PROGRAMS, on page 3, to provide that compliance with accessibility standards for services, programs, and activities may be achieved by redesigning or *acquisitioning* equipment.

CY (LEGAL) INTELLECTUAL PROPERTY

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

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

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

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

D (LEGAL) PERSONNEL

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

DF (LEGAL) TERMINATION OF EMPLOYMENT

On page 3, we have deleted from the list of items a superintendent is required to REPORT TO SBEC those that do not involve the certificate holder’s termination, such as reporting when the certificate holder violates test security procedures. These items have been moved to DH(LEGAL); see the explanatory note below.

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

Other changes include:

- Moving to DH(LEGAL) the provision subjecting a superintendent to sanctions for failing to report to SBEC;
- Moving to DH(LEGAL) the provision explaining that a superintendent has immunity for making a report in good faith; and
- Deletion of the provision requiring a superintendent to notify the board and the educator of a report to SBEC regarding an educator who resigns under specific circumstances, as this material is at DFE(LEGAL).

DFE (LEGAL) TERMINATION OF EMPLOYMENT RESIGNATION

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

DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

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

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

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

DH (EXHIBIT) EMPLOYEE STANDARDS OF CONDUCT

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

- Amendment of Standard 1.1, addressing deceptive practices, to include reference to educator preparation programs, TEA, and SBEC;
- Addition of Standard 1.9 to prohibit threats of violence;
- Addition of Standard 1.10 to require good moral character;

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- Addition of Standard 1.11 to prohibit misrepresentation of employment history, criminal history, and disciplinary record;
- Addition of Standard 1.12 to prohibit illegal use or distribution of controlled substances or abuse of prescription drugs;
- Addition of Standard 1.13 to prohibit consumption of alcoholic beverages on school property and events when students are present;
- Amendment of Standards 2.5 and 3.4 to prohibit discrimination against colleagues or students based on sexual orientation;
- Amendment of Standard 2.7 to prohibit retaliation against individuals who provide information for a disciplinary investigation;
- Amendment of Standards 3.2 and 3.5 to address endangering students or engaging in neglect or abuse of a student;
- Amendment of Standard 3.7, prohibiting providing alcohol to students, to create an exception if the educator is that student's parent;
- Addition of Standard 3.8 to require professional relationships and boundaries with students; and
- Addition of Standard 3.9 to address electronic communications with students.

DMD (LEGAL) PROFESSIONAL DEVELOPMENT PROFESSIONAL MEETINGS AND VISITATIONS

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

E (LEGAL) INSTRUCTION

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

EF (LEGAL) INSTRUCTIONAL RESOURCES

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

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

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Additional detail on parental access to surveys was added at POLICIES on pages 1 and 2.

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

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

EFE (LEGAL) INSTRUCTIONAL RESOURCES
COPYRIGHTED MATERIAL

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

EFE is no longer an active code.

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

At item 5, Economics, on page 3, we have deleted the paragraph requiring a district to incorporate personal financial literacy in economics courses. The Administrative Code provision on which this text was based was repealed effective August 22, 2011, because this requirement is now included in the TEKS.

EHAD (LEGAL) BASIC INSTRUCTIONAL PROGRAM
ELECTIVE INSTRUCTION

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

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

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

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

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EHBAD (LEGAL) SPECIAL EDUCATION
TRANSITION SERVICES

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

EHBC (LEGAL) SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

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

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

EHBE (LEGAL) SPECIAL PROGRAMS
BILINGUAL EDUCATION/ESL

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

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

EI (LEGAL) ACADEMIC ACHIEVEMENT

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

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

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

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

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EIF (LEGAL) ACADEMIC ACHIEVEMENT GRADUATION

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

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

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

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

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

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

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

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

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

F (LEGAL) STUDENTS

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

FB (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

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

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

FBA (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY SERVICE ANIMALS

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

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

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

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

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

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

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

FFAA (LEGAL) WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

For ease of reference, we have repeated from EF(LEGAL) existing provisions from the Protection of Pupil Rights Amendment regarding policies and parental notification and opt-out for physical examinations or screenings. See page 5.

FL (LEGAL) STUDENT RECORDS

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

- Provisions requiring a district to furnish records to a new school district within ten working days after the date the district receives a request and requiring the district to notify a parent or other person with legal control of the student who makes a request for records that the person can pick up an unofficial copy of the records to deliver to the new school. See ENROLLMENT RECORDS on page 4.
- An explanation of "biometric record" at PERSONALLY IDENTIFIABLE INFORMATION and definitions of "RECORD" and "SIGNED AND DATED WRITTEN CONSENT," on page 5.
- For ease of reference, we have repeated from EF(LEGAL) existing provisions from the Protection of Pupil Rights Amendment regarding parental notification and opt-out for surveys that collect the listed student information. See page 10.

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FNCE (LEGAL) STUDENT CONDUCT
PERSONAL TELECOMMUNICATIONS/ELECTRONIC DEVICES

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

FNF (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
INTERROGATIONS AND SEARCHES

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

GBAA (LEGAL) INFORMATION ACCESS
REQUESTS FOR INFORMATION

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

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

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

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

GRA (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
LOCAL GOVERNMENTAL AUTHORITIES

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

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION B: LOCAL GOVERNANCE

BA	BOARD LEGAL STATUS
BAA	Powers and Duties
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Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION B: LOCAL GOVERNANCE

BJ	SUPERINTENDENT
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BJB	Recruitment and Appointment
BJC	Contract
BJCA	Travel
BJCB	Professional Development
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BJCD	Evaluation
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BJCF	Nonrenewal
BJCG	Retirement or Resignation
BK	ADMINISTRATIVE ORGANIZATION
BKA	Organization Charts
BKB	Line and Staff Relations
BM	ADMINISTRATIVE COUNCILS, CABINETS, AND COMMITTEES
BP	ADMINISTRATIVE REGULATIONS
BQ	PLANNING AND DECISION-MAKING PROCESS
BQA	District-Level
BQB	Campus-Level
BR	REPORTS
BRB	WEB SITE POSTINGS

**OPEN MEETINGS ACT
TRAINING**

Within 90 days after taking the oath of office, each board member shall complete training regarding the responsibilities of the board and its members under Chapter 551 of the Texas Government Code (Texas Open Meetings Act).

The training shall be not less than one and not more than two hours. The attorney general may provide the training and may also approve other acceptable sources of training.

A district shall maintain and make available for public inspection the record of its members' completion of the training. The failure of one or more members of the board to complete the training does not affect the validity of an action taken by the board.

Gov't Code 551.005

**PUBLIC INFORMATION
ACT TRAINING**

Within 90 days after taking the oath of office, each board member shall complete training regarding the responsibilities of a district and its officers and employees under Chapter 552 of the Texas Government Code (Public Information Act). A board member may designate a public information coordinator to satisfy the training for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or district under the Public Information Act. [See GBAA regarding public information coordinator training] *Gov't Code 552.012*

**SBOE-REQUIRED
TRAINING**

Each ~~trustee~~board member must complete any training required by the ~~State Board of Education. The minutes of the SBOE.~~ The training requirement consists of orientation, team building, and annual continuing education. To the extent possible, an entire board shall participate in training programs together. *Education Code 11.159; 19 TAC 61.1(b), .1(i)*

The SBOE's framework for governance leadership [see BBD(EXHIBIT)] shall be distributed annually by the board president to all current board members and the superintendent. *19 TAC 61.1(a)*

No training shall take place during a board meeting unless that meeting is called for the delivery of board training. Training may take place before or after a legally called board meeting in accordance with the Open Meetings Act. *19 TAC 61.1(c)*

Annually, the SBOE shall commend those teams that receive at least eight hours of training in team building and annual continuing education as an entire board-superintendent team. *19 TAC 61.1(k)*

REPORTING

Annually, at the last regular meeting of **athe** board held during a calendar year-, **the president shall announce, and the minutes** must reflect ~~whether, the name of each trustee~~**board member** who has ~~met or is delinquent in meeting the training required to be~~ completed **the required training, who has exceeded the required hours of training, and who is deficient in the required training** as of the date of the meeting. ~~Education Code 11.159~~
The president shall cause the minutes to reflect the information and shall make this information available to the local media. Education Code 11.159; 19 TAC 61.1(j)

~~Continuing education for board members includes orientation sessions, an annual team building session with a board and a superintendent, and specified hours of continuing education based on identified needs.~~

~~LOCAL
ORIENTATION~~

~~All board members shall receive a local district orientation and an orientation to the Texas Education Code.~~

NEW MEMBERS

~~New~~ **Within 60 days before or after** a board ~~members~~**member's election or appointment, a new board member** shall participate in a local orientation session ~~within 60 days before or after their election or appointment.~~ The purpose of this orientation is to familiarize **the** new board ~~members~~**member** with local board policies and procedures and district goals and priorities. **19 TAC 61.1(b)(1)(A)**

~~All~~ **Within the first year of service, a** newly elected board ~~members~~**member** shall receive ~~the~~**an** orientation to the Texas Education Code ~~within the first year of service.~~ The orientation shall be delivered by **a** regional education ~~services centers~~**service center** and shall be three hours in length. **19 TAC 61.1(b)(1)(C)**

~~SITTING
MEMBERS~~

~~All sitting board members shall receive a basic orientation to the Texas Education Code and relevant legal obligations. The orientation will have special but not exclusive emphasis on statutory provisions related to Texas school district governance. The orientation shall be delivered by regional education services centers and shall be three hours in length. Topics shall include, but not be limited to, Texas Education Code, Chapter 26 (Parental Rights and Responsibilities), and Texas Education Code, Section 28.004 (Local School Health Education Advisory Council and Health Education Instruction). [See BDF, EHAA, and FNG]~~

**LEGISLATIVE
UPDATES**

After each session of the Texas Legislature, each board member shall receive an ~~updated session~~**update to the basic orientation to the Texas Education Code** from a regional education service center or any registered provider ~~to the basic orientation to the Texas Education Code.~~ ~~The update session shall be of sufficient~~

	<p>length to familiarize board members with major changes in the Education Code and other relevant legal developments related to school governance. A board member who has attended a basic orientation session given by a service center that incorporates the most recent legislative changes is not required to attend an additional legislative update. 19 TAC 61.1(b)(1)(D)</p>
TEAM BUILDING	<p>AnAnnually, an entire board, including all board members, shall annually participate with a superintendent in a team building session facilitated by thea regional education service center or any registered provider. The team building session shall be of a length deemed appropriate by the board, but generally at least three hours.</p> <p>The purpose of the team building session is to enhance the effectiveness of the board-superintendent team and to assess the continuing education needs of the board-superintendent team. The assessment of needs shall be based on the framework for governance leadership [see BBD(EXHIBIT)] and shall be used to plan continuing education activities for the governance leadership team for the upcoming year.</p> <p>19 TAC 61.1(b)(2)</p>
ANNUAL CONTINUING EDUCATION	<p>In addition to the orientation and team building training, alla board membersmember shall receive additional continuing education on an annual basis, in fulfillment of assessed needs and based on the framework for governance leadership. [See BBD(EXHIBIT)] The continuing education sessions may be provided by thea regional education service centerscenter or other registered providersprovider. 19 TAC 61.1(b)(3)</p> <p>To the extent possible, an entire board shall participate in continuing education programs together.</p> <p>At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with a board member's school district. No more than one hour of the required continuing education that is delivered by the local district may use self-instructional materials. 19 TAC 61.1(h)</p>
FIRST YEAR	<p>In theirthe first year of service, a board membersmember shall receive at least ten hours of continuing education in fulfillment of assessed needs. Board members may fulfill up. Up to five of the required ten hours of continuing educationmay be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that as-</p>

	<p>sess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. 19 TAC 61.1(b)(3)(A)</p>
SUBSEQUENT YEARS	<p>FollowingAfter the first year of service, a board membersmember shall receive at least five hours of continuing education annually in fulfillment of assessed needs. Board members. A board member may fulfill the five hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. 19 TAC 61.1(b)(3)(B)</p>
PRESIDENTS BOARD PRESIDENT	<p>A board president shall receive continuing education related to leadership duties of the board president as some portion of the annual requirement.</p>
LOCAL TRAINING	<p>At least 50 percent of the annual continuing education shall be designed and delivered by persons not employed or affiliated with a board member's local school district. No more than one hour of the required continuing education that is delivered by the local district may use self instructional materials.</p> <p>19 TAC 61.1(b)(3)(C)</p>
SPECIFIC OPEN MEETINGS TRAINING	<p>Within 90 days after taking the oath of office, each board member shall complete a course of training regarding the responsibilities of the board and its members under Chapter 551 of the Texas Government Code. The office of the attorney general may provide the training and may also approve other acceptable sources of training.</p> <p>Board members sworn in before January 1, 2006, must complete the training required by Government Code 551.005 before January 1, 2007.</p> <p>Gov't Code 551.005</p>
SPECIFIC OPEN RECORDS TRAINING	<p>Within 90 days after taking the oath of office or assuming duties as a public official, each board member and public information coordinator shall complete a course of training regarding the responsibilities of a district and district officers and employees under Chapter 552 of the Texas Government Code. The office of the attorney general may provide the training and may also approve other acceptable sources of training.</p> <p>A board member may designate a public information coordinator to satisfy the training requirements of Government Code 552.012 for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or district under Government Code Chapter 552.</p>

~~Board members and public information coordinators who have been sworn in or assumed duties before January 1, 2006, must complete the training required by Government Code 552.012 before January 1, 2007.~~

~~Gov't Code 552.012~~

~~ANNUAL COMPLIANCE
ANNOUNCEMENT~~

~~Annually, at the meeting at which the call for election of board members is normally scheduled, the president shall announce the name of each board member who has completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in the required continuing education. The president shall cause the minutes to reflect the information and shall make this information available to the local media.~~

~~TRAINING DURING
MEETINGS~~

~~No continuing education shall take place during a board meeting unless that meeting is called for the delivery of board training. Continuing education may take place prior to or after a legally called board meeting in accordance with the Government Code.~~

~~19 TAC 61.1~~

~~CONVENTIONS AND
WORKSHOPS~~

~~Board members may attend regional, state, or national conventions or workshops without such gatherings being construed as "meetings" under the Open Meetings Act. However, no formal action shall be taken at such conventions or workshops concerning district business, and any discussion of public business shall be merely incidental to the convention or workshop. Gov't Code 551.001(4)~~

~~COMMENDATION~~

~~Annually, the State Board shall commend those board-superintendent teams that receive at least eight hours of the continuing education in the local orientation and team-building sessions as an entire board-superintendent team. 19 TAC 61.1~~

BOARD
ACTIONS AUTHORITY

~~Because the~~The board ~~is a body corporate,~~ members ~~can perform no valid act except~~ as a body ~~at meetings properly convened~~ **corporate have the exclusive power** and ~~conducted.~~ *Toyah ISD v. Pecos-Barstow ISD, 466 S.W.2d 377 (Tex. Civ. App. San Antonio, 1971, no writ); Buchele v. Woods, 528 S.W.2d 95 (Tex. Civ. App. Tyler, 1975, no writ)*

RIGHT OF ACCESS

~~Individual Trustees, in their official capacity as public officers entrusted with governing~~ **duty to govern** and ~~overseeing~~ **oversee** the management of ~~a the~~ **the public schools of the** district, ~~have.~~ *Education Code 11.151*

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. Education Code 11.051(a-1)

ACCESS TO
INFORMATION

An individual board member has an inherent right of access to records maintained by the district, ~~under board policies for orderly access~~ **when the board member requests the records in his or her official capacity.** *Atty. Gen. Op. No. JM-119 (1983); Education Code 11.151)*

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the district may not absolutely prohibit an individual board member from viewing records involving district business that are otherwise properly available to the board as a governmental body. *Atty. Gen. Op. No. GA-138 (2004)*

ACCESS TO
STUDENT
RECORDS

Personally identifiable information in education records may be released, without the written consent of the student's parents, only to a school official who has a legitimate educational interest in the education records. *34 CFR 99.31 [See FL, GBA]*

RESPONSIBILITY
FOR RECORDS

A person, including a board member, commits a criminal offense if the person:

- 1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a district record in contravention of Local Government Code Chapter 202. Local Gov't Code 202.008; Penal Code 37.10**
- 2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Govern-**

**ment Code Chapter 552 (Public Information Act). Gov't
Code 552.351**

**3. Distributes information considered confidential under the
Public Information Act. Gov't Code 552.352**

PROTECTIONS FOR
ACTING ON A
LEGISLATIVE
MEASURE

A board member may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
4. A breach of duty, in connection with the **board** member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

Gov't Code 572.059

BOARD MEMBER
IMMUNITIES

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

STATE LAW
IMMUNITIES

A board member is not personally liable for any act that is incident to or within the scope of the duties of the board member's position and that involves the exercise of judgment or discretion. *Education Code 22.0511(a)*

FEDERAL LAW
IMMUNITIES

Except as provided in 20 U.S.C. Section 6736(b), no board member shall be liable for harm caused by an act or omission of the board member on behalf of a district if the conditions of the Paul D. Coverdell Teacher Protection Act of 2001 are met. 20 U.S.C. ~~Section~~ 6733, 6736(a) [See also DH]

UNITED STATES
CONSTITUTION

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV*

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. When the board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976), *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)

A board may create a limited public forum for the purpose of hearing comments from the public so long as:

- 1. The board does not discriminate against speech on the basis of viewpoint;**
- 2. Any restrictions are reasonable in light of the purpose served by the forum; and**
- 3. The board provides alternative paths for expressing categories of protected speech that are excluded from the forum.**

***Fairchild v. Liberty Indep. Sch. Dist.*, 597 F.3d 747 (5th Cir. 2010)**

TEXAS CONSTITUTION

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

PUBLIC COMMENT

As long as the requirements of the Open Meetings Act are satisfied and the right of citizens to apply to a board for redress of their grievances is not abridged, the board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. A board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Atty. Gen. Op. H-188 (1973)*

Note: For other provisions regarding grievance procedures, see the following codes:

Open Meetings Act — BE

Complaints against peace officers — CKE

Employee complaints/grievances — DGBA

Instructional materials — EFA

Student and parent complaints — FNG

Public complaints — GF

RESPONSE TO
COMPLAINTS

There is no requirement that the board negotiate or even respond to complaints. However, the board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association Prof'l Ass'n of College Educators v. El Paso County Community Cmty. [College] District, Dist.*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

DISRUPTION

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State*, 807 S.W. 2d 577 (Tex. Cr. App. 1991)

Note: The following is an index of periodic reports that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. This list does not address responsive reports (those that are required in response to a specific incident), reports required under special circumstances, or reports required under administrative procedures of an agency.

REPORTS BY
DISTRICT

A district shall publish and/or distribute the following reports:

1. A written report to each parent of student performance, under Education Code 39.303. [See AIB]
2. At the beginning of the school year, a report to each teacher of students who took a state assessment, indicating whether each student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
3. At the beginning of the school year, a report to each student who took a state assessment, indicating whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
4. Annually, a board shall publish a report describing the educational performance of the district and of each campus in the district. [See AIB]
5. Annually, a district shall distribute information from a campus report card to the parent of each student at the campus, under Education Code 39.305. [See AIB]
6. ~~At~~**Annually, at** the last regular meeting of ~~the~~**the** board ~~for the held during a~~ calendar year, the ~~minutes must reflect whether each trustee has met or is delinquent in meeting the board training requirements, under Education Code 11.159. In addition, annually, at the meeting at which the call for election of board members is normally scheduled, the~~ president shall announce, **and the minutes must reflect**, the name of each board member who has completed the required ~~continuing education~~**training**, who has exceeded the required hours of ~~continuing education~~**training**, and who is deficient in the required ~~continuing education, under~~**training as of the date of the meeting. The president shall cause the minutes to reflect the information and shall make this information**

available to the local media. *Education Code 11.159; 19 TAC 61.1-(j)* [See BBD]

7. An end-of year financial report, for distribution to the community under Education Code 11.1511(b)(11). [See BAA]
8. The annual financial management report, under Education Code 39.083. [See CFA]
9. Annually, a proposed budget shall be submitted to TEA on or before the date established in the *Financial Accountability System Resource Guide*, under Education Code 44.005. [See CE]
10. On or before the date set by the State Board of Education, a report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA, under Education Code 44.007(c), (d). [See CFA]
11. Not later than the 150th day after the date the fiscal year ends, a board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district, under Local Government Code 140.006. [See CFA]
12. Not later than the 150th day after the end of the fiscal year for which an audit was made, a copy of the annual audit report shall be filed with TEA, under Education Code 44.008(d). [See CFC]
13. At least once every three years, a district shall conduct a safety and security audit of the district's facilities and report the results of the safety and security audit to the Texas School Safety Center, under Education Code 37.108. [See CK]
14. Not later than March 1 of each year, each district police department shall submit a report containing information about motor vehicle stops during the previous calendar year to the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CKE]
15. Not later than April 25, a superintendent shall report a district's maximum attendance to the Commissioner, for textbook requisition purposes, under Education Code 31.103. [See CMD]
16. By September 1, districts involved in a school bus advertising program shall provide to the Texas Department of Public Safety written notification of the number of school buses op-

erated by or for the district that display exterior advertising or another paid announcement, under 37 ~~TAG~~**Administrative Code** 14.6765(a)(1), (b). [See CNB]

17. Annually, a district shall report to TEA the number of accidents in which its buses were involved in the past year, under Education Code 34.015(b). [See CNC]
18. By March 1 of each even-numbered year, a district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall report its compliance with the comparability requirements to TRS, under Education Code 22.004(d). [See CRD]
19. At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, a district shall report to its natural gas supplier the results of a pressure test of natural gas piping systems in each district facility, under Utilities Code 121.504. [See CS]
20. Each month, a district that employs any retirees shall file a certified statement with TRS, under Government Code 824.6022. [See DC]
21. By April 1 of each year, a district shall transmit a report to TEA listing the instructional materials selected for use in the district, under 19 ~~TAG~~**Administrative Code** 66.104(g). [See EFAA]
22. Before November 1 of each year, a board shall report to TEA the number of limited English proficient (LEP) students on each campus, under Education Code 29.053(b). [See EHBE]
23. Annually, a district shall report to TEA the strategies implemented by the district to increase community awareness of prekindergarten programs offered by the district, under Education Code 29.1534. [See EHBG]
24. Annually, a district that operates a high school equivalency (GED) program shall submit a progress report to TEA, under 19 ~~TAG~~**Administrative Code** 89.1417(a). [See EHBL]
25. Annually, a district shall report to TEA the number of students who have earned college credit and the cumulative number of courses in which participating students have enrolled and college credit hours the students have earned, under Education Code 28.009. [See EHDD]

- ~~26.~~ A district that has developed its own assessment instruments shall report the results in electronic form to TEA, under 19 TAC 101.101(e). [See EK]
- ~~27.~~26. A superintendent shall report the results of reading instruments to the Commissioner and each student's raw score on the reading instrument to TEA, under Education Code 28.006(d). [See EKC]
- ~~28.~~27. A district shall use the student attendance accounting standards established by the Commissioner to make reports on student attendance and student participation in special programs, under 19 TAC Administrative Code 129.1023. [See FEB]
- ~~29.~~28. A district shall compile the results of the annual physical fitness assessment of students and provide summary results to TEA, under Education Code 38.103. [See FFAA]
- ~~30.~~29. On or before June 30 of each year, a district shall submit to the Texas Department of State Health Services (TDSHS) a report on the vision and hearing screening status of students who were screened during the reporting year, under Health and Safety Code 36.006. [See FFAA]
- ~~31.~~30. Not later than June 30 of each reporting year, a district shall submit to TDSHS an annual report of spinal screening performed during the school year, under 25 TAC Administrative Code 37.148(n). [See FFAA]
- ~~32.~~31. A district located in Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, or 20 shall submit to the University of Texas—Pan American Border Health Office an annual report on its students' risk assessment status for Type 2 diabetes, under Health and Safety Code 95.004(e). [See FFAA]
- ~~33.~~32. Annually, a district shall submit a report of the immunization status of students to TDSHS, under Education Code 38.002(c). [See FFAB]
- ~~34.~~33. Annually, a district shall report to the Commissioner information regarding each placement in a disciplinary alternative education program (DAEP) and each expulsion, under Education Code 37.020. [See FO]
- ~~35.~~34. Not later than the 30th day after the contract is executed and again not later than the 30th day after the contract is terminated, a district shall report to the Office of Federal-State Relations any contract between the district and a federal-level

government relations consultant, under Government Code
751.016. [See GR]

Note: The following is an index of Web site posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident, postings required under special circumstances, or postings required under administrative procedures of an agency.

REQUIRED INTERNET
POSTINGS

A district that maintains an Internet Web site shall post the following:

1. Not later than the 10th day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
2. A district shall provide access to the conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CHE]
3. A district shall post the statements regarding activities to support student health, under Education Code 28.004. [See BDF]
4. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting, under Education Code 551.056. [See BE]
5. A district shall include on the home page of its Web site the prescribed statement if the district proposes to increase the amount of taxes to fund maintenance and operation expenditures, under Tax Code 26.05(b). [See CCG]
6. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget, under Education Code 44.0041. [See CE]
7. A district shall maintain its adopted budget on the district's Web site until the third anniversary of the date the budget was adopted, under Education Code 39.084. [See CE]
8. A district shall report its energy usage information on a publicly accessible Internet Web site with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]

REPORTS
WEB SITE POSTINGS

BRB
(LEGAL)

9. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]
10. A district shall post the board's employment policies, under Education Code 21.204(d). [See DCB]
11. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]
12. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements, under Education Code 38.0181. [See FFAB]

OPTIONAL INTERNET
POSTINGS

A district that maintains an Internet Web site may post the following:

1. A board may broadcast an open meeting over the Internet, under Government Code 551.128. [See BE]
2. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's Internet Web site, rather than on a bulletin board, under Education Code 11.1513. [See DC]
3. A district may place on its Internet Web site a current copy of the procedural safeguards notice regarding special education and related services, under 34 CFR 300.504(b). [See EHBAE]
4. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION C: BUSINESS AND SUPPORT SERVICES

CA	FISCAL MANAGEMENT GOALS AND OBJECTIVES
CAA	Financial Ethics
CB	STATE AND FEDERAL REVENUE SOURCES
CBA	State
CBB	Federal
CC	LOCAL REVENUE SOURCES
CCA	Bond Issues
CCB	Time Warrants
CCC	Certificates of Indebtedness
CCD	Recreational Facilities Bonds
CCE	Athletic Stadium Authority
CCF	Loans and Notes
CCG	Ad Valorem Taxes
CCH	Appraisal District
CD	OTHER REVENUES
CDA	Investments
CDB	Sale, Lease, or Exchange of School-Owned Property
CDBA	Revenue Bonds From Proceeds
CDC	Grants From Private Sources
CDD	Rentals and Service Charges
CDE	Shop Sales
CDF	Royalties
CDG	Gate Receipts, Concessions
CDH	Public Facilities Corporations
CE	ANNUAL OPERATING BUDGET
CF	ACCOUNTING
CFA	Financial Reports and Statements
CFB	Inventories
CFC	Audits
CFD	Activity Funds Management
CFE	Payroll Procedures
CFEA	Salary Deductions and Reductions
CFF	Checking Accounts
CFG	Cash in School Buildings
CG	BONDED EMPLOYEES AND OFFICERS

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION C: BUSINESS AND SUPPORT SERVICES

CH	PURCHASING AND ACQUISITION
CHB	Petty Cash Account
CHD	Purchasing Procedures
CHE	Vendor Relations
CHF	Payment Procedures
CHG	Real Property and Improvements
CHH	Financing Personal Property Purchases
CI	SCHOOL PROPERTIES DISPOSAL
CJ	CONTRACTED SERVICES
CJA	Criminal History
CK	SAFETY PROGRAM/RISK MANAGEMENT
CKA	Inspections
CKB	Accident Prevention and Reports
CKC	Emergency Plans
CKD	Emergency Medical Equipment and Procedures
CKE	Security Personnel/Peace Officers
CL	BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT
CLA	Security
CLB	Maintenance
CLC	Traffic and Parking Controls
CLD	Records and Reports
CLE	Flag Displays
CM	EQUIPMENT AND SUPPLIES MANAGEMENT
CMA	Receiving and Warehousing
CMB	Authorized Uses of Equipment and Supplies
CMD	Instructional Materials Care and Accounting
CN	TRANSPORTATION MANAGEMENT
CNA	Student Transportation
CNB	District Vehicles
CNBA	Bus Maintenance
CNC	Transportation Safety
CO	FOOD SERVICES MANAGEMENT
COA	Food Purchasing
COB	Free and Reduced-Price Food Program
COC	Vending Machines

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION C: BUSINESS AND SUPPORT SERVICES

CP	OFFICE MANAGEMENT
CPA	Office Communications
CPAA	Printing and Duplicating
CPAB	Mail and Delivery
CPAC	Telephone
CPC	Records Management
CQ	ELECTRONIC COMMUNICATION AND DATA MANAGEMENT
CQ	TECHNOLOGY RESOURCES
CQA	District, Campus, and Classroom Web Sites
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Design-Build Contracts
CVD	Construction Manager-Agent
CVE	Construction Manager-At-Risk
CVF	Job Order Contracts
CW	NEW FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS
CY	INTELLECTUAL PROPERTY

ACCOUNTING SYSTEM	<p>A board must adopt and install a standard school fiscal accounting system that meets the minimum requirements prescribed by the State Board of Education; is consistent with state financial laws; does not misrepresent the nature, scope, or duration of the financial activities of the state or the district; may follow the statutory standards in Government Code Chapter 2264 when other accounting bases conflict with state law; and conforms with generally accepted accounting principles. <i>Education Code 44.007(a), (b); Gov't Code 2266.002; 19 TAC 109.1, 109.41</i></p>
REPORT OF REVENUES AND EXPENDITURES	<p>A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. The report shall include management, cost accounting, and financial information that will enable the State Board to monitor the funding process and determine educational costs by district, campus, and program. <i>Education Code 44.007(c), (d)</i></p>
FINANCIAL STATEMENT	<p>A board shall prepare an annual financial statement that shows the following for each fund subject to its authority during the fiscal year:</p> <ol style="list-style-type: none">1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived.2. The total disbursements of the fund, itemized by the nature of the expenditure.3. The balance in the fund at the close of the fiscal year. <p><i>Local Gov't Code 140.005</i></p>
PUBLICATION	<p>A board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of a district, the financial statement shall be published in a newspaper in each county in which the district or any part of the district is located. The statement shall be published in accordance with the accounting method required by TEA not later than the 150th day after the date the fiscal year ends. <i>Local Gov't Code 140.006</i></p>
ANNUAL FINANCIAL MANAGEMENT REPORT	<p>The Commissioner shall develop a reporting procedure under which a Each district is required to prepare and distribute an annual financial management report. The annual financial management report prepared by athe district must include a description of the district's financial management performance based on a compari-</p>

son, provided by TEA, of the district's performance on the indicators in 19 Administrative Code 109.1002.

The public shall be given an opportunity to comment on the report at a hearing.

REPORT
REQUIREMENTS

The report shall contain information on state-established standards and a district's financial management performance under each indicator for the current and previous ~~years~~**year's** financial accountability ratings, ~~along with a description of the data submitted using the electronic-based program developed under Education Code 39.0822~~ and any descriptive information required by the Commissioner, including:

1. A copy of a superintendent's current employment contract, ~~or other written documentation of employment where no contract exists. The purpose of this disclosure is to report all compensation and benefits paid to the superintendent.~~ A district may publish ~~at~~**the** superintendent's employment contract on the district's Internet site in lieu of publication in the annual financial management report;
2. A summary schedule for the fiscal year (12-month period) of **expenditures paid on behalf of and/or** total reimbursements received by ~~at~~**the** superintendent and each board member, including transactions resulting from use of a district's credit card(s) to cover expenses incurred by the superintendent and each board member. The summary schedule shall separately report reimbursements for meals, lodging, transportation, motor fuel, and other items ~~but not, but the summary schedule of total reimbursements is not to include~~ reimbursements for supplies and materials that were purchased for the operation of the district;
3. A summary schedule for the fiscal year of the dollar amount of compensation and/or fees received by the superintendent from another school district or any other outside entity in exchange for professional consulting and/or other personal services. The schedule shall separately report the amount received from each entity;
4. A summary schedule for the fiscal year of the total dollar amount received by the executive officers and board members of gifts that had an economic value of \$250 or more in the aggregate in the fiscal year. This reporting requirement only applies to:
 - a. Gifts received by a district's executive officers and board members (and their immediate family as described by

Government Code, Chapter 573, Subchapter B, as a person related to another person within the first degree by consanguinity or affinity) from an outside entity that received payments from the district in the prior fiscal year, and

- b. Gifts from competing vendors that were not awarded contracts in the prior fiscal year.

This reporting requirement does not apply to reimbursement of travel-related expenses by an outside entity when the purpose of the travel is to investigate or explore matters directly related to the duties of an executive officer or board member, or matters related to attendance at education-related conferences and seminars whose primary purpose is to provide continuing education; however, this exclusion does not apply to trips for entertainment-related purposes or pleasure trips. This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had an aggregate economic value of less than \$250 per executive officer or board member; ~~and~~

5. A summary schedule for the fiscal year of the dollar amount by board member for the aggregate amount of business transactions with the district. This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by board members; ~~and~~
6. **A summary schedule of the data submitted using the electronic-based program developed under the financial solvency provisions of Education Code 39.0822; and**
- ~~6.7.~~ Any other information the board of trustees of a district determines to be useful.

PUBLIC HEARING

A board shall hold a public hearing on the report. The public hearing shall be held in a district's facilities within two months of receipt of a final financial accountability rating.

A board shall give notice of the hearing to property owners in the geographic boundaries of the district and to parents of district students.

In addition to other notice required by law, notice of the hearing must be provided to a newspaper of general circulation in the geographic boundaries of the district once a week for two weeks prior to holding the public meeting, providing the time and place where the hearing is to be held. The first notice in the newspaper may not be more than 30 days prior to or less than 14 days prior to the public meeting. If there is not a newspaper published in the county in

which a district's central administration office is located, then the notice is to be published in the county nearest the county seat of the county in which the district's central administration office is located.

Notice of the hearing must also be provided through electronic mail to media serving a district.

At the hearing, the annual financial management report shall be disseminated to parents and taxpayers in attendance. The annual financial management report shall be retained in a district for at least a three-year period after the public hearing and shall be made available to parents and taxpayers upon request.

CORRECTIVE ACTION
PLAN

A corrective action plan shall be filed with TEA by each school district that received a rating of Substandard Achievement or Suspended—Data Quality. The corrective action plan, prepared in accordance with the instructions from the Commissioner, is to be filed within one month after a district's public hearing.

DISSEMINATION

After the hearing, the report shall be disseminated in a district in the manner prescribed by the Commissioner.

Education Code 39.083; 19 TAC 109.1005

PROJECTED DEFICIT

If the review process under Education Code 39.0822 [see CFC] indicates a projected deficit for a district general fund within the following three school years, the district shall provide TEA interim financial reports, supplemented by staff and student count data, as needed, to evaluate the district's current budget status.

FINANCIAL PLAN

If the interim financial data substantiates the projected deficit, the district shall develop a financial plan and submit the plan to TEA for approval. TEA may approve the plan only if it determines the plan will permit the district to avoid the projected insolvency.

The Commissioner shall assign a district an accredited-warned status if:

1. The district fails to submit a financial plan;
2. The district fails to obtain approval from the agency for a financial plan;
3. The district fails to comply with a financial plan approved by TEA; or
4. TEA determines in a subsequent school year, based on financial data submitted by the district, that the approved plan for the district is no longer sufficient or is not appropriately implemented.

Education Code 39.0823

ANNUAL AUDIT

The board shall have a district's fiscal accounts audited annually at district expense by a Texas certified or public accountant holding a permit from the State Board of Public Accountancy.

The audit shall be completed following the close of each fiscal year, and shall meet at least the minimum requirements and be in the format prescribed by the State Board of Education, subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by a district through the Public Education Information Management System (PEIMS).

Education Code 44.008(a), (b)

FINANCIAL
ACCOUNTABILITY
SYSTEM
RESOURCE GUIDE
(FASRG)

The rules for financial accounting, including the selection of an auditor and the requirements for the audit, are described in the official TEA publication, *Financial Accountability System Resource Guide*, as amended, which is adopted as the State Board of Education's official rule. *19 TAC 109.41*

FILING OF REPORT

A copy of the annual audit report, approved by the board, shall be filed with TEA not later than the 150th day after the end of the fiscal year for which the audit was made. If ~~the~~ board does not approve the audit report, it shall nevertheless file a copy of it with TEA, accompanied by a statement detailing its reasons for failing to approve the report. *Education Code 44.008(d)*

FINANCIAL RECORDS

Each treasurer receiving or having control of any school fund shall keep a full and separate itemized account of each of the different classes of school funds received, and these records shall be available to audit. *Education Code 44.008(c)*

FINANCIAL SOLVENCY

TEA shall ~~develop~~ **conduct a financial solvency** review ~~process of a district~~ to anticipate the **district's** future financial solvency ~~of each school district~~. The review ~~process is~~ **designed to alert districts to circumstances that could lead to financial insolvency**. *Education Code 39.0822; 19 TAC 109.1101(a)*

DEFINITION

Financial solvency is the condition in which a district either is generally paying its debts as they become due, unless such debts are the subject of a bona fide dispute, or is able to pay its debts as they become due. *19 TAC 109.1101(b)(1)*

DATA REVIEWED

In its financial solvency review, TEA shall use the following data, which are available through existing data sources:

- 1. Annual financial audits for the past two school years;**
- 2. PEIMS financial actual data for the past two school years;**

3. PEIMS financial budget data for the current year and the past two school years;
4. PEIMS staff data for the current year and the past two school years;
5. PEIMS student data for the current year and the past two school years; and
6. School district tax rate data.

TEA shall request the following additional information from districts:

1. First-quarter district financial data for the current school year; and
2. District comments.

19 TAC 109.1101(c)

METHODOLOGY

In its financial solvency review, TEA shall analyze: the following:

1. District revenues and expenditures for the ~~preceding~~past school year; and
2. Projected district revenues and expenditures for the current school year and the ~~following~~next two school years.

~~In analyzing the above information, the review process must~~TEA may consider, for the ~~preceding~~past school year, the current school year, and the ~~following~~next two school years, as appropriate, the following:

1. Student-to-staff ratios relative to expenditures, ~~including average~~;
- ~~1.2.~~ **Average** staff salaries;
- ~~2.3.~~ The rate of change in the ~~district~~unreserved (**assigned and unassigned, effective beginning with fiscal year 2010–11 data**) general fund balance;
- ~~3.4.~~ The number of students enrolled in the district;
- ~~4.5.~~ The adopted tax rate of the district;
- ~~5.6.~~ Any independent audit report prepared for the district; and
- ~~6.7.~~ Actual district financial information for the first quarter.

19 TAC 109.1101(d)(1)–(3)

**ELECTRONIC
SUBMISSION
NOTIFICATION**

~~TEA shall develop an electronic-based program for school districts to use in submitting information to the agency for purposes of this section. Each notify any district shall update information for purposes for which the financial solvency review shows one or more of the program within the period prescribed by the Commissioner.~~

ALERTS

~~The program must alert TEA immediately on the occurrence of following:~~

1. A student-to-staff ratio that is significantly outside the norm;
2. A rapid depletion of the ~~district~~ general fund balance; ~~and~~or
3. A significant discrepancy between ~~actual~~submitted budget figures and projected revenues and expenditures.

~~TEA shall immediately notify the affected district regarding the condition triggering the alert.~~

~~Education Code 39.0822~~

19 TAC 109.1101(d)(4)

FURTHER REVIEW

TEA may extend the financial solvency review and require additional documentation of a district that receives notification. TEA shall use additional documentation and comments submitted by a district to determine whether the district is projected to have a deficit for its general fund within the next three school years. If the review indicates a projected deficit, the district must submit to TEA interim financial reports, supplemented by staff and student count data, as needed, for TEA to evaluate the current budget status of the district.

If analysis and evaluation of the interim financial reports substantiates a projected deficit within the next three school years, the district must develop and submit a financial plan for avoiding the projected insolvency to TEA for approval. TEA may monitor the implementation of a financial plan or modified financial plan for a period of up to three years.

19 TAC 109.1101(d)(5), (e)

**IMPACT ON
ACCREDITATION**

The Commissioner shall assign an Accredited-Warning status to a district that is required to develop and submit a financial plan if:

1. The district fails to submit a financial plan to avoid a projected deficit;
2. The district fails to get approval from TEA for a financial plan or modified financial plan;

3. The district fails to comply with a TEA-approved financial plan; or
4. TEA determines in a subsequent school year, based on financial data submitted by the district, that the approved plan is no longer sufficient or is not appropriately implemented.

Education Code 39.0823; 19 TAC 109.1101(f)

APPEALS

All financial plan approval decisions made by the Commissioner in regard to the financial solvency review are final and cannot be appealed. *19 TAC 109.1101(g)*

**PUBLIC
INFORMATION**

All documentation generated and gathered in the process of determining a district's financial solvency shall be considered working papers and not subject to open records requests. Financial solvency documentation related to districts required to submit financial plans shall be subject to open records requests as permitted by statute or rule. *19 TAC 109.1101(d)(6)*

**ANNUAL AUDIT OF
DROPOUT RECORDS**

The Commissioner shall develop a process for auditing district dropout records electronically. The Commissioner shall also develop a system and standards for review of the audit or use systems already available at TEA. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, require on-site monitoring of dropout records.

If the electronic audit of a district's dropout records indicates that the district is not at high risk of having inaccurate dropout records, the district may not be subject to on-site monitoring. If the risk-based system indicates that a district is at high risk of having inaccurate dropout records, the district is entitled to an opportunity to respond to the Commissioner's determination before on-site monitoring may be conducted. A district must respond not later than the 30th day after the date the Commissioner notifies the district of the Commissioner's determination. If a district's response does not change the Commissioner's determination that the district is at high risk of having inaccurate dropout records or if the district does not respond in a timely manner, the Commissioner shall order TEA staff to conduct on-site monitoring.

Education Code 39.308(a)-(c)

Note: For provisions regarding selection and adoption of textbooks, see EFAA.

TEXTBOOKS	Textbooks selected for use in the public schools shall be furnished without cost to the students attending those schools. All textbooks purchased in accordance with Education Code Chapter 31 are the property of the state of Texas. <i>Education Code 31.001, 31.102(a)</i>
DELEGATION OF POWER	A board may delegate the power to requisition, distribute, and manage the inventory of books, consistent with Education Code Chapter 31. <i>Education Code 31.104(a)</i>
TEXTBOOK FUNDING	Annually, the State Board of Education (SBOE) shall set aside out of the available school fund an amount sufficient for districts to purchase and distribute the necessary textbooks for the use of the students of this state for the following school year. <i>Education Code 31.021(b)</i>
MAXIMUM COST	<p>The SBOE shall set a limit on the cost that may be paid from the state textbook fund for a textbook on the conforming or nonconforming list. <i>Education Code 31.025</i></p> <p>If a district selects instructional materials priced above the limit set by SBOE, the district is responsible for paying the publisher the portion of the cost above the state maximum. <i>19 TAC 66.104(b)</i></p> <p>The SBOE shall reduce the approved maximum cost for each nonconforming instructional material according to 19 Administrative Code 66.51(a)(11). For nonconforming instructional materials, the state shall be responsible for payment to the publisher in an amount only equal to the reduced maximum cost. A district ordering nonconforming instructional materials is responsible for the portion of the cost that exceeds the reduced state maximum cost. <i>19 TAC 66.104(q)</i></p>
NONADOPTED MATERIALS	<p>If a district selects a book for a course in the enrichment curriculum and grade level that is not on either the conforming or nonconforming lists, the state shall pay the district the lesser of:</p> <ol style="list-style-type: none">1. Seventy percent of the total actual cost to the district of the books; or2. Seventy percent of the limit set by SBOE for that book. <p><i>Education Code 31.101(b)</i></p> <p>Funds received from the state under this provision may be used only to purchase the nonadopted instructional materials selected and ratified by a board. The minutes of the board meeting at which such a selection is ratified shall reflect a district's agreement to</p>

bear responsibility for the portion of the costs not eligible for payment by the state. *19 TAC 66.104(c)–(e)*

ELECTRONIC
TEXTBOOK AND
INSTRUCTIONAL
MATERIALS LIST

If a district selects for a particular subject or grade level an electronic textbook or instructional material on the electronic textbook and instructional materials list, the state shall pay the district an amount equal to the cost of the electronic textbook or instructional material plus textbook credits [see TEXTBOOK CREDIT, below] under Education Code 31.1011 equal to 50 percent of the difference between that cost and the limitation established under Education Code 31.025 for a textbook for that subject and grade level, multiplied by the number of electronic textbooks or instructional materials the district or school needs for that subject and grade level. *Education Code 31.101(b-1); 19 TAC 66.1041(a)*

OPEN-SOURCE
TEXTBOOK

If a district selects a state-developed open-source textbook instead of another textbook adopted under Education Code Chapter 31, Subchapter B, the difference between the cost determined by the Commissioner and the maximum price for a textbook in the same subject area, as determined by the SBOE, shall be allocated as follows:

1. Fifty percent of the amount shall be credited to the state textbook fund; and
2. Fifty percent of the amount shall be credited to the school district for use as provided by Education Code 31.1011(c). [See TEXTBOOK CREDIT, below]

Education Code 31.073(b); 19 TAC 66.102(c), .1115(c)

LOCAL FUNDS

A district may use local funds to purchase any textbooks in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

REQUISITIONS, USE,
AND DISTRIBUTION

Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for a school to the superintendent. Not later than April 25, a superintendent shall report a district's maximum attendance to the Commissioner of Education. Requisitions for textbooks for the following school year shall be based on the maximum attendance reports, plus an additional ten percent, except as otherwise provided, and shall be made no later than June 1 of each year. A district may requisition textbooks for grades above the grade level in which a student is enrolled, except that the total quantity requisitioned may not exceed the above limit. *Education Code 31.103; 19 TAC 66.104(l)* [See BJA]

DURATION OF SELECTION	Once instructional materials have been requisitioned and delivered, including nonadopted materials, a district shall continue to use those instructional materials during the contract period or periods of the materials. A district may not return copies of one title to secure copies of another title in the same subject. <i>19 TAC 66.104(f), (j)</i>
EXCEPTION	<p>A district that selects a subscription-based electronic textbook or instructional material on the conforming list or the electronic textbook and instructional materials list may cancel the subscription and subscribe to a new electronic textbook or instructional material on either list before the end of the state contract period if:</p> <ol style="list-style-type: none">1. The district has used the electronic textbook or instructional material for at least one school year; and2. TEA approves the change based on a written request to TEA by the district that specifies the reasons for changing the electronic textbook or instructional material used by the district. <p><i>Education Code 31.101(e); 19 TAC 66.1041(b)</i></p>
DISTRIBUTION	A board, as legal custodian of the textbooks used in a district, shall distribute books to students as it may deem most effective and economical. <i>Education Code 31.102(c)</i>
ORDER QUANTITIES	<p>When placing orders for instructional materials, a district shall report enrollments as follows:</p> <ol style="list-style-type: none">1. Annual orders for instructional materials: enrollments shall be reported based on the maximum number of students enrolled in a district during the previous school year and/or registered to attend the district during the next school year; and2. Supplemental orders for instructional materials: enrollments shall be reported based on the actual number of students enrolled in a district when the order is submitted, adjusted for students reported as working above or below grade level. <p><i>19 TAC 66.107(d)</i></p>
SHORTAGE	<p>If a district does not have a sufficient number of copies of a textbook for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified at TIME FOR DELIVERY, the district is entitled to:</p> <ol style="list-style-type: none">1. Be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board rule, for the purchase of a sufficient number of used adopted textbooks; or

2. Return currently used textbooks to the Commissioner in exchange for sufficient copies, if available, of other textbooks to be used during the following school year.

Education Code 31.1031

TIME FOR
DELIVERY

At the time an order for textbooks is acknowledged, a publisher or manufacturer shall provide to a district an accurate shipping date for textbooks that are back-ordered, and shall guarantee delivery of textbooks at least ten business days before the opening day of the school year for which the textbooks are ordered if they are ordered by a date specified in the sales contract. *Education Code 31.151(a)(7)–(8)*

SURPLUS

After the beginning of every school year, each school district shall determine if it has surplus instructional materials for any subject area/grade level, based on its current enrollment for the subject area/grade level. In accordance with the Educational Materials and Textbooks (EMAT) online ordering system, surplus is defined as follows:

For courses that use textbooks that are in the first year of adoption, any textbook in excess of 110 percent of enrollment shall be considered surplus. For courses that use textbooks that are in the second or later years of adoption, any textbook in excess of 120 percent of enrollment shall be considered surplus. Overages that exceed these definitions should be entered into the EMAT Online Adjust Surplus Screen, except that instructional materials that are needed for the following school year are not considered surplus and should not be entered into the Adjust Surplus Screen. Instructional materials determined by the school district to be surplus-to-quota shall be reported to TEA by October 1 of each year in accordance with instructions provided by TEA. A school district is entitled to retain surplus-to-quota instructional materials only when data approved by TEA indicate that students will be enrolled in the subject and a need for the surplus-to-quota instructional materials exists. *19 TAC 66.107(c)*

CHARGES FOR
FAILURE TO
RETURN SURPLUS

If a district orders instructional material in excess of its eligibility by reporting enrollments exceeding those described above, the district enters into a contract with the state to purchase the instructional materials supplied that exceed the district's eligibility for the subject area/grade level. A district may cancel the contract to purchase the excess instructional materials by immediately notifying TEA of the surplus and posting the surplus in accordance with instructions provided by TEA. If prior approval is received, surplus instructional materials may be returned to the publisher's approved depository or placed into statewide surplus inventory in accordance with instructions from TEA. A school district that fails to notify TEA of sur-

plus instructional materials for more than six months after the beginning of the school year shall reimburse the state at the full price for the surplus instructional materials. *19 TAC 66.107(g)*

SUPPLEMENTAL
TEXTBOOKS

A school district may requisition a supplemental textbook only if the district:

1. Uses textbook credits received under Education Code 31.1011 to purchase the supplemental textbook; or
2. Instead of requisitioning a textbook on the conforming list under Education Code 31.023 for a course in the foundation curriculum under Education Code 28.002, requisitions the supplemental textbook along with other supplemental textbooks or textbooks on the nonconforming list under Education Code 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental textbooks.

Education Code 31.035(d)

If the total cost for the supplemental textbooks requisitioned by a district under Education Code 31.035(d)(2) for a course is greater than the limit on the cost under Education Code 31.025(a) for a single textbook on the conforming list for the course, the district or school may apply credits received under Education Code 31.1011 toward the difference for the supplemental textbooks. *Education Code 31.035(e), (f)*

AVAILABILITY OF
OPEN-SOURCE
TEXTBOOKS

A district that selects an open-source textbook shall requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the district or school provides to each student:

1. Electronic access to the textbook at no cost to the student; or
2. Printed copies of the portion of the textbook that will be used in the course.

Education Code 31.103(d)

CERTIFICATION

Prior to the beginning of each school year, the district shall certify to the SBOE and the Commissioner that, for each subject in the foundation and enrichment curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. The certification shall be submitted in a format approved by the Commissioner. *Education Code 31.004; 19 TAC 66.105*

TEXTBOOK CREDIT	<p>A district is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a). <i>Education Code 31.1011(a); 19 TAC 66.102(a)</i></p> <p>A district is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a), only in the first year of implementation. <i>19 TAC 66.102(e)</i></p>
CALCULATION	<p>The credit is an amount equal to the difference between the price paid for a textbook and the cost limit for that textbook multiplied by the number of copies of that textbook the district purchases. <i>Education Code 31.1011(b); 19 TAC 66.102(b)</i></p> <p>If the total cost for the supplemental textbooks requisitioned by a district under Education Code 31.035(d)(2) for a course is less than the cost limit for a single textbook on the conforming list for the course, the district is entitled to receive credit under Section 31.1011 in the same manner as if the single textbook were selected. <i>Education Code 31.035(e)</i></p>
DISTRIBUTION	<p>Fifty percent of the total textbook credit of a district shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the district to apply toward the requisition of:</p> <ol style="list-style-type: none">1. Additional textbooks or electronic textbooks that are on the conforming or nonconforming list under Education Code 31.023 or the components of such textbooks, including any electronic components;2. Supplemental textbooks as provided by Education Code 31.035;3. Electronic textbooks or instructional materials on the list adopted under Education Code 31.0231; or4. Technological equipment under Education Code 31.021(f). <p><i>Education Code 31.1011(c); 19 TAC 66.102(d)</i></p>
NOTIFICATION TO TEA	<p>A district must notify TEA for the use of funds generated by textbook credits. The district must submit an itemized expenditure report to TEA. <i>19 TAC 66.102(f)–(g)</i></p>
BOOK OWNERSHIP AND COVERS	<p>All textbooks shall state that the book is the property of or is licensed to the state. Books, other than electronic textbooks or a printed copy of an open-source textbook, must be covered by the student under the direction of the teacher. Books must be returned to the teacher at the end of the school year or when the student withdraws from school, unless the textbook is an open-source textbook that a district does not intend to use for another student. The</p>

printed copy of the open-source textbook becomes the property of the student to whom it is distributed.

This section does not apply to an electronic copy of an open-source textbook.

Education Code 31.104(c)

RESPONSIBILITY FOR
BOOKS AND
EQUIPMENT

Each student or his or her parent or guardian shall be responsible for all books, including an electronic textbook, and all technological equipment not returned in an acceptable condition by the student, and any student failing to return in an acceptable condition all books, including electronic textbooks, and technological equipment shall forfeit the right to free textbooks, including electronic textbooks, and technological equipment until the books, including electronic textbooks, and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

Under circumstances determined by the board, a district may waive or reduce the payment required if the student is from a low-income family. A district shall allow students to use textbooks, including electronic textbooks, and technological equipment at school during each school day.

If a book, including electronic textbooks, or technological equipment is not returned in an acceptable condition and payment is not made, a district may withhold the student's records, but shall not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. However, in accordance with policies FL and GBA, students have a right to copies of any and all district records that pertain to them.

Education Code 31.104(d); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2) [See also EF]

**ACCEPTABLE
CONDITION**

A printed textbook is considered to be in acceptable condition if:

- 1. The cover, binding, pages, spine, and all integral components of the textbook are wholly intact and the textbook is fully usable by other students; and**
- 2. All components of the textbook are not soiled, torn, or damaged—whether intentionally or by lack of appropriate care—such that any portion of the content is too disfigured or obscured to be fully accessible to other students.**

19 TAC 66.1201

An electronic textbook is considered to be in acceptable condition if:

- 1. All components or applications that are a part of the electronic textbook are returned;**
- 2. The electronic textbook does not contain computer code (bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and**
- 3. The electronic textbook has not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the school district.**

19 TAC 66.1203

Technological equipment is considered to be in acceptable condition if:

- 1. The equipment is returned with the software and hardware in their original condition unless the district authorized changes; and**
- 2. The physical condition of the equipment has been cared for appropriately such that the equipment is not broken or damaged beyond cost-effective replacement or repair.**

19 TAC 66.1205

SALE OF BOOKS

A board may sell books, other than electronic textbooks, to students or other schools at the state contract price. All money accruing from sales of textbooks shall be forwarded to the Commissioner of Education as directed, and deposited in the state textbook fund. *Education Code 31.105*

ANNUAL INVENTORY

A district shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the district. The results of the inventory shall be recorded in a district's files. Reimbursement and/or replacement shall be made for all instructional materials determined to be lost.
19 TAC 66.107(a)

LOCAL HANDLING
EXPENSES

School districts shall not be reimbursed from state funds for expenses incurred in local handling of textbooks. *19 TAC 66.104(o)*

OUT-OF-ADOPTION
TEXTBOOKS

A district may retain out-of-adoption instructional materials.

A district shall make out-of-adoption instructional materials (other than electronic instructional materials) available to libraries maintained by city and county jails, institutions within the Department of

Corrections, and other state agency institutions. District officials may donate out-of-adoption instructional materials (other than electronic instructional materials) to students, adult education programs, and nonprofit organizations. Individuals and organizations making such requests shall be responsible for transporting the materials.

After all efforts to donate out-of-adoption instructional materials (other than electronic instructional materials) to organizations listed above have been exhausted, a district may donate those materials for recycling locally. Recycling means removing the bindings and shredding the textbooks for the purpose of producing new products from the processed materials.

Under no circumstances shall a district sell out-of-adoption instructional materials.

19 TAC 66.131

SAFETY STANDARDS A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of TEA. If a district fails or refuses to meet these standards, it shall be ineligible to receive its transportation allotment until the first anniversary of the date the district begins compliance. *Education Code 34.002; Trans. Code 547.102; 37 TAC 14.51, 14.52*

STUDENT SAFETY PROHIBITIONS A district may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

An operator of a school bus, while operating the bus, shall prohibit a passenger from:

1. Standing in the bus; or
2. Sitting:
 - a. On the floor of the bus, or
 - b. In any location on the bus that is not designed as a seat.

Trans. Code 545.426

SEAT BELTS REQUIRED ON BUSES A bus, including a school bus and a school activity bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement applies to:

1. Each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and
2. Each school-chartered bus contracted for use by a district on or after September 1, 2011, for the transportation of schoolchildren.

A school district is required to comply with this requirement only to the extent TEA pays or commits to pay the district for expenses incurred in complying with the requirement.

Trans. Code 547.701(e)–(f)

STUDENT REQUIREMENT A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

DONATIONS A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

SCHOOL BUS
EMERGENCY
EVACUATION
TRAINING

Pursuant to the safety standards established by DPS under Education Code 34.002, each school district may conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. A district that chooses to conduct a training session is encouraged to conduct the school bus emergency evacuation training session in the fall of the school year. **“Fall” is defined as July 1 to December 31.** The district is also encouraged to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour.

The training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

Immediately before each field trip involving transportation by school bus, a district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

Not later than the 30th day after the date that a school district completes a training session, the district shall provide DPS with a record certifying the district's completion of the training.

Note: The Reporting of School Bus Evacuation Training form is available at <http://www.txdps.state.tx.us/internetforms/FormDetail.aspx?Id=821&FormNumber=SBT-7.doc>.

Education Code 34.0021; 37 TAC 14.54

WIRELESS
COMMUNICATION
DEVICES

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, unless:

1. The vehicle is stopped; or
2. The wireless communication device is used with a hands-free device.

An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped.

Trans. Code 545.425

DISRUPTION OF
TRANSPORTATION

Any person who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school or activities sponsored by a school on a vehicle owned and/or operated by a district shall be guilty of a misdemeanor. *Education Code 37.126*

If the illegal act is conducted through use or exhibition of a firearm, the person shall be guilty of a felony. *Education Code 37.125*

ACCIDENT REPORTS
NOTICE TO DPS

A district shall provide DPS written notification of any accident directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. *37 TAC 14.65(a)(2)*

Notice must be received not more than five days from the date of the accident and shall include the following:

1. The name and address of the owner of the school bus;
2. The name and driver's license number of the school bus operator;
3. The date of the accident;
4. The city or county where the accident occurred; and
5. The investigating police agency.

37 TAC 14.65(c)

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to ~~the~~ School Bus Transportation ~~Safety Unit~~, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-~~0252~~0525. *37 TAC 14.65(d)*

NOTICE TO TEA

School districts shall report annually to TEA the number of accidents in which their buses were involved in the past year in a manner prescribed by the Commissioner. School districts shall file annual reports to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus accidents;
2. The date each accident occurred;
3. The type of bus, as specified in 19 ~~TAC~~Administrative Code 61.1028(a), involved in each accident;

4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each accident;
6. The number and types of injuries that were sustained by the bus passengers in each accident; and
7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

A school district shall report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus is owned, leased, contracted, or chartered by a school district and was transporting school district personnel, students, or a combination of personnel and students; or
2. The bus was driven by a school district employee or by an employee of the school district's bus contractor with no passengers on board and the accident involved a collision with a pedestrian.

EXCEPTIONS

A school district shall not report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus was driven by a school district employee or by an employee of the school district's bus contractor, the accident occurred when no passenger other than the school district's driver or bus contractor's driver was on board the bus, and the accident did not involve a collision with a pedestrian; or
2. The accident involved a bus chartered by a school district for a school activity trip and no school district personnel or students were on board the bus at the time of the accident.

A school district shall not report an accident that occurred in a vehicle that is owned, contracted, or chartered by a school district and is not a school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

Education Code 34.015(b); 19 TAC 61.1028(b)

PEIMS	<p>A district shall participate in the Public Education Information Management System (PEIMS) and through that system shall provide information required for the administration of the Foundation School Program and of other appropriate provisions of the Education Code. The PEIMS data standards, established by the Commissioner, shall be used by a district to submit information. <i>Education Code 42.006; 19 TAC 61.1025</i></p>
CHILDREN'S INTERNET PROTECTION ACT	<p>Under the Children's Internet Protection Act (CIPA), a district must, as a prerequisite to receiving universal service discount rates, implement certain Internet safety measures and submit certification to the Federal Communications Commission (FCC). <i>47 U.S.C. 254</i> [See UNIVERSAL SERVICE DISCOUNTS, below, for details]</p> <p>Districts that do not receive universal service discounts but do receive certain federal funds under the Elementary and Secondary Education Act (ESEA) must, as a prerequisite to receiving these funds, implement certain Internet safety measures and submit certification to the Department of Education (DOE). <i>20 U.S.C. 6777</i> [See ESEA FUNDING, below, for details]</p>
DEFINITIONS	<p>"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:</p> <ol style="list-style-type: none">1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors. <p><i>47 U.S.C. 254(h)(7)(G); 20 U.S.C. 6777(e)(6)</i></p> <p>"Technology protection measure" means a specific technology that blocks or filters Internet access. <i>47 U.S.C. 254(h)(7)(I)</i></p>
UNIVERSAL SERVICE DISCOUNTS	<p>An elementary or secondary school having computers with Internet access may not receive universal service discount rates unless a district implements an Internet safety policy, submits certifications to the FCC, and ensures the use of computers with Internet access in accordance with the certifications. <i>47 U.S.C. 254(h)(5)(A); 47 CFR 54.520</i></p> <p>"Universal service" means telecommunications services including Internet access, Internet services, and internal connection services</p>

and other services that are identified by the FCC as eligible for federal universal service support mechanisms. *47 U.S.C. 254(c), (h)(5)(A)(ii)*

INTERNET SAFETY POLICY

A district shall adopt and implement an Internet safety policy that addresses:

1. Access by minors to inappropriate matter on the Internet and the World Wide Web;
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
3. Unauthorized access, including “hacking,” and other unlawful activities by minors online;
4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
5. Measures designed to restrict minors’ access to materials harmful to minors.

47 U.S.C. 254(l)

As part of its Internet safety policy, districts must educate minors about appropriate online behavior, including interacting with other individuals on social networking Web sites and in chat rooms and cyberbullying awareness and response. *47 U.S.C. 254(h)(5)(B)(iii)*

PUBLIC HEARING

A district shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy. *47 U.S.C. 254(h)(5)(A), (l)(1)*

“INAPPROPRIATE FOR MINORS”

A determination regarding what matter is inappropriate for minors shall be made by a board or designee. *47 U.S.C. 254(l)(2)*

TECHNOLOGY PROTECTION MEASURE

In accordance with the appropriate certification, a district shall operate a technology protection measure that protects minors against access to visual depictions that are obscene, child pornography, or harmful to minors; and protects adults against access to visual depictions that are obscene or child pornography. *47 U.S.C. 254(h)(5)(B), (C)*

EXCEPTION FOR ADULTS

An administrator, supervisor, or other person authorized by a district may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. *47 U.S.C. 254(h)(5)(D)*

MONITORED USE

In accordance with the appropriate certification, a district shall monitor the online activities of minors. *47 U.S.C. 254(h)(5)(B)*

CERTIFICATIONS TO THE FCC

To be eligible for universal service discount rates, a district shall certify to the FCC **during each annual program application cycle**, in the manner prescribed at 47 CFR 54.520, that:

1. An Internet safety policy has been adopted and implemented.
2. With respect to use by minors, a district is enforcing the Internet safety policy, educating minors about appropriate online behavior as part of its Internet safety policy, and operating a technology protection measure during any use of the computers.
3. With respect to use by adults, a district is enforcing an Internet safety policy and operating a technology protection measure during any use of the computers, ~~except that an administrator, supervisor, or other person authorized by a district may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose.~~

47 U.S.C. 254(h)(5); 47 CFR 54.520

ESEA FUNDING

Federal funds made available under Title II, Part D of the ESEA for an elementary or secondary school that does not receive universal service discount rates may not be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet unless a district:

1. Has in place a policy of Internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and enforces the operation of the technology protection measure during any use by minors of its computers with Internet access; and
2. Has in place a policy of Internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with Internet access.

A district may disable the technology protection measure to enable access to bona fide research or for another lawful purpose.

CERTIFICATION TO DOE

A district shall certify its compliance with these requirements to the DOE as part of the annual application process for each program funding year under the ESEA.

20 U.S.C. 6777

TRANSFER OF EQUIPMENT TO STUDENTS

A district may transfer to a student enrolled in the district:

1. Any data processing equipment donated to the district, including equipment donated by a private donor, a state eleemosynary institution, or a state agency under Government Code 2175.128;
2. Any equipment purchased by the district; and
3. Any surplus or salvage equipment owned by the district.

Education Code 32.102(a)

Before transferring data processing equipment to a student, a district must:

1. Adopt rules governing transfers, including provisions for technical assistance to the student by the district;
2. Determine that the transfer serves a public purpose and benefits the district; and
3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the district.

Education Code 32.104

DONATIONS

A district may accept:

1. Donations of data processing equipment for transfer to students; and
2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

Education Code 32.102(b)

USE OF PUBLIC FUNDS

A district may spend public funds to:

1. Purchase, refurbish, or repair any data processing equipment transferred to a student; and
2. Store, transport, or transfer data processing equipment under this policy.

Education Code 32.105

ELIGIBILITY

A student is eligible to receive data processing equipment under this policy only if the student does not otherwise have home access to data processing equipment, as determined by a district. A district shall give preference to educationally disadvantaged students. *Education Code 32.103*

RETURN OF EQUIPMENT	<p>Except as provided below, a student who receives data processing equipment from a district under this policy shall return the equipment to the district not later than the earliest of:</p> <ol style="list-style-type: none">1. Five years after the date the student receives the equipment;2. The date the student graduates;3. The date the student transfers to another district; or4. The date the student withdraws from school. <p>If, at the time the student is required to return the equipment, the district determines that the equipment has no marketable value, the student is not required to return the equipment.</p> <p><i>Education Code 32.106</i></p>
UNIFORM ELECTRONIC TRANSACTIONS ACT	<p>A district may agree with other parties to conduct transactions by electronic means. Any such agreement or transaction must be done in accordance with the Uniform Electronic Transactions Act. <i>Business and Commerce Code Chapter 322</i></p>
SECURITY BREACH NOTIFICATION TO STATE RESIDENTS	<p>A district that owns or licenses computerized data that includes sensitive personal information shall disclose, in accordance with the notice provisions at Business and Commerce Code 521.053(e), any breach of system security, after discovering or receiving notification of the breach, to any resident of this state whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided at CRIMINAL INVESTIGATION EXCEPTION, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.</p>
TO THE OWNER OR LICENSE HOLDER	<p>A district that maintains computerized data that includes sensitive personal information not owned by the district shall notify the owner or license holder, in accordance with Business and Commerce Code 521.053(e), of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.</p>
TO A CONSUMER REPORTING AGENCY	<p>If a district is required to notify at one time more than 10,000 persons of a breach of system security, the district shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The district shall provide the notice without unreasonable delay.</p>

CRIMINAL INVESTIGATION EXCEPTION

A district may delay providing the required notice to state residents or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.

INFORMATION SECURITY POLICY

A district that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice described above complies with Business and Commerce Code 521.053 if the district notifies affected persons in accordance with that policy.

Business and Commerce Code 521.053; Local Gov't Code 205.010

DEFINITIONS

“Breach of system security” means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Business and Commerce Code 521.053(a)*

“Sensitive personal information” means:

1. An individual’s first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
 - a. Social security number;
 - b. Driver’s license number or government-issued identification number; or
 - c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual’s financial account; or
2. Information that identifies an individual and relates to:
 - a. The physical or mental health or condition of the individual;
 - b. The provision of health care to the individual; or

- c. Payment for the provision of health care to the individual.

“Sensitive personal information” does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

Business and Commerce Code 521.002(a)(2), (b)

ACCESS TO
ELECTRONIC
COMMUNICATIONS

ELECTRONIC
COMMUNICATION
PRIVACY ACT

Except as otherwise provided in the Electronic Communication Privacy Act (ECPA), 18 U.S.C. 2510–22, a person commits an offense if the person:

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;
2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
 - a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or
 - b. Such device transmits communications by radio, or interferes with the transmission of such communication; or
 - c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or
 - d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or
 - e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;
3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that

the information was obtained through the prohibited interception of a wire, oral, or electronic communication;

4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or
5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

It shall not be unlawful for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

18 U.S.C. 2511(1), (2)(d)

STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS ACT

A district must comply with the Stored Wire and Electronic Communications and Transactional Records Access Act, 18 U.S.C. 2701–12.

A person is prohibited from obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage by:

1. Intentionally accessing without authorization a facility through which an electronic communication service is provided; or
2. Intentionally exceeding an authorization to access that facility.

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(a), (c)

DEFINITIONS

ELECTRONIC COMMUNICATION

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12)*

ELECTRONIC STORAGE

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

Messages that have been sent to a person, but not yet opened, are in temporary, intermediate storage and are considered to be in electronic storage. See *Steve Jackson Games, Inc. v. United States Secret Service*, 36 F.3d 457 (5th Cir. 1994). Electronic communications that are opened and stored separately from the provider are considered to be in post-transmission storage, not electronic storage. See *Fraser v. Nationwide Mut. Ins. Co.*, 352 F.3d 107 (3d Cir. 2004).

ELECTRONIC COMMUNICATIONS SYSTEM

“Electronic communications system” means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications. *18 U.S.C. 2510(14)*

ELECTRONIC COMMUNICATIONS SERVICE

“Electronic communication service” means any service which provides to users thereof the ability to send or receive wire or electronic communications. *18 U.S.C. 2510(15)*

AUTHENTICATION OF ELECTRONIC COMMUNICATIONS

A digital signature may be used to authenticate a written electronic communication sent to a district if it complies with rules adopted by the board. Before adopting the rules, the

board shall consider the rules adopted by the Department of Information Resources (DIR) and, to the extent possible and practicable, shall make the board's rules consistent with DIR's rules. *Gov't Code 2054.060; 1 TAC 203*

Note: The following is an index of Web site posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident, postings required under special circumstances, or postings required under administrative procedures of an agency.

REQUIRED INTERNET
POSTINGS

A district that maintains an Internet Web site shall post the following:

1. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
2. A district shall provide access to the conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CHE]
3. A district shall post the statements regarding activities to support student health, under Education Code 28.004. [See BDF]
4. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting, under Education Code 551.056. [See BE]
5. A district shall include on the home page of its Web site the prescribed statement if the district proposes to increase the amount of taxes to fund maintenance and operation expenditures, under Tax Code 26.05(b). [See CCG]
6. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget, under Education Code 44.0041. [See CE]
7. A district shall maintain its adopted budget on the district's Web site until the third anniversary of the date the budget was adopted, under Education Code 39.084. [See CE]
8. A district shall report its energy usage information on a publicly accessible Internet Web site with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]

9. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]
10. A district shall post the board's employment policies, under Education Code 21.204(d). [See DCB]
11. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]
12. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements, under Education Code 38.0181. [See FFAB]

OPTIONAL INTERNET
POSTINGS

A district that maintains an Internet Web site may post the following:

1. A board may broadcast an open meeting over the Internet, under Government Code 551.128. [See BE]
2. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's Internet Web site, rather than on a bulletin board, under Education Code 11.1513. [See DC]
3. A district may place on its Internet Web site a current copy of the procedural safeguards notice regarding special education and related services, under 34 CFR 300.504(b). [See EHBAE]
4. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

INSURANCE AND ANNUITIES MANAGEMENT
LIABILITY INSURANCE

CRB
(LEGAL)

BOARD MEMBER
LIABILITY INSURANCE

A district may purchase insurance to protect itself and its **trustees-board members** from the cost and expense of defending litigation brought against them individually for acts or omissions committed by them in the good faith discharge of their official duties. A district may also purchase insurance to indemnify its **trusteesboard members** from awards of damages only where the district was or might have been held liable for the same damages. A board may not purchase insurance to indemnify its **trusteesboard members** in situations where it is not itself exposed, actually or potentially, to a similar liability. *Atty. Gen. Op. H-70 (1973)*

EMPLOYEE LIABILITY
INSURANCE

As an element of district employees' compensation, a district may purchase necessary liability insurance in the name of such employees who are exposed to individual liability by virtue of their official duties. *Atty. Gen. Op. M-989 (1971)*

CAREER AND
TECHNOLOGY
INSURANCE

A board may provide insurance to protect a business that contracts with the district under Education Code 29.187(e) against liability for a bodily injury sustained by or the death of a district student while working for the business as part of a career and technology education program.

A board shall notify the parent or guardian of each student working for a business if the board provides insurance to the business. The amount of insurance a district provides must be reasonable considering the financial condition of the district. The insurance must be obtained from a reliable insurer authorized to engage in business in Texas and must be submitted on a form approved by the commissioner of insurance.

If a contracting business obtains any insurance related to the student other than liability insurance, any proceeds of the insurance must be used for the benefit of the student and the student's family. A board must submit a proposed program to the commissioner in accordance with criteria established by the commissioner.

Education Code 29.187(f), (g), (h) [See EEL]

TORT CLAIMS ACT
LIABILITY INSURANCE

A district may purchase insurance protection against claims for property damage, personal injury, or death proximately caused by the negligence, wrongful act, or omission of the district's officers or employees, acting within the scope of their employment or office, and arising from the operation or use of a motor vehicle under circumstances where such officers or employees would be personally liable to the claimant in accordance with the laws of this state. *Civ. Prac. & Rem. Code 101.021, 101.027(a)*

TORT CLAIMS
PAYMENTS

A district may pay actual damages, court costs, and attorney's fees awarded against an employee or officer if the damages result from

an act or omission by the employee or officer in the course and scope of his or her employment or duties and arise from a cause of action for negligence. A district shall not pay damages awarded against an employee or officer that arise from a willful or wrongful act or omission, an act or omission constituting gross negligence, or official misconduct.

DEFENSE COUNSEL

A district may provide counsel to represent a defendant for whom the district may pay damages. Counsel may be an attorney regularly employed by a district, unless there is a potential conflict of interest between the defendant and the district, in which case the district may employ other counsel to defend the suit.

Civ. Prac. & Rem. Code 102.002, 102.004

MOLD REMEDIATION

A person is not liable in a civil lawsuit for damages related to a decision to allow occupancy of a property after mold remediation has been performed if a certificate of mold **damage** remediation has been issued for the property, the property is owned or occupied by a school and the decision to occupy was made by the board or any person authorized by the board. *Occupations Code 1958.304; 25 TAC 295.338(b)*

FOR LAW
ENFORCEMENT
MOTOR VEHICLES

A board shall insure each law enforcement officer appointed or employed by a district against liability to third persons arising out of the officer's operation of a motor vehicle owned, leased, or otherwise controlled by the district at any time the officer is authorized to operate the vehicle, including times that the officer is authorized to operate the vehicle while off duty. The motor vehicle liability coverage must be in amounts not less than those required by Transportation Code Chapter 601, Subchapter D, to establish financial responsibility. A district may satisfy this requirement by:

1. Electing to be self-insured;
2. Entering into a risk retention group, risk management pool, or interlocal contract with other political subdivisions; or
3. Providing for coverage by an insurance company authorized to write motor vehicle liability insurance coverage.

The policy may exclude coverage for operation of a motor vehicle in the commission of a criminal offense other than a traffic offense.

Gov't Code 612.005

[See also FFD]

APPLICABILITY OF
STATE STANDARDS
AFTER JANUARY 1,
2004

All new facilities and major space renovations approved by a board after January 1, 2004, shall meet the facility standards established by the Commissioner as set out in 19 Administrative Code 61.1036. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1036*

DEFINITIONS

After January 1, 2004, a “major space renovation” means renovations to all or part of the facility’s instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration or function. *19 TAC 61.1036(a)(10)*

“Educational program” means a written document, developed and provided by a district, that includes the following information:

1. A summary of the school district's educational philosophy, mission, and goals; and
2. A description of the general nature of the district's instructional program in accordance with the 19 Administrative Code 74.1 (relating to Essential Knowledge and Skills). The written educational program should describe:
 - a. The learning activities to be housed, by instructional space;
 - b. How the subject matter will be taught (methods of instructional delivery);
 - c. The materials and equipment to be used and stored;
 - d. Utilities and infrastructure needs; and
 - e. The characteristics of furniture needed to support instruction.

19 TAC 61.1036(a)(2)

“Educational specifications” means a written document for a proposed new school facility or major space renovation that includes a description of the proposed project, expressing the range of issues and alternatives. School districts that do not have personnel on staff with experience in developing educational specifications shall use the services of a design professional or consultant experienced in school planning and design to assist in the development of the educational specifications. The school district shall allow for input

from teachers, other school campus staff, and district program staff in developing the educational specifications. The following information should be included in the educational specifications:

1. The instructional programs, grade configuration, and type of facility;
2. The spatial relationships—the desired relationships for the functions housed at the facility:
 - a. Should be developed by the school district to support the district's instructional program;
 - b. Should identify functions that should be:
 - (1) Adjacent to, immediately accessible;
 - (2) Nearby, easily accessible; and
 - (3) Removed from or away from; and
 - c. Should relate to classroom/instructional functions, instructional support functions, building circulation, site activities/functions, and site circulation.
3. Number of students;
4. A list of any specialized classrooms or major support areas, noninstructional support areas, outdoor learning areas, outdoor science discovery centers, living science centers, or external activity spaces;
5. A schedule of the estimated number and approximate size of all instructional and instructional support spaces included in the facility;
6. Estimated budget for the facility project;
7. School administrative organization;
8. Provisions for outdoor instruction;
9. Hours of operation that include the instructional day, extracurricular activities, and any public access or use;
10. The safety of students and staff in instructional programs, such as science and vocational instruction; and
11. The overall security of the facility.

19 TAC 61.1036(a)(3)

APPLICABILITY OF STATE STANDARDS BEFORE JANUARY 1, 2004	All new facilities and major space renovations approved by a board before January 1, 2004, shall meet the facility standards established by the Commissioner as set out in 19 Administrative Code 61.1033. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. <i>Education Code 46.008; 19 TAC 61.1033(a)(5), (b)</i>
FIRE ESCAPES	A board shall ensure that each school building that is two or more stories shall have such fire escapes as are required by law. <i>Health and Safety Code 791.002, 791.035, 791.036</i>
SECURITY CRITERIA	A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, security criteria developed by the Texas School Safety Center. <i>Education Code 46.0081</i>
READILY ACCESSIBLE PROGRAMS	<p>No qualified individual with a disability shall, because a district's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the district or be subject to discrimination. <i>42 U.S.C. 12132; 28 CFR 35.149; 29 U.S.C. 794; 34 CFR 104.21</i></p> <p>A district shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. A district is not, however, required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.</p>
	<p>Compliance with these requirements may be achieved by:</p> <ol style="list-style-type: none"> 1. Redesigning or acquisitioning equipment. 2. Reassigning classes or other services to accessible buildings. 3. Assigning aides to qualified individuals with disabilities. 4. Home visits. 5. Delivery of services at alternate accessible sites. 6. Alteration of existing facilities. 7. Constructing new facilities that comply with 34 CFR 104.23 and 28 CFR 35.151. 8. Any other methods that would result in making services, programs, and activities accessible to individuals with disabilities.

Structural changes in existing facilities need not be made when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, a board shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 CFR 35.150; 34 CFR 104.22

REVIEW OF PLANS

All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of \$50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. A district as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the Department by the architect, interior designer, landscape architect, or engineer.

A district as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least \$50,000 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, modification, or alteration of the building or facility is completed. The inspection must be performed by the Department, an entity with whom the Commission contracts, or a person who holds a certificate of registration to perform inspections.

Gov't Code 469.101, 469.102(c), 469.105

NOTICE

A district shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. *34 CFR 104.22(f)*

RELOCATABLE
EDUCATIONAL
FACILITY

In this section, "relocatable educational facility" means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site, that is used primarily as an educational facility for teaching the curriculum required under Education Code 28.002.

A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to

industrialized buildings under Occupations Code Chapter 1202.
Occupations Code 1202.404; 19 TAC 61.1036(f)(3)

PLAYGROUNDS

Public funds may not be used to purchase or install playground equipment if the equipment does not comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use," published by ASTM International or has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed.

Public funds may not be used to purchase or install surfacing for the area under and around the playground equipment if the surfacing will not comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing," published by ASTM International.

EXCEPTION

Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 2009, even if they do not comply with the applicable specifications described above.

Health and Safety Code 756.061

OUTDOOR LIGHTING
FIXTURES

An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if the fixture meets the specific energy conservation and light pollution standards in Health and Safety Code Chapter 425.

EXCEPTIONS

The standards for state-funded outdoor lighting fixtures do not apply when:

1. Preempted by federal law, rule, or regulation;
2. Emergency personnel temporarily require additional illumination for emergency procedures;
3. The lighting fixture is used temporarily for nighttime work;
4. Special events or circumstances* require additional illumination;
5. The fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest cannot be addressed by another method.

***Note:** Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

Health and Safety Code 425.002

TESTING OF NATURAL GAS PIPING

At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, a district shall pressure test the natural gas piping system in each district facility. The testing may be performed on a two-year cycle under which a district pressure tests the natural gas piping system in approximately one-half of the facilities each year. If a district operates one or more district facilities on a year-round calendar, the pressure test in each of those facilities shall be conducted and reported not later than July 1 of the year in which the pressure test is performed. *Utilities Code 121.502; 16 TAC 8.230(c)(4)*

RAILROAD COMMISSION RULES

The Railroad Commission of Texas has adopted rules to enforce this policy. Each district facility described in Commission rules shall be tested in accordance with the procedures and timetables implemented by Commission rules. *16 TAC 8.230*

STANDARDS AND PROCEDURE

A test performed under a municipal code in compliance with Railroad Commission rules shall satisfy the pressure testing requirements. *Utilities Code 121.502(d); 16 TAC 8.230(c)(1)*

The pressure test shall determine whether the natural gas piping downstream of a district facility meter holds at least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be performed by a person qualified in accordance with the testing procedures established by Railroad Commission rules. At a district's request, the Railroad Commission shall assist the district in developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

NOTICE

A district shall provide written notice to the district's natural gas supplier specifying the date and result of each pressure test or other inspection. The supplier shall develop procedures for receiving such written notice from the district. *Utilities Code 121.504(a); 16 TAC 8.230(b)(1)*

TERMINATION OF SERVICE

The supplier shall terminate service to a district facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous natural gas leakage in the facility piping system; or
2. A test or other inspection is not performed as required.

Utilities Code 121.505(a)

The supplier shall develop procedures for terminating service to a district if:

1. The natural gas supplier receives notification of a hazardous natural gas leak in the school facility piping system; or
2. The natural gas supplier does not receive written notification from the district specifying the completion date and results of the testing.

16 TAC 8.230(b)(2)

REPORTING LEAKS

An identified natural gas leakage in a district facility must be reported to the board. The firm or individual conducting the natural gas piping test shall immediately report any hazardous natural gas leak in a district facility to the board and to the district's natural gas supplier. *Utilities Code 121.506; 16 TAC 8.230(c)(6)*

LP-GAS SYSTEMS TESTING

At least biennially, a district shall perform leakage tests on the LP-gas piping system in each district facility before the beginning of the school year. A district may perform the leakage tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately half of the facilities each year. If a district operates one or more district facilities on a year-round calendar, the leakage test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

A test performed under a municipal code satisfies the testing requirements.

Natural Resources Code 113.352; 16 TAC 9.41

REQUIREMENTS OF TEST

A district shall perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the Railroad Commission. The leakage test must be conducted in accordance with Railroad Commission rules at 19 Administrative Code 9.41.

The Railroad Commission, upon request, shall assist a district in providing for the certification of a district employee to conduct the test and in developing a procedure for conducting the test.

Natural Resources Code 113.353; 19 TAC 9.41(c)-(d)

Before the introduction of any LP-gas into the LP-gas piping system, a district shall provide verification to its supplier that the piping has been tested.

DOCUMENTATION

A district shall retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed. The commission may review a district's documentation of each leakage test or other inspection conducted by the district.

Natural Resources Code 113.354; 16 TAC 9.41(b)(2)–(3)

TERMINATION OF SERVICE

A supplier shall terminate service to a district facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous leakage in the facility LP-gas piping system; or
2. A test at the facility is not performed as required.

Natural Resources Code 113.355

REPORTING LEAKS

An identified school LP-gas system leakage in a school district facility shall be reported to the board. The district shall immediately 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. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee. *Natural Resources Code 113.356; 16 TAC 9.41(b)(1)*

DEFINITIONS

“School district facility” means each building or structure operated by a school district and equipped with a school LP-gas system, in which students receive instruction or participate in school sponsored extracurricular activities, excluding maintenance or bus facilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students.

“School LP-gas system” means all piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility.

16 TAC 9.41(a)(4)–(5)

INTRASTATE PIPELINE EMERGENCY RESPONSE PLAN

The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school

building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

1. On written request from a district, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:
 - a. A description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;
 - b. A list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;
 - c. The designated emergency number for the pipeline facility operator;
 - d. Information on the state's excavation one-call system; and
 - e. Information on how to recognize, report, and respond to a product release; and
2. Mail a copy of the requested items by certified mail, return receipt requested, to the superintendent of the district in which the school building or facility is located.

A pipeline operator or the operator's representative shall appear at a regularly scheduled meeting of a board to explain the above items if requested by the board or district.

The Railroad Commission may not require the release of parts of an emergency response plan that include security sensitive information, including maps or data. Security sensitive information shall be made available for review by but not provided to a board.

Natural Resources Code 117.012(k)-(m); 16 TAC 8.315

COPYRIGHTED
MATERIAL

Copyright protection subsists, in accordance with United States Copyright Law, 17 U.S.C. 101–1332, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

1. Literary works;
2. Musical works, including any accompanying words;
3. Dramatic works, including any accompanying music;
4. Pantomimes and choreographic works;
5. Pictorial, graphic, and sculptural works;
6. Motion pictures and other audiovisual works;
7. Sound recordings; and
8. Architectural works.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

17 U.S.C. 102

OWNERSHIP OF
COPYRIGHT

Copyright in a work protected under United States Copyright Law vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work. *17 U.S.C. 201(a)*

WORK FOR HIRE

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of United States Copyright Law, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright. *17 U.S.C. 201(b)*

A “work made for hire” is:

1. A work prepared by an employee within the scope of his or her employment; or
2. A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties ex-

pressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

A “supplementary work” is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

An “instructional text” is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

17 U.S.C. 101

TRANSFER OF OWNERSHIP

The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by 17 U.S.C. 106, may be transferred and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner.

17 U.S.C. 201(d)

REGISTERING A COPYRIGHT

At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by registering in accordance with 17 U.S.C. 408–409 and 708. Such registration is not a condition of copyright protection. *17 U.S.C. 408(a)*

EXCLUSIVE RIGHTS

Subject to 17 U.S.C. 107–122, the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

17 U.S.C. 106

FAIR USE

An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use. The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by 17 U.S.C. 106, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. The following factors shall be considered in determining fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and importance of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for or value of the copyrighted work.

*17 U.S.C. 107*PERFORMANCES
AND DISPLAYS

Additional exceptions related to performances and displays include performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under United States Copyright Law, and that the person responsible for the performance knew or had reason to believe was not lawfully made.

17 U.S.C. 110

GUIDELINES

Employees who wish to use copyrighted print material and sheet music shall follow the guidelines set forth in the "Agreement on

Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Uses of Music.” Those guidelines establish a minimum guaranteed fair use, not a maximum. Any use that falls within those guidelines is a fair use; any use that exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Any determination regarding whether a use that exceeds the guidelines is a fair use shall rest with an appropriate court of law.

PROHIBITIONS

Notwithstanding the fair use guidelines, the following shall be prohibited:

1. Copying of print materials and sheet music to create or replace or substitute for anthologies, compilations, or collective works. This prohibition against replacement or substitution applies whether copies of various works or excerpts are accumulated, or reproduced and used separately.
2. Copying of or from works intended to be “consumable” in the course of study or teaching. These works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material.

Copying shall not substitute for the purchase of books, publishers’ reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term.

No charge shall be made to the student beyond the actual cost of the photocopying.

Additional prohibitions regarding the use of music are:

1. Copying for the purpose of performance, except as permitted under the “Guidelines for Educational Use of Music.”
2. Copying for the purpose of substituting for the purchase of music, except as permitted under the “Guidelines for Educational Use of Music.”
3. Copying without inclusion of the copyright notice that appears on the printed copy.

REFERENCE

“Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Use of Music” contained in the historical note following 17 U.S.C. 107.

BROADCAST
PROGRAMS

Broadcast programs, including commercial and public television and radio, shall not be videotaped or tape recorded for reuse without permission, except within the following guidelines:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a district for a period not to exceed the first 45 consecutive calendar days after date of recording. At the end of that retention period, off-air recordings shall be erased or destroyed.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary during the first ten consecutive school days within the 45-calendar-day retention period. "School days" are actual days of instruction, excluding examination periods.
3. Off-air recordings shall be made at the request of and used by individual teachers and shall not be regularly recorded in anticipation of requests. No broadcast program shall be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program is broadcast.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording. All copies of off-air recordings shall include the copyright notice on the broadcast program as recorded.
5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only to determine whether or not to include the broadcast program in the teaching curriculum and shall not be used in a district for student exhibition or any other nonevaluative purpose without authorization.
6. Off-air recordings need not be used in their entirety, but the recorded programs shall not be altered from their original content. Off-air recordings shall not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

17 U.S.C. 107 historical note

COPYRIGHT
INFRINGEMENT

Anyone who violates any of the exclusive rights of the copyright owner or of the author as provided in 17 U.S.C. 106A(a) is an infringer of the copyright or right of the author. The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of 17 U.S.C. 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. 17 U.S.C. 501(a)-(b)

ONLINE COPYRIGHT INFRINGEMENT LIMITATION OF LIABILITY	To the extent that a district is a “service provider” (regarding online services) under 17 U.S.C. 512(k) and meets other conditions in 17 U.S.C. 512, the district shall not be liable for monetary relief or certain injunctive or other equitable relief, except as allowed under 17 U.S.C. 512(j), for copyright infringement in certain online services (transitory communications, system caching, storage of information on systems or networks at the instruction of users, and information location tools) provided by the district. <i>17 U.S.C. 512</i>
ELIGIBILITY FOR LIMITATIONS ON LIABILITY	<p>The limitations on liability established by 17 U.S.C. 512 shall apply to a service provider only if the service provider:</p> <ol style="list-style-type: none"> 1. Has adopted and reasonably implemented, and informs subscribers and account holders of the service provider’s system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers; and 2. Accommodates and does not interfere with standard technical measures. The term “standard technical measures” means technical measures that are used by copyright owners to identify or protect copyrighted works and: <ol style="list-style-type: none"> a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process; b. Are available to any person on reasonable and nondiscriminatory terms; and c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.
LIMITED LIABILITY INFORMATION RESIDING ON SYSTEMS OR NETWORKS AT DIRECTION OF USERS	<p><i>17 U.S.C. 512(i)</i></p> <p>Generally, a service provider shall not be liable for monetary relief, or for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resided on a system or network controlled or operated by or for the service provider, if the service provider:</p> <ol style="list-style-type: none"> 1. Does not have actual knowledge that the material or activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

2. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity;
3. Upon notification of claimed infringement as described in 17 U.S.C. 512(c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity; and
4. Has designated an agent to receive notifications of claimed infringement described in 17 U.S.C. 512(c)(3), by making available through its service, including on its Web site in a location accessible to the public, and by providing to the Copyright Office, certain contact information.

17 U.S.C. 512(c)(1), (2); 37 CFR 201.38

OTHER
ONLINE
SERVICES

Generally, liability of a service provider for copyright infringement may also be limited upon certain conditions for transitory communications, system caching, and information location tools services. *17 U.S.C. 512(a), (b), (d)*

DISABLING OR
REMOVING
ACCESS

Generally, a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing. *17 U.S.C. 512(g)*

Note: Further information regarding copyrights and the Digital Millennium Copyright Act can be found at:
<http://www.copyright.gov>.

TRADEMARKED
MATERIAL

TRADEMARK

The term "trademark" includes any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and applies to register on the principal register to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.

SERVICE MARK

The term "service mark" means any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and applies to register on the principal register to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive

features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

CERTIFICATION
MARK

The term "certification mark" means any word, name, symbol, or device, or any combination thereof, used by a person other than its owner or which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files an application to register on the principal register to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person's goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.

COLLECTIVE MARK

The term "collective mark" means a trademark or service mark used by the members of a cooperative, an association, or other collective group or organization or which such cooperative, association, or other collective group or organization has a bona fide intention to use in commerce and applies to register on the principal register and includes marks indicating membership in a union, an association, or other organization.

15 U.S.C. 1127

REGISTERING A
MARK

Trademarks, service marks, collective marks, and certification marks may be registered in accordance with the Trademark Act of 1946, 15 U.S.C. 1051–1142. *15 U.S.C. 1051–1054*

ASSIGNMENT OF
MARK

A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark in accordance with 15 U.S.C. 1060. *15 U.S.C. 1060(a)(1)*

LIABILITY

Any person shall be liable in a civil action by the registrant for the remedies provided in 15 U.S.C. 1114 if the person, without the consent of the registrant:

1. Uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or
2. Reproduces, counterfeits, copies or colorably imitates a registered mark and applies such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in

connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

Under item 2 above, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation is intended to be used to cause confusion, or to cause mistake, or to deceive.

15 U.S.C. 1114(1)

Note: Further information regarding trademarks can be found at <http://www.uspto.gov/trademarks>.

PATENTS	The term "invention" means invention or discovery. <i>35 U.S.C. 100(a)</i>
INVENTION	
PROCESS	The term "process" means process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material. <i>35 U.S.C. 100(b)</i>
OBTAINING A PATENT	Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement, may obtain a patent, subject to the conditions and requirements of 35 U.S.C. 1-376. <i>35 U.S.C. 101</i>
ASSIGNMENT OF PATENT	Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States. <i>35 U.S.C. 261</i>
INFRINGEMENT OF PATENTS	Except as otherwise provided in 35 U.S.C. 1-376, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States, or imports into the United States any patented invention during the term of the patent, infringes the patent. Whoever actively induces infringement of a patent shall be liable as an infringer. Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a

staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

35 U.S.C. 271(a)–(c)

Note: Further information regarding patents can be found at <http://www.uspto.gov/patents>.

NEW

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION D: PERSONNEL

DA	EMPLOYMENT OBJECTIVES
DAA	Equal Employment Opportunity
DAB	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
DBA	Credentials and Records
DBAA	Criminal History and Credit Reports
DBB	Medical Examinations and Communicable Diseases
DBD	Conflict of Interest
DBE	Nepotism
DC	EMPLOYMENT PRACTICES
DCA	Probationary Contracts
DCB	Term Contracts
DCC	Continuing Contracts
DCD	At-Will Employment
DCE	Other Types of Contracts
DE	COMPENSATION AND BENEFITS
DEA	Salaries and Wages
DEAA	Incentives and Stipends
DEB	Fringe Benefits
DEC	Leaves and Absences
DECA	Family and Medical Leave
DECB	Military Leave
DED	Vacations and Holidays
DEE	Expense Reimbursement
DEG	Retirement
DF	TERMINATION OF EMPLOYMENT
DFA	Probationary Contracts
DFAA	Suspension/Termination During Contract
DFAB	Termination at End of Year
DFAC	Return To Probationary Status
DFB	Term Contracts
DFBA	Suspension/Termination During Contract
DFBB	Nonrenewal
DFC	Continuing Contracts
DFCA	Suspension/Termination
DFD	Hearings Before Hearing Examiner
DFE	Resignation
DFF	Reduction in Force

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION D: PERSONNEL

DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Intellectual Property Rights
DH	EMPLOYEE STANDARDS OF CONDUCT
DHA	Gifts and Solicitations
DHE	Searches and Alcohol/Drug Testing
DI	EMPLOYEE WELFARE
DIA	Freedom from Discrimination, Harassment, and Retaliation
DJ	EMPLOYEE RECOGNITION AND AWARDS
DK	ASSIGNMENT AND SCHEDULES
DL	WORK LOAD
DLA	Staff Meetings
DLB	Required Plans and Reports
DM	PROFESSIONAL DEVELOPMENT
DMA	Required Staff Development
DMB	Career Advancement
DMC	Continuing Professional Education
DMD	Professional Meetings and Visitations
DME	Research and Publication
DN	PERFORMANCE APPRAISAL
DNA	Evaluation of Teachers
DNB	Evaluation of Other Professional Employees
DP	PERSONNEL POSITIONS
DPB	Substitute, Temporary, and Part-Time Positions

	<p>Note:— For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).</p>
WITHHOLDING INFORMATION	An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). <i>Education Code 26.008(b)</i>
DISCHARGE OF CONVICTED EMPLOYEES	<p>A district shall discharge an employee if the district obtains information through a criminal history record information (CHRI) review that:</p> <ol style="list-style-type: none"> 1. The employee has been convicted of: <ol style="list-style-type: none"> a. A felony under Penal Code Title 5; b. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or c. An offense under the laws of another state or federal law that is equivalent to an offense under paragraphs a or b; and 2. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.
EXCEPTION	<p>However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:</p> <ol style="list-style-type: none"> 1. The date of the offense is more than 30 years before June 15, 2007; and 2. The employee satisfied all terms of the court order entered on conviction.
CERTIFICATION TO SBEC	Each school year, a superintendent shall certify to the Commissioner that a district has complied with the above provisions.
SANCTIONS	The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee if the educator knows or should have known, through a criminal history record information review, that the employee has been convicted of an offense described above.
OPTIONAL TERMINATION	A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to

SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085 [See DBAA]

CERTAIN OFFENSES
AGAINST CHILDREN

A district that receives notice under Education Code 21.058(b) of the revocation of a certificate issued under Chapter 21, Subchapter B, shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student [see DK]; and
2. As soon as practicable, terminate the employment of the person in accordance with the person's contract and with Education Code Chapter 21, Subchapter B.

These removal and termination requirements apply only to a conviction of a felony under Penal Code Title 5 or an offense for which the person must register as a sex offender, and only if the victim of the offense is under 18 years of age.

Education Code 21.058

FAILURE OF
CERTIFICATION

An employee's probationary, term, or continuing contract under Education Code Chapter 21 is void if the employee:

1. Does not hold a certificate or permit issued by SBEC; or
2. Fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.

DISTRICT'S
OPTIONS

After an employee receives notice that the employee's contract is void a district may:

1. Terminate the employee;
2. Suspend the employee with or without pay; or
3. Retain the employee for the remainder of the school year on an at-will employment basis in a position other than classroom teacher at the employee's existing rate of pay or at a reduced rate.

An employee whose contract is void is not entitled to the minimum salary prescribed by Education Code 21.402.

NO APPEAL OR
CHAPTER 21
HEARING

A school district's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the no-

tice and hearing requirements of that chapter do not apply to the decision.

Education Code 21.0031

APPLICABILITY	These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the teacher is not certified. <i>Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)</i>
REPORT TO SBEC	In addition to the reporting requirement under Family Code 261.101 [see FFG], a superintendent shall promptly notify SBEC in writing by filing must file a written report within seven calendar days of with SBEC not later than the date seventh day after the superintendent first obtains or has knowledge of information indicating that:
CRIMINAL HISTORY	1.— An applicant for or holder of a certificate issued by SBEC has a reported criminal history;
ASSESSMENT INSTRUMENT	2.— The certificate holder engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0304; or
RESIGNATION	3.— The certificate holder resigned and reasonable evidence supports a recommendation by the superintendent to terminate the educator based on a determination that the educator engaged in misconduct described in 4(a)–(f), below [see DFE];
TERMINATION	<p>A certificate holder’s employment at the district was terminated based on a determination that the certificate holder:</p> <ul style="list-style-type: none"> 4.1. Sexually or physically abused or otherwise committed an unlawful act with a student or minor; 5.2. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.; 6.3. Illegally transferred, appropriated, or expended funds or other property of the district; 7.4. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or permit for the purpose of promotion or additional compensation; 8.5. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or 9.6. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

[See DH regarding elements of report to SBEC of educator misconduct.]

DEFINITIONS

~~“Abuse” has the meaning assigned by Family Code 261.001 and includes any sexual conduct involving an educator and the following acts or omissions:~~

1. **Mental or emotional injury to a student or minor that results in an observable and material impairment in the student’s or minor’s development, learning, or psychological functioning;**
2. **Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student’s or minor’s development, learning, or psychological functioning;**
3. **Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or**
- ~~4.~~ **Sexual conduct harmful to a student’s or minor’s mental, emotional, or physical welfare.**

“Solicitation of a romantic relationship” means deliberate or repeated acts that can be reasonably interpreted as soliciting a relationship characterized by an ardent emotional attachment or pattern of exclusivity. Acts that constitute the solicitation of a romantic relationship include:

- ~~2.~~1. Behavior, gestures, expressions, communications, or a pattern of communication with a student that is unrelated to the educator’s job duties and that may reasonably be interpreted as encouraging the student to form an ardent or exclusive emotional attachment to the educator, including statements of love, affection, or attraction. When evaluating whether communications constitute the solicitation of a romantic relationship, the following may be considered:
 - a. The nature of the communications;
 - b. The timing of the communications;
 - c. The extent of the communications;
 - d. Whether the communications were made openly or secretly;

- e. The extent to which the educator attempted to conceal the communications;
- f. If the educator claims to be counseling a student, TEA staff may consider whether the educator’s job duties included counseling, whether the educator reported the subject of the counseling to the student’s guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate law enforcement agencies; and
- g. Any other communications tending to show that the educator solicited a romantic relationship with a student.

~~3-2.~~ Making inappropriate comments about a student’s body.

~~4-3.~~ Making sexually demeaning comments to a student.

~~5-4.~~ Making comments about a student’s potential sexual performance.

~~6-5.~~ Requesting details of a student’s sexual history.

~~7-6.~~ Requesting a date.

~~8-7.~~ Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.

~~9-8.~~ Inappropriate hugging, kissing, or excessive touching.

~~10-9.~~ Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.

~~11-10.~~ Any other acts tending to show that the educator solicited a romantic relationship with the student, including providing the student with drugs or alcohol.

REPORTS

~~A superintendent who is required to file a report, but fails to timely do so, is subject to sanctions.~~

~~A superintendent shall notify the board of a district and the educator of the filing of the report.~~

IMMUNITY

~~A superintendent who in good faith and while acting in an official capacity files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed.~~

Education Code 21.006; 19 TAC 249.14

TERMINATION OF EMPLOYMENT
RESIGNATION

DFE
(LEGAL)

RESIGNATION
WITHOUT CONSENT
(UNILATERAL
RESIGNATION)

An educator employed under a probationary contract for the following school year, or under a term or continuing contract, may relinquish the position and leave district employment at the end of the school year without penalty by filing a written resignation with a board or a board's designee not later than the 45th day before the first day of instruction of the following school year.

A written resignation mailed by prepaid certified or registered mail to a board president or a board's designee at the post office address of the district is considered filed at the time of mailing.

Education Code 21.105(a), 21.160(a), 21.210(a)

An unequivocal resignation filed not later than the 45th day before the first day of instruction of the following school year is effective upon filing with a district and the district cannot reject such a resignation. The resignation cannot be withdrawn by the teacher based on an argument that the district has not accepted the resignation. *Fantroy v. Dallas Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 034-R9-0206 (Mar. 5, 2009); Garcia v. Miles Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 055-RI-503 (Nov. 30, 2006).*

RESIGNATION WITH
CONSENT

The educator may resign, with the consent of the board or the board's designee, at any other time. *Education Code 21.105(b), 21.160(b), 21.210(b)*

SANCTIONS FOR
ABANDONMENT OF
CONTRACT

On written complaint by a district, the State Board for Educator Certification (SBEC) may impose sanctions against an educator who is employed under a probationary contract, or under a continuing or term contract, for the following school year, and who:

1. Resigns;
2. Fails without good cause to comply with the resignation deadline or the provision regarding resignation by consent; and
3. Fails without good cause to perform the contract.

Education Code 21.105(c), 21.160(c), 21.210(c)

Acceptance or approval of a resignation indicates consent to abandonment of contract. *Quitman Indep. Sch. Dist. v. Wilkerson, Tex. Comm'r of Educ. Decision No. 142-TTC-698 (Dec. 2, 1999); Houston Indep. Sch. Dist. v. Johnson, Tex. Comm'r of Educ. Decision No. 054-TTC-1196 (Sept. 28, 1998)*

SBEC shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract unless a board:

1. Renders a finding that good cause did not exist for the employee's resignation; and

2. Submits a written complaint to SBEC within 30 calendar days after the educator ~~separates from employment~~ **files a written resignation with the district in the manner provided by Education Code 21.105, 21.160, or 21.210.**

This deadline applies even if the district does not accept the educator's written resignation. If the educator does not submit a written resignation, the employing district may determine the effective resignation date for purposes of submitting a complaint to SBEC. The effective resignation date shall not be later than 14 days after the educator fails to appear for work without district permission under the terms of the contract.

19 TAC 249.14(f)

NOTICE TO SBEC

In addition to the reporting requirement under Family Code 261.101 [see FFG], a superintendent must file a **written** report with SBEC not later than the seventh day after the superintendent first obtains or has knowledge of information indicating that an educator resigned and reasonable evidence supported a recommendation by the superintendent to terminate the educator because he or she committed one of the acts specified at Education Code 21.006(b).

Before accepting the educator's resignation, a superintendent shall inform the educator in writing that a report will be filed ~~that~~ **which** may result in sanctions against the employee's certificate.

A superintendent shall notify a board ~~prior to~~ **before** filing a report of a resignation with SBEC.

Education Code 21.006(b), (c), (d); 19 TAC 249.14(d) [See DF, **DH**]

EDUCATOR ETHICS Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator’s code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

Education Code 21.041(8); 19 TAC 247.1, 247.2

REPORT TO SBEC OF EDUCATOR MISCONDUCT

A superintendent ~~shall promptly notify SBEC in writing by filing a~~ **must file a written** report with SBEC not later than the seventh day after the superintendent first ~~learns about a criminal record~~ **obtains** or ~~an alleged incident~~ **has knowledge** of ~~misconduct, as described at DF, involving~~ **information** indicating that:

- CRIMINAL HISTORY** 1. **An applicant for or holder of a certificate issued by SBEC has a ~~certified~~ reported criminal history;**
- ASSESSMENT INSTRUMENT** 2. **The certificate holder engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301;**
- RESIGNATION** 3. **The certificate holder resigned and reasonable evidence supports a recommendation by the superintendent to terminate the educator based on a determination that the educator engaged in misconduct listed at DF(LEGAL) [see DFE]; or**
- TERMINATION** 4. **A certificate holder’s employment at the district was terminated based on a determination that the certificate holder engaged in the misconduct listed at DF(LEGAL).**

Education Code 21.006; 19 TAC 249.14

CONTENTS OF REPORT

The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

- 1. **Name and any aliases;**
- 2. **Certificate number, if any, or social security number;**
- 3. **Last known mailing address and home and daytime phone numbers;**
- 4. **Name or names and any available contact information of any alleged victim or victims; and**

4.5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report.

A superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code, Chapter 552. [See GBAA]

A superintendent who fails to timely make a required report is subject to sanctions by SBEC.

IMMUNITY

A superintendent who, in good faith and while acting in an official capacity, files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed.

Education Code 21.006; 19 TAC 249.14

PUBLIC SERVANTS

All district employees are “public servants” and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

TOBACCO USE PROHIBITED

A board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property.

ENFORCEMENT

A board shall ensure that district personnel enforce the policies on school property.

Education Code 38.006(1)(3) [See also FNCD and GKA]

DRUG AND ALCOHOL ABUSE PROGRAM

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

FEDERAL DRUG-FREE WORKPLACE ACT

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees of the requirements of the federal Drug-Free Workplace Act (DFWA) and requiring that each employee be given a copy of the statement [see DI(EXHIBIT)];
2. Establishing a drug-free awareness program for employees pursuant to the DFWA;
3. Notifying the granting agency within ten days after receiving notice that an employee has been convicted under a criminal drug statute;

4. Imposing a sanction on an employee who is convicted of such a violation, or requiring the employee's satisfactory participation in a drug abuse or rehabilitation program; and
5. Making a good faith effort to continue to maintain a drug-free workplace.

41 U.S.C. 702(a)(1)

DIETARY
SUPPLEMENTS

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

Education Code 38.011

CODE OF ETHICS AND STANDARD PRACTICES
FOR TEXAS EDUCATORS

The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community. **19 TAC 247.1**

1. Professional Ethical Conduct, Practices, and Performance-

Standard 1.1. The educator shall not **intentionally**, knowingly, **or recklessly** engage in deceptive practices regarding official policies of the school district~~-or~~, educational institution, **educator preparation program, the Texas Education Agency, or the State Board for Educator Certification (SBEC) and its certification process.**

Standard 1.2. The educator shall not knowingly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.

Standard 1.3. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.

Standard 1.4. The educator shall not use institutional or professional privileges for personal or partisan advantage.

Standard 1.5. The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents **of students**, or other persons or organizations in recognition or appreciation of service.

Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.

Standard 1.7. The educator shall comply with state regulations, written local school board policies, and other ~~applicable~~ state and federal laws.

Standard 1.8. The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.

Standard 1.9. The educator shall not make threats of violence against school district employees, school board members, students, or parents of students.

Standard 1.10. The educator shall be of good moral character and be worthy to instruct or supervise the youth of this state.

Standard 1.11. The educator shall not intentionally or knowingly misrepresent his or her employment history, criminal history, and/or disciplinary record when applying for subsequent employment.

Standard 1.12. The educator shall refrain from the illegal use or distribution of controlled substances and/or abuse of prescription drugs and toxic inhalants.

Standard 1.13. The educator shall not consume alcoholic beverages on school property or during school activities when students are present.

2. Ethical Conduct Toward Professional Colleagues-

Standard 2.1. The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.

Standard 2.2. The educator shall not harm others by knowingly making false statements about a colleague or the school system.

Standard 2.3. The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.

Standard 2.4. The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.

Standard 2.5. The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, ~~sex~~**gender**, disability, ~~or~~ family status, **or sexual orientation**.

Standard 2.6. The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.

Standard 2.7. The educator shall not retaliate against any individual who has filed a complaint with the SBEC **or who provides information for a disciplinary investigation or proceeding** under this chapter.

3. Ethical Conduct Toward Students-

Standard 3.1. The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.

Standard 3.2. The educator shall not **intentionally**, knowingly, **or recklessly** treat a student **or minor** in a manner that adversely affects **or endangers** the ~~student's~~ learning, physical health, mental health, or safety ~~of the student or minor~~.

Standard 3.3. The educator shall not ~~deliberately or intentionally~~, knowingly, **or recklessly** misrepresent facts regarding a student.

Standard 3.4. The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, ~~sex~~**gender**, disability, national origin, religion, ~~or~~ family status ~~or~~, **or sexual orientation**.

Standard 3.5. The educator shall not **intentionally, knowingly, or recklessly** engage in physical mistreatment, **neglect, or abuse** of a student ~~or minor~~.

Standard 3.6. The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student.

Standard 3.7. The educator shall not furnish alcohol or illegal/unauthorized drugs to any ~~student~~ **person under 21 years of age unless the educator is a parent or guardian of that child** or knowingly allow any ~~student~~ **person under 21 years of age unless the educator is a parent or guardian of that child** to consume alcohol or illegal/unauthorized drugs in the presence of the educator.

Standard 3.8. The educator shall maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard.

Standard 3.9. The educator shall refrain from inappropriate communication with a student or minor, including electronic communication such as cell phone, text messaging, e-mail, instant messaging, blogging, or other social network communication. Factors that may be considered in assessing whether the communication is inappropriate include:

- a. **The nature, purpose, timing, and amount of the communication;**
- b. **The subject matter of the communication;**
- c. **Whether the communication was made openly or the educator attempted to conceal the communication;**
- d. **Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship;**
- e. **Whether the communication was sexually explicit; and**
- f. **Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.**

19 TAC 247.2

PROFESSIONAL DEVELOPMENT
PROFESSIONAL MEETINGS AND VISITATIONS

DMD
(LEGAL)

District employees may be permitted to attend meetings of professional organizations during a work day, with pay, if a direct school-related purpose will be accomplished. Such release time shall not be granted if the meetings are primarily to pursue the business of the organization. *Atty. Gen. Op. MW-89 (1979)*

DELETE

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION E: INSTRUCTION

EA	INSTRUCTIONAL GOALS AND OBJECTIVES
EB	SCHOOL YEAR
EC	SCHOOL DAY
ED	ORGANIZATION OF INSTRUCTION
EE	INSTRUCTIONAL ARRANGEMENTS
EEA	Grouping for Instruction
EEB	Class Size
EEC	Scheduling for Instruction
EED	Student Schedules
EEH	Homebound Instruction
EEJ	Individualized Learning
EEL	Contracts with Outside Agencies
EEM	Juvenile Residential Facilities
EEP	Lesson Plans
EF	INSTRUCTIONAL RESOURCES
EFA	Instructional Materials Selection and Adoption
EFAA	Textbook Selection and Adoption
EFB	Library Media Programs
EFC	Community Instructional Resources
EFD	Field Trips
EFE	Copyrighted Material
EFF	Instructional Television
EG	CURRICULUM DEVELOPMENT
EGA	Innovative and Magnet Programs
EH	CURRICULUM DESIGN
EHA	Basic Instructional Program
EHAA	Required Instruction (All Levels)
EHAB	Required Instruction (Elementary)
EHAC	Required Instruction (Secondary)
EHAD	Elective Instruction
EHB	Special Programs
EHBA	Special Education
EHBAA	Identification, Evaluation, and Eligibility
EHBAB	ARD Committee and Individualized Education Program
EHBAC	Students in Non-District Placement
EHBAD	Transition Services
EHBAE	Procedural Requirements

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION E: INSTRUCTION

EHBB	Gifted and Talented Students
EHBC	Compensatory/Accelerated Services
EHBD	Federal Title I
EHBE	Bilingual Education/ESL
EHBF	Career and Technical Education
EHBG	Prekindergarten
EBBH	Other Special Populations
EHBI	Adult and Community Education
EHBK	Other Instructional Initiatives
EHBL	High School Equivalency
EHBM	Travel Study
EHBN	Honors
EHD	Alternative Methods for Earning Credit
EHDA	Summer School
EHDB	Credit by Examination With Prior Instruction
EHDC	Credit by Examination Without Prior Instruction
EHDD	College Course Work/Dual Credit
EHDE	Distance Learning
EI	ACADEMIC ACHIEVEMENT
EIA	Grading/Progress Reports to Parents
EIAA	Examinations
EIAB	Makeup Work
EIB	Homework
EIC	Class Ranking
EID	Honor Rolls
EIE	Retention and Promotion
EIF	Graduation
EJ	ACADEMIC GUIDANCE PROGRAM
EK	TESTING PROGRAMS
EKB	State Assessment
EKBA	LEP Students
EKC	Reading Assessment
EKD	Mathematics Assessment
EL	CHARTER CAMPUS OR PROGRAM
EM	MISCELLANEOUS INSTRUCTIONAL POLICIES
EMA	Academic Freedom
EMB	Teaching About Controversial Issues
EMD	Ceremonies and Observances
EMG	Non-Service Animals in the School
EMI	Study of Religion

Textbooks selected for use in the public schools shall be furnished without cost to students attending those schools. *Education Code 31.001*

PARENTAL ACCESS

A parent is entitled to review all teaching materials, textbooks, and other teaching aids used in the classroom of the parent's child and to review each test administered to the child after the test is administered. A district shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.

A student's parent is entitled to request that a district allow the student to take home any textbook used by the student. Subject to the availability of a textbook, a district or school shall honor the request. A student who takes home a textbook must return the textbook to school at the beginning of the next school day if requested to do so by the student's teacher.

Education Code 26.006

INFORMATION
COLLECTION AND
ACCESSU.S. DOE FUNDED
SURVEYSCONSENT
REQUIRED
STUDENT RIGHTS~~PARENTAL
INSPECTION~~

~~All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. Department of Education shall be available for inspection by the parents or guardians of the children. 20 U.S.C. 1232h(a)~~

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education, (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the following topics listed at **PROTECTED INFORMATION, below**, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. ~~Topics covered by this provision are: 20 U.S.C. 1232h(b)~~

PARENTAL
INSPECTION

1. ~~All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. Political affiliations or beliefs of the student or the student's parents.~~
2. ~~Mental and psychological problems of the student or the student's family.~~
3. ~~Sex behavior and attitudes.~~
4. ~~Illegal, anti social, self incriminating, and demeaning behavior.~~

5. ~~Critical appraisals of other individuals with whom respondents have close family relationships.~~
6. ~~Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.~~
7. ~~Religious practices, affiliations, or beliefs of the student or student's parent.~~
8. ~~Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).~~

DOE shall be available for inspection by the parents or guardians of the children. ~~20~~ U.S.C. 1232h(~~ba~~)

INFORMATION
COLLECTION
FUNDED BY OTHER
SOURCES

POLICIES

~~As~~ Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. DOE FUNDED SURVEYS, above], as a condition of receiving funds ~~under any applicable~~ for a program **funded in whole or in part by the U.S. DOE**, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student **and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.**
2. A district's arrangements to protect student privacy in the event a survey containing **one or more of** the items listed under ~~STUDENT RIGHTS, above~~ **PROTECTED INFORMATION, below**, is administered or distributed to a student.
3. The parent's right to inspect any instructional material used in the educational curriculum for the student **and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.**
4. The administration of physical examinations or screenings that a district may administer to the student~~;~~.
5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. This provision does not apply to use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institu-

tions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs.

6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered **and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.**

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). [See ~~FL, FNGCRD~~, FFAA, ~~FL~~, and ~~CRDFNG~~]

PARENTAL
NOTIFICATION

A district shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in schools served by the district. At a minimum, a district shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

A district shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items described at ~~STUDENT RIGHTS, above~~ **PROTECTED INFORMATION, below.**
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or of other students.

20 U.S.C. 1232h(c)(1)–(4) [See FFAA]

**PROTECTED
INFORMATION****Protected information addressed by 20 U.S.C. 1232h includes:**

- ~~4.1.~~ Political affiliations or beliefs of the student or the student's parents.
- ~~5.2.~~ Mental and psychological problems of the student or the student's family.
- ~~6.3.~~ Sex behavior and attitudes.
- ~~7.4.~~ Illegal, anti-social, self-incriminating, and demeaning behavior.
- ~~8.5.~~ Critical appraisals of other individuals with whom respondents have close family relationships.
- ~~9.6.~~ Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
- ~~10.7.~~ Religious practices, affiliations, or beliefs of the student or student's parent.
- ~~11.8.~~ Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

20 U.S.C. 1232h(b), (c)(1)(B)**'PERSONAL
INFORMATION'
DEFINED**

The term "personal information" means individually identifiable information, including a student's:-

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social ~~Security~~security identification number.

20 U.S.C. 1232h(c)(6)(E)

Note: For provisions regarding inventory and requisition of textbooks, see CMD.

STATE TEXTBOOK AND INSTRUCTIONAL MATERIALS LISTS	For each subject and grade level, the State Board of Education (SBOE) shall adopt two lists of textbooks: conforming and nonconforming:
CONFORMING LIST	1. The conforming list includes each textbook that meets applicable physical specifications and contains material covering each element of the essential knowledge and skills of the subject and grade level.
NONCONFORMING LIST	2. The nonconforming list includes each textbook that meets the applicable physical specifications and contains material covering at least half, but not all, of the elements of the essential knowledge and skills.
	<i>Education Code 31.023</i>
OPEN-SOURCE TEXTBOOKS	The SBOE shall place an open-source textbook for a secondary-level course submitted for adoption by an eligible institution on a conforming or nonconforming list if it satisfies the requirements described in Education Code 31.0241. <i>Education Code 31.0241(b)</i> An open-source textbook is an electronic textbook that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the textbook. 19 TAC 66.1101(3)
ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST	The Commissioner, with input from the SBOE, shall adopt a list of: 1. Electronic textbooks; and 2. Instructional material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade 5.
	<i>Education Code 31.0231</i> An electronic textbook is defined as computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, online services, an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means. 19 TAC 66.1001(1)

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION
TEXTBOOK SELECTION AND ADOPTION

EFAA
(LEGAL)

SUPPLEMENTAL TEXTBOOK LIST	The SBOE may adopt supplemental textbooks that are not on the conforming or nonconforming lists. A supplemental textbook contains material covering one or more primary focal points or primary topics of a subject in the required curriculum but is not designed to serve as the sole textbook for a full course. <i>Education Code 31.035(a), (b)</i>
LOCAL SELECTION	Each year, during a period established by the SBOE, a board shall select textbooks for subjects in the foundation and enrichment curricula. <i>Education Code 31.101(a)</i>
POLICY	A board shall adopt a policy for selecting instructional materials. Final selections must be recorded in board minutes. <i>19 TAC 66.104(a)</i>
FOUNDATION TEXTBOOKS	<p>A board shall select textbooks for a subject in the foundation curriculum from among the textbooks on the appropriate conforming list or the nonconforming list, including the electronic textbook and instructional materials list. <i>Education Code 31.101(a)(1)</i></p> <p>A board may select a supplemental textbook adopted by the SBOE, as set forth at Education Code 31.035 [see CMD]. If a board selects a supplemental textbook for a course in the foundation curriculum, the district shall certify to TEA that the supplemental textbook, in combination with any other textbooks or supplemental textbooks used by the district, cover the essential knowledge and skills for the course. <i>Education Code 31.035(d), (f)</i></p>
ENRICHMENT TEXTBOOKS	A board may select textbooks for courses in the enrichment curriculum from among the textbooks on the appropriate conforming list or the nonconforming list, including the electronic textbook and instructional materials list, or it may select books that do not appear on either list (nonadopted materials). <i>Education Code 31.101(a)(2)</i>
BRAILLE / LARGE- TYPE	A district is responsible for providing Braille and/or large-type versions of nonadopted enrichment materials. <i>19 TAC 66.104(d)</i>
CLASSROOM SET OF TEXTBOOKS	<p>Notwithstanding any other provision of Education Code Chapter 31, a district must purchase a classroom set of textbooks adopted by the SBOE on the conforming or nonconforming list or the supplemental textbook list for each subject and grade level in the foundation and enrichment curriculum. <i>Education Code 31.101(c-1); 19 TAC 66.104(r)</i></p> <p>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. A classroom kit that includes materials for every student in the classroom is considered to be a classroom set. <i>19 TAC 66.104(s)</i></p>

SPECIAL EDUCATION	Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. <i>19 TAC 66.104(m)</i>
DURATION OF SELECTION	Once instructional materials have been requisitioned and delivered, including nonadopted materials, a district shall continue to use those materials during the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the materials are used. <i>Education Code 31.101(d); 19 TAC 66.104(f), (j)</i>
EXCEPTION	<p>A district that selects a subscription-based electronic textbook or instructional material on the conforming list or the electronic textbook and instructional materials list may cancel the subscription and subscribe to a new electronic textbook or instructional material on either list before the end of the state contract period if:</p> <ol style="list-style-type: none">1. The district has used the electronic textbook or instructional material for at least one school year; and2. TEA approves the change based on a written request to TEA by the district that specifies the reasons for changing the electronic textbook or instructional material used by the district. <p><i>Education Code 31.101(e)</i></p>
REPORT	By April 1 of each year, a district shall transmit a report to TEA listing the instructional materials selected for use in the district. Selections certified to TEA are final and, therefore, not subject to reconsideration during the original contract period or readoption contract periods covering the instructional materials selected. <i>19 TAC 66.104(g), (h)</i>
CRIMINAL OFFENSE	<p>A trusteeboard member, administrator, or teacher commits an offense if the person receives any commission or rebate on any textbooks, electronic textbooks, instructional materials, or technological equipment used in the schools with which the person is associated.</p> <p>A trusteeboard member, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:</p> <ol style="list-style-type: none">1. Is given to the person or the person's school;2. Might reasonably tend to influence the person in the selection of a textbook, electronic textbook, instructional material, or technological equipment; and

3. Could not be lawfully purchased with funds from the state textbook fund.

“Gift, favor, or service” does not include:

1. Staff development, in-service, or teacher training; or
2. Instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152

ANCILLARY
MATERIALS

Selection and use of ancillary materials is at the discretion of a board. *19 TAC 66.104(p)*

HUMAN SEXUALITY
MATERIALS

Course materials relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall be selected by a board with the advice of the local school health advisory council. *Education Code 28.004(e)* [See EHAA]

EXCLUSIVE RIGHTS

Employees of a district shall comply with the provisions of the United States Copyright Law. Subject to certain specific exceptions, some of which are stated below, the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

17 U.S.C. 106

FAIR USE

An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use. The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by 17 U.S.C. 106, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. The following factors shall be considered in determining fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and importance of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for or value of the copyrighted work.

17 U.S.C. 107

INSTRUCTIONAL RESOURCES
COPYRIGHTED MATERIAL

EFE
(LEGAL)

PERFORMANCES AND DISPLAYS Additional exceptions related to performances and displays include performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made. *17 U.S.C. 110*

GUIDELINES Employees who wish to use copyrighted print material and sheet music shall follow the guidelines set forth in the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" and "Guidelines for Educational Uses of Music." Those guidelines establish a minimum guaranteed fair use, not a maximum. Any use that falls within those guidelines is a fair use; any use that exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Any determination regarding whether a use that exceeds the guidelines is a fair use shall rest with an appropriate court of law.

PROHIBITIONS Notwithstanding the fair use guidelines, the following shall be prohibited:

1. Copying of print materials and sheet music to create or replace or substitute for anthologies, compilations, or collective works. This prohibition against replacement or substitution applies whether copies of various works or excerpts are accumulated, or reproduced and used separately.
2. Copying of or from works intended to be "consumable" in the course of study or teaching. These works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material.

Copying shall not substitute for the purchase of books, publishers' reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term.

No charge shall be made to the student beyond the actual cost of the photocopying.

Additional prohibitions regarding the use of music are:

1. Copying for the purpose of performance, except as permitted under the "Guidelines for Educational Use of Music."

2. Copying for the purpose of substituting for the purchase of music, except as permitted under the "Guidelines for Educational Use of Music."
3. Copying without inclusion of the copyright notice that appears on the printed copy.

REFERENCE

"Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" and "Guidelines for Educational Use of Music" contained in the historical note following 17 U.S.C. 107.

BROADCAST
PROGRAMS

Broadcast programs, including commercial and public television and radio, shall not be videotaped or tape recorded for reuse without permission, except within the following guidelines:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a district for a period not to exceed the first 45 consecutive calendar days after date of recording. At the end of that retention period, off-air recordings shall be erased or destroyed.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary during the first ten consecutive school days within the 45-calendar-day retention period. "School days" are actual days of instruction, excluding examination periods.
3. Off-air recordings shall be made at the request of and used by individual teachers and shall not be regularly recorded in anticipation of requests. No broadcast program shall be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program is broadcast.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording. All copies of off-air recordings shall include the copyright notice on the broadcast program as recorded.
5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only to determine whether or not to include the broadcast program in the teaching curriculum and shall not be used in a district for student exhibition or any other nonevaluative purpose without authorization.

6. Off-air recordings need not be used in their entirety, but the recorded programs shall not be altered from their original content. Off-air recordings shall not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

17 U.S.C. 107 historical note

ONLINE COPYRIGHT
INFRINGEMENT
LIMITATION OF
LIABILITY

To the extent that a district is a “service provider” (regarding online services) under 17 U.S.C. 512(k) and meets other conditions in 17 U.S.C. 512, the district shall not be liable for monetary relief or certain injunctive or other equitable relief, except as allowed under 17 U.S.C. 512(j), for copyright infringement in certain online services (transitory communications, system caching, storage of information on systems or networks at the instruction of users, and information location tools) provided by the district.

17 U.S.C. 512

ELIGIBILITY FOR
LIMITATIONS ON
LIABILITY

The limitations on liability established by 17 U.S.C. 512 shall apply to a service provider only if the service provider:

1. Has adopted and reasonably implemented, and informs subscribers and account holders of the service provider’s system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers; and
2. Accommodates and does not interfere with standard technical measures. The term “standard technical measures” means technical measures that are used by copyright owners to identify or protect copyrighted works and:
 - a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;
 - b. Are available to any person on reasonable and nondiscriminatory terms; and
 - c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

17 U.S.C. 512(i)

LIMITED LIABILITY
INFORMATION
RESIDING ON
SYSTEMS OR
NETWORKS AT
DIRECTION OF
USERS

Generally, a service provider shall not be liable for monetary relief, or for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resided on a system or network controlled or operated by or for the service provider, if the service provider:

1. Does not have actual knowledge that the material or activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;
2. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity;
3. Upon notification of claimed infringement as described in 17 U.S.C. 512(c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity; and
4. Has designated an agent to receive notifications of claimed infringement described in 17 U.S.C. 512(c)(3), by making available through its service, including on its Web site in a location accessible to the public, and by providing to the Copyright Office, certain contact information.

17 U.S.C. 512(c)(1), (2); 37 CFR 201.38

OTHER ONLINE
SERVICES

Generally, liability of a service provider for copyright infringement may also be limited upon certain conditions for transitory communications, system caching, and information location tools services.
17 U.S.C. 512(a), (b), (d)

DISABLING OR
REMOVING
ACCESS

Generally, a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing. *17 U.S.C. 512(g)*

Note: Further information regarding the Digital Millennium Copyright Act can be found at: <http://www.copyright.gov>.

Courses in the foundation and enrichment curriculum in grades 6–12 must be provided in a manner that allows all grade promotion and high school graduation requirements to be met in a timely manner. A district is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 Administrative Code 74.3. *19 TAC 74.3(c)*

GRADES 6–8

A district that offers grades 6–8 must provide instruction in the required curriculum as specified in 19 Administrative Code 74.1, relating to essential knowledge and skills. A district must ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English. The school district may provide instruction in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade level standards. *19 TAC 74.3(a)(1)*

PHYSICAL ACTIVITY
REQUIREMENTS

A district shall require students in grades 6–8 to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum.

A district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks.

EXEMPTIONS

A district must provide an exemption for:

1. A student who is unable to participate in the required physical activity because of illness or disability; and
2. A student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity and meets the requirements for extracurricular activity as defined at 19 Administrative Code 76.1001.

A district may allow an exemption for a student on a middle or junior high school campus participating in a school-related activity or an activity sponsored by a private league or club only if that activity meets each of the following requirements:

1. The activity must be structured;
2. The board must certify the activity; and

3. The student must provide proof of participation in the activity.

A “structured activity” is an activity that meets, at a minimum, each of the following requirements:

1. The activity is based on the grade appropriate movement, physical activity and health, and social development strands of the essential knowledge and skills for physical education specified in 19 Administrative Code Chapter 116; and
2. The activity is organized and monitored by school personnel or by appropriately trained instructors who are part of a program that has been certified by the board.

Education Code 28.002(l), (l-1); 19 TAC 103.1003

FINE ARTS
REQUIREMENT

The school district must ensure that, beginning with students who enter grade 6 in the 2010–11 school year, each student completes one Texas Essential Knowledge and Skills-based fine arts course in grade 6, grade 7, or grade 8. *Education Code 28.002(c-1); 19 TAC 74.3(a)(2)*

HIGH SCHOOL
COURSES AT EARLIER
GRADES

A district may offer courses designated for grades 9–12 in earlier grade levels. *19 TAC 74.26(b)*

(Optional provision)

GRADES 9–12
COURSE OFFERINGS

A district that offers grades 9–12 shall provide instruction in the required curriculum as specified in 19 Administrative Code 74.1. A district shall ensure that sufficient time is provided for teachers to teach and for students to learn the subjects in the required curriculum. *19 TAC 74.3(b)(1)*

A district shall offer the courses listed below in grades 9–12 and shall maintain evidence that students have the opportunity to take these courses:

1. English language arts — English I, II, III, IV.
2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.
3. Science — Integrated Physics and Chemistry, Biology, Chemistry, and Physics. Science courses shall include at least 40 percent hands-on laboratory investigations and field work using appropriate scientific inquiry.
4. Social studies — United States History Studies Since Reconstruction, World History Studies, United States Government, and World Geography Studies.

5. Economics — Economics with Emphasis on the Free Enterprise System and Its Benefits. **Education Code 28.0021**

~~A district shall incorporate instruction in personal financial literacy into any course meeting a requirement for an economics credit, using materials approved by the State Board of Education. A district may add elements at its discretion, but must include the areas of instruction listed at 19 Administrative Code 74.34(b). Education Code 28.0021; 19 TAC 74.34~~

6. Physical education — at least two of the following:

- a. Foundations of Personal Fitness;
- b. Adventure/Outdoor Education;
- c. Aerobic Activities; or
- d. Team or Individual Sports.

7. Health education — Health I.

A district shall use the parenting and paternity awareness program developed by the State Board of Education in its high school health curriculum. In high schools that do not have a family violence prevention program, the program must address skills relating to the prevention of family violence [see PARENTING AWARENESS PROGRAM, below]. *Education Code 28.002(p)*

8. Fine arts — courses selected from at least two of the four fine arts areas (art, music, theatre, and dance) as follows:

- a. Art I, II, III, IV;
- b. Music I, II, III, IV;
- c. Theatre I, II, III, IV; or
- d. Dance I, II, III, IV.

9. Career and technical education [see EEL] — coherent sequences of courses selected from at least three of the following 16 career clusters:

- a. Agriculture, Food, and Natural Resources;
- b. Architecture and Construction;
- c. Arts, Audio/Video Technology, and Communications;
- d. Business Management and Administration;
- e. Education and Training;

- f. Finance;
 - g. Government and Public Administration;
 - h. Health Science;
 - i. Hospitality and Tourism;
 - j. Human Services;
 - k. Information Technology;
 - l. Law, Public Safety, Corrections, and Security;
 - m. Manufacturing;
 - n. Marketing;
 - o. Science, Technology, Engineering, and Mathematics;
and
 - p. Transportation, Distribution, and Logistics.
10. Languages other than English — Levels I, II, and III or higher of the same language.
11. Technology applications — at least four courses selected from Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, or Independent Study in Technology Applications.
12. Speech — Communications Applications.

19 TAC 74.3(b)(2)

A district must provide each student the opportunity each year to select courses in which he or she intends to participate from a list that includes all courses listed above. If a district will not offer all required courses every year, but intends to offer particular courses only every other year, it must notify all enrolled students of that fact. *19 TAC 74.3(b)(4)*

A district shall teach any course a student is required to take for graduation or any course in which ten or more students indicate they will participate. For those courses in which fewer than ten students indicate that they will participate, a district shall either teach the course or use alternate delivery systems, as described in 19 Administrative Code, Chapter 74, Subchapter C, to provide the course and shall maintain evidence thereof. *19 TAC 74.3(b)(4)*

	<p>A district may offer additional courses from the complete list of courses approved by the State Board of Education to satisfy graduation requirements. <i>19 TAC 74.3(b)(3)</i></p>
APPLIED COURSES	<p>A school district may offer the foundation curriculum required by the Recommended and Advanced/Distinguished Achievement High School Programs in an applied manner. The courses must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument. <i>Education Code 28.025(b-4)</i></p>
RESEARCH WRITING COMPONENT	<p>For students entering grade 9 beginning with the 2007–08 school year, districts must ensure that one or more courses offered in the required curriculum for the Recommended and Advanced/Distinguished Achievement High School Programs include a research writing component. <i>19 TAC 74.3(b)(5)</i></p>
PARENTING AWARENESS PROGRAM	<p>A district shall use the parenting and paternity awareness program developed by the State Board of Education (SBOE) in its high school health curriculum.</p>
HIGH SCHOOL	
MIDDLE AND JUNIOR HIGH SCHOOL	<p>A district may use the program in the district’s middle or junior high school curriculum.</p>
PROGRAM REQUIREMENTS	<p>Implementation of this requirement shall comply with the requirement that the board establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district’s health education instruction.</p> <p>A district may add elements at its discretion but must include the following areas of instruction:</p> <ol style="list-style-type: none">1. Parenting skills and responsibilities, including child support;2. Relationship skills, including money management, communication, and marriage preparation; and3. Skills relating to the prevention of family violence, only if the district’s middle, junior high, or high schools do not have a family violence program. <p>At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level.</p>
LOCAL PROGRAMS AND MATERIALS	<p>A district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed by the SBOE. The programs and curriculum materials may provide instruction in:</p> <ol style="list-style-type: none">1. Child development;

2. Parenting skills, including child abuse and neglect prevention; and
3. Assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

PARENT
PERMISSION

A student under 14 years of age may not participate in the program without the permission of the student's parent or person standing in parental relation to the student.

Education Code 28.002(p); 19 TAC 74.35(a)

ALCOHOL
AWARENESS
INSTRUCTION

A district shall incorporate instruction in the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning into any course meeting a requirement for a health education credit.

A district shall choose an evidence-based alcohol awareness program to use in the district's middle school, junior high school, and high school health curriculum from a list of programs approved by the Commissioner for this purpose.

"Evidence-based alcohol awareness program" means a program, practice, or strategy that has been proven to effectively prevent or delay alcohol use among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

Education Code 28.002(r); 19 TAC 74.35(b)

DRIVER EDUCATION

A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

1. Conduct the course **in accordance with 19 Administrative Code Chapter 75** and charge a fee for the course in the amount determined by TEA to be comparable to the fee charged by a driver education school that holds a license under Education Code Chapter 1001; or
2. Contract with a driver education school that holds a license under Education Code Chapter 1001 to conduct the course.

Driver education is limited to eligible students who are between the ages of 14 and 18 years of age, who are at least 14 years of age at the time the driver education classroom phase begins and who will be 15 years of age or older when the behind-the-wheel instruction begins. Students officially enrolled in school who are 18–21 years of age may attend a **teenage minor and adult** driver education program. *Education Code 29.902; 19 TAC 75.1005(i)*

LIFE SKILLS
PROGRAMS

A district may provide an integrated program of educational and support services for students who are pregnant or who are parents. If a district provides such a program, the program shall include all of the following:

1. Individual counseling, peer counseling, and self-help programs.
2. Career counseling and job readiness training.
3. Day care for the students' children on the campus or at a day care facility in close proximity to the campus.
4. Transportation for children of students to and from the campus or day care facility.
5. Transportation for students, as appropriate, to and from the campus or day care facility.
6. Instruction related to knowledge and skills in child development, parenting, and home and family living.
7. Assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

A district shall solicit recommendations for obtaining community support for the students and their children in the life skills programs.

BASIC INSTRUCTIONAL PROGRAM
ELECTIVE INSTRUCTION

EHAD
(LEGAL)

A district may operate a shared services arrangement program to operate a life skills program for student parents.

Education Code 29.085 [See EHBC and FNE]

LOCAL CREDIT
COURSES

A district may offer one or more courses in addition to those in the required curriculum for local credit. The State Board of Education shall be flexible in approving such courses for credit for high school graduation. *Education Code 28.002(f)* [See EIF]

ADMISSION, REVIEW,
AND DISMISSAL
COMMITTEE

A district shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 CFR 300.321.

RESPONSIBILITIES
OF ARD
COMMITTEE

The responsibilities of the ARD committee and the district include:

1. Evaluation, re-evaluation, and determination of eligibility for special education and related services;
2. Placement of students with disabilities including disciplinary changes in placement;
3. Development of the student's IEP;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213; [\[see EHBC\]](#);
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

19 TAC 89.1050(a); 34 CFR 300.116(a), 300.321(a)

COMMITTEE
MEMBERS

A district shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the child;

4. A representative of the district who:
 - a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of resources of the district;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee (who may be a member of the committee listed in items 2–5);
6. The child, if appropriate;
7. Other individuals who have knowledge or special expertise regarding the child. at the discretion of the district or the parent;
8. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments;
9. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments;
10. For a child with limited English proficiency, a member of the language-proficiency assessment committee (LPAC), when selecting assessments; and
11. When considering initial or continued placement of a student in a career and ~~technology~~**technical** education ~~(CATE)~~**program**, a representative from ~~CATE~~**career and technical education**, preferably the teacher.

20 U.S.C. 1414(d)(1)(B); 34 CFR 300.321; 19 TAC 75.1023(d)(1), 89.1131(b)(3)–(4), 101.1009

A district member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and the district agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

A district member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of cur-

riculum or related services if the parent, in writing, and the district consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e)

MEMBERSHIP
FOR TRANSITION
MEETINGS

If the purpose of the meeting is to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, a district shall invite:

1. The student. If the student does not attend, a district shall take steps to ensure that the student's preferences and interests are considered.
2. To the extent appropriate, and with the consent of the parent or adult student, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 CFR 300.321(b) [See EHBAD]

PARENT
INVOLVEMENT

A district shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include the purpose, time, and location of the meeting, who will be in attendance, that persons with knowledge or special expertise may be invited by either the parent or the district, and that the Part C service coordinator or other representatives of the Part C system may be invited to the initial meeting for a child previously served under a Part C early childhood intervention program); and
2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the district will invite the student, and identify any other agency that will be invited to send a representative.

34 CFR 300.322(a)–(b); 19 TAC 89.1045

ALTERNATIVE
MEANS OF
MEETING
PARTICIPATION

If neither parent can attend an ARD meeting, the district must use alternative means of meeting participation, such as individual or conference telephone calls. *20 U.S.C. 1414(f); 34 CFR 300.322(c)*

An ARD meeting may be conducted without a parent in attendance if a district is unable to convince the parents that they should attend, but the district shall have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted and the results of any of those actions. *34 CFR 300.322(d)*

MEETINGS

A district shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once a year.

A "meeting" does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A "meeting" also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1)

MEETING AT
PARENT'S
REQUEST

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. A district must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. A district shall inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate. *19 TAC 89.1045(b)*

TRANSFER STUDENTS

If a student transfers districts, and the student had a previous IEP in place, a district will provide the child with FAPE, including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, the district adopts the previous IEP or develops, adopts, and implements a new IEP.
2. In the case of a student who had an IEP in effect in another state, the district conducts an evaluation, if determined necessary by the district, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. 1414(d)(2)(C)(i); 34 CFR 300.323(e), (f)

TRANSFER OF RECORDS	<p>The district in which the child enrolls shall take reasonable steps to promptly obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.</p> <p>The previous district shall take reasonable steps to promptly respond to the request from the new district.</p> <p><i>20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 300.323(g)</i></p>
MILITARY DEPENDENTS	<p>TheA district shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, § C</i> [See FDD]</p>
INDIVIDUALIZED EDUCATION PROGRAM (IEP)	<p>A district shall develop, review, and revise an IEP for each child with a disability. <i>20 U.S.C. 1412(a)(4); 34 CFR 300.320(a)</i></p> <p>At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. <i>20 U.S.C. 1414(d)(2)(A); 34 CFR 300.323(a)</i></p> <p>The term “individualized education program” means a written statement for each child with a disability that includes:</p> <ol style="list-style-type: none"><li data-bbox="552 1123 1438 1186">1. A statement of the child’s present levels of academic achievement and functional performance;<li data-bbox="552 1207 1438 1270">2. A statement of measurable annual goals, including academic and functional goals;<li data-bbox="552 1291 1438 1396">3. A description of how the child’s progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;<li data-bbox="552 1417 1438 1564">4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;<li data-bbox="552 1585 1438 1648">5. A statement of the program modifications or supports for school personnel that will be provided for the child;<li data-bbox="552 1669 1438 1774">6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;<li data-bbox="552 1795 1438 1902">7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;

8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or district-wide assessments;
9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
10. Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals [see EHBAD]; and
11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055

TRANSLATION OF
IEP INTO NATIVE
LANGUAGE

If the parent is unable to speak English and Spanish is the parent's native language, a district shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, a district shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language.
Education Code 29.005(d); 19 TAC 89.1050(e)

AUTISM /
PERVASIVE
DEVELOPMENTAL
DISORDER

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;

5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f)

VISUAL
IMPAIRMENT

If a district provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (staff access to resources). *19 TAC 89.1075(b)*

COLLABORATIVE
PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

TEN-DAY RECESS

When agreement about all required elements of the IEP is not achieved, the parent or adult student [see EHBAD for more information on rights of adult students] who disagrees shall be offered a single opportunity to have the committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.
[See FOF]

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and the district to reach agreement about all required elements of an IEP.

During the recess, the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

FAILURE TO
REACH
AGREEMENT

If, after the ten-day recess, the ARD committee still cannot reach agreement, a district shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

When a district implements an IEP with which the parents or adult student disagree, it shall provide prior written notice in compliance with the notice provisions described at EHBAE.

Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point, when they disagree with ARD committee decisions.

19 TAC 89.1050(h)

MODIFICATION OF
EXISTING IEP

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

After the annual IEP meeting for a school year, the parent and district may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, a district shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6)

TRANSITION
SERVICES DEFINED

“Transition services” means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43

INDIVIDUAL
TRANSITION
PLANNING

Beginning not later than the first **individualized education program (IEP)** to be in effect when a student turns 16 (or younger, if determined appropriate by the **admission, review, and dismissal [ARD]** committee), and updated annually, the student’s IEP shall include:

- ~~4~~.1. Appropriate, measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and
- ~~5~~.2. The transition services, including courses of study, needed to assist the child in reaching these goals.

If a participating agency other than the district fails to provide the transition services described in the IEP, the district shall reconvene the ARD committee to identify alternative strategies to meet the transition objectives.

[See EHBAB regarding membership of ARD committee for transition services meetings]

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 CFR 300.320(b)

GRADUATION

Graduation with a regular high school diploma **under 19 Administrative Code 89.1070(b)(1), (2), or (4)** terminates a student’s eligibility for special education services. For students who receive a diploma according to 19 ~~TAC~~ **Administrative Code 89.1070(eb)(3)**, the ARD committee shall determine needed educational services

upon the request of the student or parent to resume services, as long as the student meets the age requirements. [See EHBAA]

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

A district is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a FAPE under state law.

A district shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

[See EIF]

20 U.S.C. 1414(c)(5); 34 CFR 300.305(e)(2); 19 TAC 89.1070

COMPENSATORY
EDUCATION
ALLOTMENT

A district is entitled to an annual compensatory education allotment for each student:

1. Who is educationally disadvantaged; or
2. Who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside.

The number of educationally disadvantaged students is determined by the formula set forth at Education Code 42.152(b).

Education Code 42.152(a)–(b)

USE

A district shall use its compensatory education allotment to fund supplemental programs and services designed to eliminate any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at-risk of dropping out of school, as defined below, and all other students.

Specifically, a district may use the funds, other than an indirect cost allotment established by State Board rule, to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code 29.081, a disciplinary alternative education program (**DAEP**) under Education Code 37.008, or to support a Title I program, at a campus at which at least 40 percent of the students are educationally disadvantaged.

A district may also use allocated funds for:

1. A mentoring services program under Education Code 29.089;
2. An accelerated reading instruction program under Education Code 28.006(g);
3. A program for treatment of students who have dyslexia or a related disorder, as required by Education Code 38.003; and
4. A program under Education Code 29.081 specifically designed to serve students at risk of dropping out of school.

Education Code 42.152(c), (c-1), (c-2)

LIMIT ON DAEP
EXPENDITURES

A district may not use more than 18 percent of its compensatory education allotment for ~~disciplinary alternative education programs~~**DAEPs**.

The Commissioner may waive this limitation upon an annual petition, by a district's board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on ~~disciplinary alternative education programs~~**DAEPs**.

Education Code 42.152(c)(1)–(2)

DROPOUT
PREVENTION
STRATEGIES

A district with a high dropout rate, as determined by the Commissioner, shall submit a plan to the Commissioner describing the manner in which the district intends to use its compensatory education and high school allotments for developing and implementing research-based strategies for dropout prevention.

If a district is required to submit both a dropout prevention strategy plan and a plan to increase college enrollment [see GNC], the district must describe in its dropout prevention strategy plan how the activities identified in both plans will be coordinated. If a district is required to submit both a school improvement plan, due to failure to meet the required performance standard regarding dropout rates or completion rates, as well as a dropout prevention strategy plan, the district may request that its school improvement plan be used to satisfy both requirements.

~~The~~A district shall submit the plan not later than December 1 of each school year preceding the school year in which the district will receive the compensatory education or high school allotment to which the plan applies. The plan must meet the requirements at 19 Administrative Code 89.1701(e).

~~The~~A district may not spend or obligate more than 25 percent of the district's compensatory or high school allotment unless the Commissioner approves the plan.

Education Code 29.918; 19 TAC 89.1701

DEFINITION OF AT-
RISK STUDENT

“Student at risk of dropping out of school” includes each student who is under 21 years of age and who:

1. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;
2. ~~If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;~~
3. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;

4. ~~Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;~~
5. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
6. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
7. Is pregnant or is a parent;
8. Has been placed in a ~~disciplinary alternative education program~~ DAEP in accordance with Education Code 37.006 during the preceding or current school year;
9. Has been expelled during the preceding or current school year;
10. Is currently on parole, probation, deferred prosecution, or other conditional release;
11. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
12. Is a student of limited English proficiency, as defined by Section 29.052;
13. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
14. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
15. Resided in the preceding school year or resides in the current school year in a residential placement facility in a district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

Education Code 29.081(d)–(d-1)

LOCAL ELIGIBILITY CRITERIA	In addition to students described above, a student who satisfies local eligibility criteria adopted by a board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the district during the preceding school year. <i>Education Code 29.081(g)</i>
COMPENSATORY, INTENSIVE, AND ACCELERATED INSTRUCTION	A district shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to perform at grade level at the conclusion of the next regular school term. <i>Education Code 29.081(a)</i>
ACCELERATED INSTRUCTION	A district shall provide accelerated instruction to an enrolled student who have has taken an end-of-course assessment instrument and has not performed satisfactorily on each section of the secondary exit level assessment instrument or who are is at risk of dropping out of school. <i>Education Code 29.081(b), 39.025(b-1)</i>
EFFECTIVENESS	A district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students. <i>Education Code 29.081(c)</i>
DROPOUT RECOVERY EDUCATION PROGRAMS	<p>A district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must meet the criteria set forth at Education Code 29.081(e)(1)–(5).</p> <p>Students in attendance at a dropout recovery education program shall be included in a district's average daily attendance for funding purposes.</p> <p><i>Education Code 29.081(e)–(f)</i></p>
COMMUNITIES IN SCHOOLS (CIS)	An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least ten percent of the number of students in average daily attendance at the school, as determined by TEA. <i>Education Code 33.157</i>

OPTIONAL EXTENDED-YEAR PROGRAM (OEYP)	<p>A district may set aside an amount from its compensatory education allotment or may apply to TEA for funding of an extended-year program, for a period not to exceed 30 instructional days for students:</p> <ol style="list-style-type: none">1. In kindergarten through grade 11, who are identified as not likely to be promoted to the next grade level for the succeeding school year; or2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year. <p>A student who does not demonstrate proficiency in a subject area as determined by the district is also eligible for services.</p> <p>An optional extended year program (OEYP) may extend the day, the week, or the year to provide additional support and instruction for eligible students. The program shall be conducted beyond the required instructional year, which may include intercessions for year round programs.</p>
POLICY	<p>If a district provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.</p>
PROGRAM CRITERIA	<p>An OEYP must meet the requirements set forth at Education Code 29.082 and 19 Administrative Code 105.1001.</p>
PROMOTION OF STUDENT	<p>A student who attends at least 90 percent of the program days and who satisfies the requirements for promotion at Education Code 28.021 shall be promoted or retained in accordance with Education Code 29.082(e).</p>
TRANSPORTATION	<p>A district shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services. [See EIE and FDC]</p> <p><i>Education Code 29.082; 19 TAC 105.1001 [See EIE and FDC]</i></p>
OPTIONAL FLEXIBLE YEAR PROGRAM (OFYP)	<p>A district may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.</p>
PROGRAM CRITERIA	<p>An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 Administrative Code 129.1029.</p> <p><i>Education Code 29.0821; 19 TAC 129.1029</i></p>

OPTIONAL FLEXIBLE
SCHOOL DAY
PROGRAM (OFSDP)

Notwithstanding Education Code 25.081 (school year) or 25.082 (school day) [see EB and EC], a district may apply to the Commissioner to provide a flexible school day program (OFSDP) for students, in accordance with 19 Administrative Code 129.1027.

PROGRAM
CRITERIA

A district that meets application requirements may:

1. Provide flexibility in the number of hours each day a student attends;
2. Provide flexibility in the number of days each week a student attends; or
3. Allow a student to enroll in less than or more than a full course load.

Except in the case of a course designed for a student who will be denied credit as a result of attendance requirements, a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Education Code 25.081 and the required length of school day under Education Code 25.082.

STUDENT
ELIGIBILITY

A district may provide an OFSDP for students who:

1. Have dropped out of school or are at risk of dropping out of school, as defined above at DEFINITION OF AT-RISK STUDENT;
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the Commissioner; or
3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

A student who will be denied credit for one or more classes as a result of attendance requirements may enroll in a course in a OFSDP offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

EXTRACURRICULAR
PARTICIPATION

A student enrolled in an OFSDP may participate in a competition or activity sanctioned by the University Interscholastic League (UIL) only if the student meets all UIL eligibility criteria.

FUNDING

Funding for an optional flexible school day program shall be based on the number of instructional days in a district calendar and a

seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required shall be proportionately reduced for funding purposes. The Commissioner may limit funding for the attendance of a student who will be denied credit as a result of attendance requirements to funding only for the attendance necessary for the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

ANNUAL
PERFORMANCE
REVIEW

Annually, each school district shall review its progress in relation to the performance indicators required by 19 Administrative Code 129.1027(h). Progress should be assessed based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status.

Education Code 29.0822; 19 TAC 129.1027

TUTORIAL SERVICES

A district may provide tutorial services at district schools. If a district provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials.

A district may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

Education Code 29.084

BASIC SKILLS
PROGRAMS

A district may apply to the Commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the Commissioner.

With the consent of a student's parent or guardian, a district may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

Education Code 29.086

AFTER-SCHOOL AND
SUMMER INTENSIVE
MATHEMATICS AND
SCIENCE PROGRAMS

A district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;

2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the district.

Before providing a program, a board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
 - a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
 - b. Provides for considering teacher recommendations in determining eligibility;
2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;
3. Ensuring that eligible students are encouraged to attend the program;
4. Ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and
5. Measuring student progress on completion of the program.

Education Code 29.088, .090; 19 TAC 102.1041

MENTORING
SERVICES PROGRAM

A district may provide a mentoring services program to students at risk of dropping out of school. A board may arrange for any public or nonprofit community-based organization to come to the district's schools and implement the program.

A board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

Education Code 29.089

ACCELERATED
READING
INSTRUCTION
PROGRAM

A district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The district shall determine the form, content, and timing of the program.

A district shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment

	<p>[see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.</p>
LIMITATION	<p>A district may implement an accelerated reading instruction program only if the Commissioner certifies that funds have been appropriated during a school year for administering the program.</p> <p><i>Education Code 28.006(f), (g), (g-1), (k)</i></p>
INTENSIVE PROGRAM OF INSTRUCTION	<p>A district shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument.</p>
STATE ASSESSMENTS	<p>The program shall be designed to:</p> <ol style="list-style-type: none">1. Enable the student to:<ol style="list-style-type: none">a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; orb. Attain a standard of annual growth specified by a district and reported by the district to TEA; and2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]
STUDENTS RECEIVING SPECIAL EDUCATION SERVICES	<p>For a student in a special education program who does not perform satisfactorily on an assessment instrument administered under Education Code 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:</p> <ol style="list-style-type: none">1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]
GRADUATION REQUIREMENTS	<p>A district shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.</p>
NO CAUSE OF ACTION	<p>A district's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.</p> <p><i>Education Code 28.0213</i></p>

TITLE III REQUIREMENTS	A district that receives funds under Title III of the No Child Left Behind Act shall comply with the statutory requirements regarding limited English proficient (LEP) and immigrant students. <i>20 U.S.C. 6801—7014</i>
STATE POLICY	It is the policy of the State state that every student who has a home language other than English and who is identified as LEP shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.
DISTRICT RESPONSIBILITY	Each district shall: <ol style="list-style-type: none">1. Identify LEP students based on criteria established by the Statestate;2. Provide bilingual education and ESL programs, as integral parts of the regular program;3. Seek certified teaching personnel to ensure that LEP students are afforded full opportunity to master the essential knowledge and skills; and4. Assess achievement for essential knowledge and skills in accordance with Education Code chapterChapter 39 to ensure accountability for LEP students and the schools that serve them. <p><i>Education Code 29.051; 19 TAC 89.1201(a)</i></p>
IDENTIFICATION OF LEP STUDENTS	Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the board the number of LEP students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. A board shall report that information to TEA before November 1 each year. <i>Education Code 29.053(b)</i>
LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES (LPAC)	Each district that is required to offer bilingual and special language programs shall, by local board policy, establish a language proficiency assessment committee (LPAC). A district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of LEP students. A district shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.
MEMBERSHIP OF LPAC	The LPAC shall include: <ol style="list-style-type: none">1. A professional bilingual educator;2. A professional transitional language educator;3. A parent of a LEP student; and

4. A campus administrator.

A district may add other members to the committee in any of the required categories. If a district does not have an individual in one or more of the job classifications required, it shall designate another professional staff member to serve on the LPAC.

In districts and grade levels at which a district is not required to provide a bilingual education program, the LPAC shall be composed of one or more professional personnel and a district-designated parent of an LEP student.

No parent serving on the LPAC shall be an employee of the school district.

All members of the LPAC, including parents, shall be acting for the district and shall observe all laws and rules governing confidentiality of information concerning individual students. A district shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)

DUTIES

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 ~~TAC~~**Administrative Code** 89.1220(g)–(j), (l).

HOME LANGUAGE
SURVEY

Within four weeks of each student's enrollment, a district shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student. The home language survey shall be conducted in English and in the home language, and signed by the student's parents if the student is in ~~kindergarten~~**prekindergarten** through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be retained in the student's permanent record.

A district shall conduct only one home language survey of each student.

If a student is identified through the home language survey as normally speaking a language other than English, the student shall be tested in accordance with 19 ~~TAC~~**Administrative Code** 89.1225 ~~or~~**and additionally** for students with disabilities, 19 ~~TA-~~**CAdministrative Code** 89.1230.

Education Code 29.056(a); 19 TAC 89.1215

LEP
CLASSIFICATION

The LPAC may classify a student as LEP if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;

2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c)

PARENTAL NOTICE
AND CONSENT

Within ten days of the LPAC's classification of a student as LEP, the LPAC shall give written notice to the student's parent. The notice must be in English and in the parent's primary language. The notice shall inform the parents of the benefits of the program for which the student is recommended and that it is an integral part of the school program.

Pending parent approval, a district shall place the student in the recommended program, but may count only those students with parent approval for bilingual education allotment.

Education Code 29.056(a), (d); 19 TAC 89.1220(k)

PARTICIPATION OF
NON-LEP
STUDENTS

With the approval of a district and a student's parents, a student who is not LEP may also participate in a bilingual education program. The number of participating students who are not LEP may not exceed 40 percent of the number of students enrolled in the program. *Education Code 29.058*

BILINGUAL AND ESL
PROGRAMS

Each district with an enrollment of 20 or more LEP students in any language classification in the same grade shall offer a bilingual education or special language program, as follows:

1. Kindergarten through elementary grades: a district shall offer bilingual education.
2. Post-elementary through grade 8: a district shall offer bilingual education, ESL, or other transitional language instruction approved by TEA.
3. Grades 9 through 12: a district shall offer instruction in ESL.

If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

Education Code 29.053(c), (d), 29.054

PROGRAM
CONTENT

A district's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills.

An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. A district shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and the district shall keep adequate records of the educational level and progress of each student enrolled in the program.

LEP students shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. A district shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

Education Code 29.055, 29.057(b); 19 TAC 89.~~1010~~1210(g)

FACILITIES

Bilingual education and special language programs shall be located in a district's regular schools rather than in separate facilities. A district may concentrate the programs at a limited number of schools, provided that the enrollment in those schools shall not exceed 60 percent LEP students. *Education Code 29.057; 19 TAC 89.1235*

COOPERATION
AMONG DISTRICTS

A district may join with one or more other districts to provide the required bilingual and special education programs. The availability of the programs shall be publicized throughout the districts involved.

A district may allow a nonresident LEP student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district of residence.

Education Code 29.059

SUMMER PROGRAM	<p>If a district is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for LEP children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.</p> <p>A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the board.</p> <p>The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. A district shall comply with the requirements of 19 TAC Administrative Code 89.1250 in providing such a program.</p>
OTHER PROGRAM	<p>A district may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for LEP students and may join with other districts in establishing such programs.</p> <p>Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year.</p> <p><i>Education Code 29.060</i></p>
PERSONNEL	<p>Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. <i>Education Code 29.061(b), (c)</i></p> <p>If a district is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, the district may file an application for exception with TEA, in accordance with 19 TAC Administrative Code 89.1207.</p> <p><i>Education Code 29.054; 19 TAC 89.1207</i></p>
LEP STUDENTS AND STATE ASSESSMENTS	<p>In grades 3–12, an LEP student shall participate in the assessment of academic skills in accordance with Commissioner’s rules at 19 TAC Administrative Code Chapter 101, subchapter Subchapter AA. 19 TAC 101.5(dc) [See EKBA]</p>
PROGRAM EXIT	<p>A district may transfer an LEP student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:</p> <ol style="list-style-type: none">1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has devel-

oped oral and written language proficiency and specific language skills in English;

2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g)

NOTICE TO
PARENTS

A district shall notify parents of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program.
19 TAC 89.1240(b)

POST-EXIT
MONITORING

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561

PEIMS REPORTING
REQUIREMENTS

A district that is required to offer bilingual education or special language programs shall include the following information in the district's Public Education Information Management System (PEIMS) report:

1. Demographic information on students enrolled in district bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and
3. The number and percentage of students identified as LEP students who do not receive specialized instruction.

Education Code 29.066(a)

ACADEMIC ACHIEVEMENT

EI
(LEGAL)

AWARD OF CREDIT	The award of credit for a course affirms that a student has satisfactorily met state and local requirements. <i>19 TAC 74.26(a)</i>
EARLY AWARD OF CREDIT	A district may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. <i>19 TAC 74.26(b)</i>
PARTIAL AWARD	In accordance with a district’s local policy, a student who is able to successfully complete only one semester of a two-semester course can be awarded credit proportionately. <i>19 TAC 74.26(d)</i>
ATTENDANCE FOR CREDIT	Unless credit is awarded by the attendance committee, or regained in accordance with a principal’s plan [see FEC], a student may not be given credit for a class unless the student is in attendance for at least 90 percent of the days the class is offered. <i>Education Code 25.092</i>
GRADUATION REQUIREMENTS	Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. <i>19 TAC 74.26(a)(1), (c)</i>
ACADEMIC ACHIEVEMENT RECORD	<p>A district shall use the academic achievement record (transcript) form designated by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by a district.</p> <p>Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned. A student’s performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c) [see EKB], must be included in the student’s academic achievement record.</p> <p>Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the district to which the student is transferring, or both. A district shall respond promptly to all requests for student records from receiving districts. [See also FD, FDA, and FL]</p> <p><i>Education Code 28.025(e), 39.023(c-5); 19 TAC 74.14(b)–(c), 101.81(c)</i></p>

ACADEMIC ACHIEVEMENT

EI
(LEGAL)

EARLY HIGH SCHOOL
GRADUATION
SCHOLARSHIP
PROGRAM

For purposes of the Early High School Graduation Scholarship Program, a student who does not satisfy the curriculum requirements for a recommended or advanced high school program is considered to have satisfied those requirements if the high school from which the student graduated indicates on the student's transcript that the student was unable to complete the appropriate curriculum within the time prescribed solely because of a reason beyond the student's control, such as lack of enrollment capacity or a shortage of qualified teachers. *Education Code 56.203(d)*

TRANSCRIPT SEALS

Students who complete high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal.

CERTIFICATE OF
COURSEWORK
COMPLETION

A student who completes all graduation requirements except for required exit-level examinations may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student.

Education Code 28.025(d); 19 TAC 74.14(d)–(e)

GRADING POLICY

A district shall 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.

Education Code 28.0216

**END-OF-COURSE
ASSESSMENTS**

A district shall adopt a policy that requires a student's performance on an end-of-course (EOC) assessment instrument for an Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history course in which the student is enrolled [see EKB] to account for 15 percent of the student's final grade for the course.

RETAKES

If a student retakes an EOC assessment instrument referenced above, the district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course.

Education Code 39.023(c)

FINALITY OF GRADE

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the district grading policy applicable to the grade, as determined by the board.

A determination by the board is not subject to appeal.

This subsection does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081.

Education Code 28.0214

**STUDENT ELECTION
CLERKS**

A student who is appointed as a student election clerk under Election Code 32.0511 may apply the time served toward:

1. A requirement for a school project at the discretion of the teacher who assigned the project; or

2. A service requirement for participation in an advanced academic course program at the discretion of the program sponsor or a school-sponsored extracurricular activity at the discretion of the school sponsor.

Education Code 33.092

PROGRESS REPORTS

A board shall adopt a policy that:

1. Provides for a conference between parents and teachers;
2. Requires a district, at least once every 12 weeks, to give written notice to a parent of a student's performance in each class or subject; and
3. Requires a district, at least once every three weeks, or during the fourth week of each nine-week grading period, to give written notice to a parent if a student's performance in a foundation curriculum subject [see EHAA] is consistently unsatisfactory, as determined by the district.

The notice required by items 2 and 3 must provide for the signature of the student's parent and must be returned to the district.

"Parent" includes a guardian, conservator, or other person having lawful control of a student.

EXCEPTIONS

These requirements do not apply to a student who:

1. Is 18 or older and living in a different residence than the student's parents;
2. Is married; or
3. Has had the disabilities of minority removed for general purposes.

Education Code 28.022(a)

~~**Note:** — See DGBA and FNG for provisions regarding finality of grades.~~

NOTICE OF
PERFORMANCE
RATING

The first written notice of a student's performance that a district gives during a school year under Education Code 28.022(a)(2) [see PROGRESS REPORTS, item 2, above] must include a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Education Code Chapter 39, Subchapter G or has been identified as an unacceptable campus under Education Code Chapter 39, Subchapter E and an explanation of the information's significance. [See **GNDAIB**]
Education Code 39.361

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LEGAL)

NOTICE OF STUDENT
PERFORMANCE

The district shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to the district under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code 39.023(a), (c), or (l), the district shall include in the notice specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources described by Education Code 32.252(b)(2) and assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education [see STATE GRADUATION REQUIREMENTS, below] and has performed satisfactorily on the exit-level assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c); 19 TAC 101.4001(a)

POSTHUMOUS
DIPLOMA

Beginning with students enrolled in grade 12 during the 2005–06 school year, and on request of the student’s parent, a district shall issue a high school diploma posthumously to a student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. “School year” includes any summer session following the spring semester.

EXCEPTION

A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

Education Code 28.0254

DIPLOMA /
TRANSCRIPT /
CERTIFICATE OF
COURSEWORK
COMPLETION

Graduates of each high school are awarded the same type of diploma. The academic achievement record or transcript, rather than the diploma, records individual accomplishments, achievements, and courses completed and displays appropriate graduation seals. *19 TAC 74.51(a), .61(a)* [See EI for provisions regarding certificate of coursework completion]

SPECIAL
EDUCATION
STUDENTS

A student receiving special education services who successfully completes the requirements of his or her IEP shall receive a high school diploma. *19 TAC 101.7(c)*

PERSONAL
GRADUATION
PLAN (PGP)

A principal shall designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in a junior high, middle, or high school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student’s enrollment in grade level 9, as determined by a district.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

In addition, a district is encouraged to establish for each student entering grade 9 a PGP that identifies a course of study that:

1. Promotes college and workforce readiness;
2. Promotes career placement and advancement; and
3. Facilitates the student's transition from secondary to postsecondary education.

Education Code 28.0212

STUDENTS
RECEIVING
SPECIAL
EDUCATION
SERVICES

For a student receiving special education services, the student's admission, review, and dismissal (ARD) committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

EARLY GRADUATION

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), 26.003(b) [See FMH, FNG]*

STATE GRADUATION
REQUIREMENTS

All credit for graduation must be earned no later than grade 12. *19 TAC 74.51(b), .61(b)*

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2004–05 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and www.tea.state.tx.us/rules/tac/chapter074/index.html.

MINIMUM HIGH
SCHOOL PROGRAM

A district shall ensure that each student enrolls in the courses necessary to complete the Recommended or Advanced/Distinguished Achievement High School Program unless the student, the student’s parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or
3. Has failed to be promoted to the tenth grade one or more times as determined by the school district.

A student agreeing to take courses under the Minimum High School Program may, upon request, resume taking courses under the Recommended High School Program.

STUDENTS WITH
DISABILITIES

If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.

NOTICE

Before a student’s parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the Minimum High School Program, a district must provide the written notice developed by TEA to the parent or person standing in parental relation explaining the benefits of the Recommended High School Program.

APPLICABILITY

A student who was permitted to take courses under the Minimum High School Program prior to the 2009–10 school year may remain in the Minimum High School Program.

Education Code 28.025(b), (b-6), (b-8); 19 TAC 74.51(d), .52–.54, .61(c)–(e), .62–.64

REQUIREMENTS

A student must earn at least 22 credits to complete the Minimum High School Program. A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must demonstrate proficien-

cy in the program requirements listed at 19 Administrative Code 74.52. A student who entered grade 9 in 2007–08 **and/or** thereafter must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.62. *19 TAC 74.52, .62*

RECOMMENDED
HIGH SCHOOL
PROGRAM

A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must earn at least 24 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.53.

A student who entered grade 9 in the 2007–08 school year or thereafter must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.63.

Education Code 28.025; 19 TAC 74.53, .63

ADVANCED /
DISTINGUISHED
ACHIEVEMENT
HIGH SCHOOL
PROGRAM

A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must earn at least 24 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.54.

A student who entered grade 9 in the 2007–08 school year or thereafter must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.64.

Education Code 28.025; 19 TAC 74.54, .64

CURRICULUM MAY
NOT VARY

A district may not vary the curriculum for a course in the required curriculum based on whether a student is enrolled in the Minimum, Recognized, or Advanced/Distinguished Achievement High School Program. *Education Code 28.004(q)*

SUBSTITUTIONS

No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. *19 TAC 74.53(d), .54(e), .63(d), .64(e)*

AP OR IB COURSES

College Board Advanced Placement and International Baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. *19 TAC 74.51(h), .61(k)*

READING

A district may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the district:

1. Adopts policies to identify students in need of additional reading instruction;
2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

19 TAC 74.51(e), .61(e)

COLLEGE
COURSES

A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an institution of higher education. *Education Code 28.002(b-7); 19 TAC 74.51(i), .61(l)*

PHYSICAL
EDUCATION
SUBSTITUTIONS

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the Commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
 - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must

be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.

- b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

RESTRICTIONS All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

STUDENTS WITH PHYSICAL LIMITATIONS If a student entering grade 9 during the 2007–08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A student with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.

Education Code 28.002025(b-10); 19 TAC 74.52(b)(7), .53(b)(7), .54(b)(7), .62(b)(7), .63(b)(7), .64(b)(7)

TRANSFERS FROM OUT-OF-STATE OR NONPUBLIC SCHOOLS Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. 19 TAC 74.51(f), .61(f) [See EHDB, EHDC, EHDE, and EI]

PRIOR COURSES High school courses successfully completed prior to grade 9 and the 2007–08 school year shall count toward graduation in the manner established in 19 Administrative Code Chapter 74 for credit in the year the course is successfully completed.

Science and physical education graduation requirements successfully completed prior to the 2010–11 school year shall count toward

graduation in the manner established at the time the credit was earned.

Physical education graduation requirements successfully completed through a two- or three-credit career and technical education work-based training course prior to the 2011–12 school year shall count toward graduation.

19 TAC 74.61(f), (m)

GRADUATION OF
SPECIAL EDUCATION
STUDENTS

A student receiving special education services may graduate and be awarded a regular high school diploma if **the student meets one of the following conditions:**

COMPLETION OF
GENERAL
EDUCATION
REQUIREMENTS

1. The student has satisfactorily completed the state's or district's (whichever is greater) ~~minimum curriculum~~ **required standards in 19 Administrative Code Chapters 110–128 and Chapter 130** and credit requirements applicable to students in general education for graduation under the Recommend or Advanced/Distinguished Achievement Programs, including satisfactory performance ~~on the exit level assessment instrument; or as established in Education Code Chapter 39, on the required state assessments.~~
2. The student has satisfactorily completed the state's or district's (whichever is greater) ~~minimum curriculum~~ **required standards in 19 Administrative Code Chapters 110–128 and Chapter 130** and credit requirements applicable to students in general education for graduation under the Minimum High School Program, including participation in state assessments. The student's ARD committee shall determine whether satisfactory performance on ~~athe~~ **required state assessment shall also be required** **assessments is necessary** for graduation.

~~19 TAC 89.1070(b)~~

COMPLETION OF
IEP

~~A~~ **The** student ~~receiving special education services may also graduate and receive a regular high school diploma when~~ **has satisfactorily completed the state's or district's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 through courses, one or more of which contain modified content that is aligned to the standards required under the Minimum High School Program as well as the credit requirements under the Minimum High School Program, including participation in required state assessments. The student's ARD committee** ~~has determined that the~~ **shall determine whether satisfactory performance on the required**

state assessments is necessary for graduation. The student
~~has~~**must also** successfully ~~completed~~:

~~1. The~~**complete the** student's IEP;

~~2.3. One and meet one~~ of the following conditions, consistent with
the ~~student's~~ IEP:

- a. Full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;
- b. Demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district; or
- c. Access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program;

~~3. The state's or district's (whichever is greater) minimum credit requirements for students without disabilities;~~**Employability**
and

~~The state's or district's minimum curriculum requirements~~
self-help skills are those skills directly related to the ~~ex-~~
~~tent possible with modifications/substitutions only when it is~~
~~determined~~**preparation of students for employment, in-**
cluding general skills necessary ~~by the ARD committee for~~
~~the student to receive an appropriate education~~**obtain or re-**
tain employment.

The ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

~~19 TAC 89.1070(c), (h)~~

AGING OUT

4. ~~A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee's determination that the~~**The** student no longer meets age eligibility requirements and has completed the requirements specified in the IEP. ~~19 TAC 89.1070(d)~~

19 TAC 89.1070(b), (e)-(f)

EVALUATION

Special education students graduating under the above provisions shall be provided with a summary of academic achievement and functional performance as described at 34 CFR 300.305(e)(3). The summary shall consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. If the student is graduating based on completion of his or her IEP, the evaluation under 34 CFR 300.305(e) shall be included as part of the summary. Students who participate in graduation ceremonies but who are not graduating **under 19 Administrative Code 89.1070(b)(3)** and who will remain in school to complete their education do not have to be evaluated. ~~19 TAC 89.1070(e), (f)(c)-(d)~~

GRADUATION OF
MILITARY
DEPENDENTS

COURSE WAIVER

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

TRANSFERS
DURING SENIOR
YEAR

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the district after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

SUBSTITUTE
PASSING
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ A, C [See FDD]

STATE ASSESSMENT
OF ACADEMIC SKILLS

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see **ALL STUDENTS TESTING IN GRADES 3–8**, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5(a)*

To be eligible to receive a high school diploma, a nonexempt student must demonstrate satisfactory performance on the **exit-level test end-of-course (EOC) assessment instruments** [see **EXIT-LEVEL ASSESSMENT END-OF-COURSE ASSESSMENTS**, below]. *Education Code 39.025(ba); 19 TAC 101.7(a)*

LIMITED ENGLISH
PROFICIENT (LEP)
STUDENTS

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with Commissioner's rules at 19 Administrative Code 101.5 and 19 Administrative Code Chapter 101, Subchapter AA. *19 TAC 101.5(c)* [See EKBA]

SPECIAL
EDUCATION

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee. Each testing accommodation shall be documented in the student's individualized education program (IEP). Education Code 39.023(b)–(c); 19 TAC 101.5(b)

MILITARY
DEPENDENTS

If the student is a military dependent, the district shall accept:

1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a Commissioner's substitute passing standard shall apply.

SUBSTITUTE
PASSING
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the

first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII. §§ B–C [See FDD]

ADMINISTRATION

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for:

1. Administering tests;
2. Maintaining the integrity of the test administration process; and
3. Ensuring that every test administrator receives at least annual training in these procedures as provided by TEA through the education service centers.

19 TAC 101.25, 101.27

SCHEDULE

The Commissioner shall specify the schedule for testing. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

ALTERNATE TEST
DATES

The Commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates will only be allowed if the campus or district is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect a district's or campus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause a district or campus to be closed or that would cause a small per-

centage of students to be in attendance on the day testing is scheduled;

2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit a district or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the district, campus, and students.

19 TAC 101.5003

NOTICE TO PARENTS
AND STUDENTS

A superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

GRADE
ADVANCEMENT
TESTING

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing.

Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the district, and no later than the beginning of the student's first-grade year for all other students. The superintendent shall also provide such notice for students in grades 1–8 who are new to the district.

GRADUATION
TESTING

2. The testing requirements for graduation and the dates, times, and locations of ~~the~~ testing.

Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The superintendent shall also provide such notice for students in grades 7–12 who are new to the district. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.13

~~ALL STUDENTS~~
TESTING IN GRADES
3–8

All students, except students **who are assessed under Education Code 39.023(b) (alternative assessment instrument) or (l) (LEP students) or** who are exempt, shall be assessed in:

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in ~~grades~~**grade 8 through 11** with the aid of

technology on any assessment ~~instruments~~ **instrument** that ~~include~~ **includes** algebra;

2. Reading, annually in grades 3–~~9~~**8**;
3. Writing, including spelling and grammar, in grades 4 and 7;
- ~~4. English language arts in grade 10;~~
- ~~5.4.~~ Social studies in ~~grades~~ **grade** 8 ~~and 10~~; ~~and~~;
5. Science in grades 5, ~~7~~; ~~and~~ **8**; ~~and~~;
6. **Any other subject** and ~~10~~ **grade required by federal law.**

Education Code 39.023(a)

ACCOMMODATIONS

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by a board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

For a student receiving special education services, the ~~admission, review, and dismissal (ARD)~~ committee shall determine the allowable accommodations and shall document them in the student's ~~individualized education program (IEP)~~.

19 TAC 101.29; Education Code 39.023(c), (n)

~~EXIT-LEVEL
ASSESSMENT~~
**END-OF-COURSE
ASSESSMENTS**

The Commissioner shall adopt rules requiring a student participating in the Recommended or Advanced/Distinguished Achievement High School Program to be administered an EOC assessment instrument for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The rules shall require a student participating in the Minimum High School Program to be administered an EOC assessment instrument only for a listed course in which the student is enrolled and for which an EOC assessment instrument is administered. A student may not receive a high school diploma until the student has performed satisfactorily on the ~~secondary TAKS exit level~~ **EOC** assessment ~~for English language arts, mathematics, social studies,~~ **instruments.**

<p>SATISFACTORY PERFORMANCE</p>	<p>A student is required to achieve, in each subject in the foundation curriculum, a cumulative score that is at least equal to the product of the number of EOC assessment instruments administered to the student in that subject and science—a scale score that indicates satisfactory performance, as determined by the Commissioner under Education Code 39.0241(a). A student must achieve a minimum score as determined by the Commissioner to be within a reasonable range of the scale score under Education Code 39.0241(a) on an EOC assessment instrument for the score to count towards the student’s cumulative score. A student’s cumulative score is determined using the student’s highest score on each EOC assessment instrument administered to the student.</p>
<p>IMPACT ON GRADES</p>	<p>A student’s performance on an EOC assessment instrument listed above must count for 15 percent of the student’s final grade for the course. [See EIA]</p>
<p>ADDITIONAL STATE ASSESSMENTS</p>	<p>TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student’s performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments.</p> <p><i>Education Code 39.025(a)–(a-3), (c), (c-2), .025(a)</i></p>
<p>FOREIGN EXCHANGE STUDENTS</p>	<p>A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level assessment requirement.—Education Code 39.025(a)–(a-2); 19 TAC 101.5(d)</p>
<p>IMPLEMENTATION SCHEDULE</p>	<p>A student shall not be required to demonstrate performance on exit-level tests at a standard higher than the one in effect when the student was first eligible to take the test.</p> <p>Students who were enrolled in grade 8 or a lower grade on January 1, 2001, must fulfill testing requirements for graduation with the exit-level Texas Assessment of Knowledge and Skills (TAKS) tests, as required by Education Code 39.023(c), as that section existed before amendment by Senate Bill 1031, 80th Texas Legislature, 2007.—[See ALL STUDENTS, above]</p> <p>Beginning with the 2011–12 school year, students first enrolled in grade 9 or lower must fulfill testing requirements for graduation with the end-of-courseEOC assessment instruments as required by Education Code 39.023, as amended by Senate Bill 1031, 80th Texas Legislature, 2007.</p> <p><i>19 TAC 101.7(a)–(b), 101.3003</i></p>

ALTERNATIVE
ASSESSMENTS

An eligible student who has met the passing standard on a state-approved alternative assessment instrument, as set forth at 19 Administrative Code 101.4001, in a particular area has satisfied the exit-level testing requirement in that subject area.

A student is eligible to substitute an alternative exit-level assessment for a TAKS exit-level assessment if the student, after January 1 of the year in which the student would otherwise be eligible to graduate:

1. Enrolls in a public school in Texas for the first time; or
2. Enrolls in a public school in Texas after an absence of at least four years from any public school in the state. A student meets this requirement if the student has not been enrolled for one or more days in a public school in Texas in the four years preceding the date on which the student enrolls.

VERIFICATION OF
ELIGIBILITY

An eligible student is responsible for providing a district an official copy of the student's scores from the alternative assessment.

Each district shall be responsible for verifying a student's eligibility for the alternative exit-level assessment. Upon receipt of official results of an approved alternative exit-level assessment, a district must:

1. Verify the student's score on the alternative assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

Education Code 39.025(e-1d); 19 TAC 101.4001, 101.4003, 101.4005

RETAKES

~~An eligible~~ **Each time an EOC assessment instrument is administered, a student or out-of-school individual who has not met graduation requirements may retake on a schedule determined by the Commissioner. failed to achieve a minimum score shall retake the assessment instrument. [See SATISFACTORY PERFORMANCE, above]**

A student who ~~has been denied a diploma because~~ **fails to perform satisfactorily on an Algebra II or English III EOC assessment instrument under the student failed to meet standards of college readiness performance on any sections of standard, as provided under Education Code 39.024(b), may retake the assessment instrument.**

Any other student may retake the sections each time the an EOC assessment instrument for any reason.

A student is administered, not required to retake a course as a condition of retaking an EOC assessment instrument.

Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)

**SPECIAL
EDUCATION**

~~TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. Each testing accommodation shall be documented in the student's IEP. Education Code 39.023(b); 19 TAC 101.5(b)~~

**MILITARY
DEPENDENTS**

~~If the student is a military dependent, the district shall accept:~~

- ~~1. Exit or end-of-course exams required for graduation from the sending state;~~
- ~~2. National norm-referenced achievement tests; or~~
- ~~3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.~~

~~In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a Commissioner's substitute passing standard shall apply.~~

**SUBSTITUTE
PASSING
STANDARD**

~~The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.~~

~~Education Code 162.002 art. VII, §§ B-C [See FDD]~~

**REPORTING RESULTS
TO THE PUBLIC**

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The infor-

mation shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

TO THE BOARD

A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.

TO PARENTS AND
STUDENTS

A district shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY, **below**. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. [See BQ series, FD, and FL]

19 TAC 101.81; No Child Left Behind Act, 20 U.S.C. 6311(h)(6)

TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

PARENTAL ACCESS

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, 26.006(a)(2)*

FURTHER
INSTRUCTION

ACCELERATED
INSTRUCTION

A district shall provide each student who fails to perform satisfactorily as determined by the Commissioner under Education Code 39.0241(a) on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. [See EHBC]

COLLEGE
PREPARATORY
COURSE

If a district determines that a student, on completion of grade 11, is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Education Code 39.025(a) [see SATISFACTORY PERFORMANCE, above] for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an EOC assessment instrument has been adopted, if available.

A student who enrolls in a college preparatory course shall be administered an EOC assessment instrument for the course, with the instrument scored on a scale as determined by the Commissioner not to exceed 20 percent of the cumulative score requirements required to graduate. A student may use the student's score on the EOC assessment instrument for the college preparatory course towards satisfying the cumulative score requirements.

Education Code 39.025(b-1)–(b-2)

SECURITY

The statewide assessment program is a secure testing program. Procedures for maintaining security shall be specified in the appropriate test administration materials. Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials. *19 TAC 101.61*

CONFIDENTIALITY

The contents of each test booklet and answer document are confidential in accordance with state and federal law. Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b); 19 TAC 101.63* [See FL and GBA]

PENALTIES

Violation of security or confidential integrity of any test shall be prohibited. A person who engages in prohibited conduct may be subject to sanction of credentials.

Procedures for maintaining the security and confidential integrity of a test shall be specified in the appropriate test administration materials. Conduct that violates the security and confidential integrity of a test is defined as any departure from the test administration procedures established by the Commissioner. Conduct of this nature may include the following acts and omissions:

1. Duplicating secure examination materials;
2. Disclosing the contents of any portion of a secure test;
3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
4. Changing or altering a response or answer of an examinee to a secure test item or prompt;
5. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
6. Encouraging or assisting an individual to engage in the conduct described in 1–5 above; or

7. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in 1–6 above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidential integrity, and any person who fails to report such a violation are subject to the following penalties:

1. Placement of restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;
2. Issuance of an inscribed or non-inscribed reprimand;
3. Suspension of a Texas teacher certificate for a set term; or
4. Revocation or cancellation of a Texas teacher certificate without opportunity for reapplication for a set term or permanently.

Any irregularities in test security or confidential integrity may also result in the invalidation of student results.

A superintendent and campus principal shall develop procedures to ensure the security and confidential integrity of the tests and shall be responsible for notifying TEA in writing of conduct that violates the security or confidential integrity of a test. Failure to report can subject the person responsible to the applicable penalties specified above.

19 TAC 101.65

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION F: STUDENTS

FA	STUDENT GOALS AND OBJECTIVES
FB	EQUAL EDUCATIONAL OPPORTUNITY
FBA	Service Animals
FC	SCHOOL ATTENDANCE AREAS
FD	ADMISSIONS
FDA	Interdistrict Transfers
FDAA	Public Education Grants
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FDE	School Safety Transfers
FE	ATTENDANCE
FEA	Compulsory Attendance
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FF	STUDENT WELFARE
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FFB	Crisis Intervention
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FFE	Student Assistance Programs/Counseling
FFEA	Comprehensive Guidance Program
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FFF	Student Safety
FFFA	Supervision of Students
FFFB	Safety Patrols
FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect
FFH	Freedom from Discrimination, Harassment, and Retaliation
FFI	Freedom from Bullying
FG	STUDENT AWARDS AND SCHOLARSHIPS

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SECTION F: STUDENTS

FH	STUDENT VOLUNTEERS
FJ	GIFTS AND SOLICITATIONS
FL	STUDENT RECORDS
FLA	Confidentiality of Student Health Information
FM	STUDENT ACTIVITIES
FMA	School-Sponsored Publications
FMB	Student Government
FMD	Social Events
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FMF	Contests and Competition
FMG	Travel
FMH	Commencement
FN	STUDENT RIGHTS AND RESPONSIBILITIES
FNA	Student Expression
FNAA	Distribution of Nonschool Literature
FNAB	Use of School Facilities for Nonschool Purposes
FNB	Involvement in Decision Making
FNC	Student Conduct
FNCA	Dress Code
FNCB	Care of School Property
FNCC	Prohibited Organizations and Hazing
FNCD	Tobacco Use and Possession
FNCE	Personal Telecommunications/Electronic Devices
FNCF	Alcohol and Drug Use
FNCG	Weapons
FNCH	Assaults
FNCI	Disruptions
FND	Married Students
FNE	Pregnant Students
FNF	Interrogations and Searches
FNG	Student and Parent Complaints/Grievances
FO	STUDENT DISCIPLINE
FOA	Removal by Teacher
FOB	Out-of-School Suspension
FOC	Placement in a Disciplinary Alternative Education Setting
FOCA	Disciplinary Alternative Education Program Operations
FOD	Expulsion
FODA	Juvenile Justice Alternative Education Program
FOE	Emergency and Alternative Placement
FOF	Students with Disabilities
FP	STUDENT FEES, FINES, AND CHARGES

NONDISCRIMINATION	<p>A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. <i>Education Code 1.002(a)</i></p> <p>No officer or employee of a district shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. <i>Civ. Prac. & Rem. Code 106.001</i></p> <p>A district may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. <i>Education Code 1.002(b)</i></p>
FEDERAL FUNDING RECIPIENTS	<p>No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:</p> <ol style="list-style-type: none"> 1. Sex. 2. Race, color, or national origin. 3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA] <p><i>20 U.S.C. 1681 (Title VI); 42 U.S.C. 2000d (Title IX); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA])</i></p>
SEXUAL HARASSMENT	<p>Sexual harassment of students is discrimination on the basis of sex under Title IX. <i>Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)</i> [See also DIA and FFH]</p>
HUMAN RIGHTS COORDINATOR	<p>A district shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The district shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.</p>
GRIEVANCE PROCEDURES	<p>A district shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]</p> <p><i>34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)</i></p>
RETALIATION	<p>A district shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. <i>34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)</i></p>

STUDENTS WITH
LEARNING
DIFFICULTIES

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004. Each school year, each district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means.

Education Code 26.0081

DISABILITY
DISCRIMINATION
ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a district, or be subjected to discrimination by the district. 42 U.S.C.A. 12132; 28 CFR 35.130

SECTION 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. 29 U.S.C.A. 794(a)

DEFINITIONS
'STUDENT WITH A
DISABILITY'

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not

apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of 6 months or less.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)

‘QUALIFIED INDIVIDUAL WITH A DISABILITY’

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. **42 U.S.C. 12131(2)**

‘MAJOR LIFE ACTIVITIES’

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. **42 U.S.C. 12102(2)**

~~29 U.S.C. 705; 42 U.S.C. 12102~~

REASONABLE MODIFICATION

A district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. **28 CFR 35.130(b)(7)**

DIRECT THREAT

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. **28 CFR 35.104**

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, a district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;

2. **The probability that the potential injury will actually occur; and**
3. **Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.**

28 CFR 35.139

FREE APPROPRIATE
PUBLIC EDUCATION
(FAPE)

A district shall provide a free appropriate public education to each qualified student with a disability within the district's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *28 CFR 35.104(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 CFR 104.33(b)

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 CFR 104.33(b)(2)*

Note: See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

EDUCATIONAL
SETTING

A district shall place a student with a disability in the regular educational environment, unless the district demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 CFR 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37*

EVALUATION AND
PLACEMENT

A district shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or

are believed to need special education and related services. A district shall conduct an evaluation before the initial placement, or any significant change in placement, of the student. *34 CFR 104.35*

MILITARY
DEPENDENTS

In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § C* [See FDD]

PROCEDURAL
SAFEGUARDS

A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student’s parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student’s parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 CFR 104.36*

HOMELESS CHILDREN

A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See ~~EHBD and~~ FDC]

LIAISON

A district shall designate an appropriate staff person as the district liaison for homeless children. A district shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. [See FFC]

No Child Left Behind Act of 2001, 42 U.S.C. 11432(g)(1)(J)(i), (ii)

RELIGIOUS FREEDOM

A district may not substantially burden a student’s free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* [See also DAA and GA]

DISCRIMINATION ON
THE BASIS OF SEX

No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. *20 U.S.C. 1681(a)*

A district shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of

	sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. <i>34 CFR 106.34</i>
SEPARATE FACILITIES	A district may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. <i>34 CFR 106.33</i>
HUMAN SEXUALITY CLASSES	Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.
VOCAL MUSIC ACTIVITIES	A district may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. <i>34 CFR 106.34</i>
SINGLE-SEX PROGRAMS	A district shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the district unless the district otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. <i>34 CFR 106.35</i>
PREGNANCY AND MARITAL STATUS	A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. <i>34 CFR 106.40</i> [See FND]
PHYSICAL EDUCATION CLASSES	A district may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.
SKILLS ASSESSMENT	Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.
CONTACT SPORTS	A district may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact. <i>34 CFR 106.34</i>
ATHLETIC PROGRAMS	A district shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

SINGLE-SEX
TEAMS

A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

EQUAL ATHLETIC
OPPORTUNITIES

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether a district provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 CFR 106.41

SERVICE ANIMAL
SERVICE DOGS

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the handler’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 CFR 35.104

POLICIES,
PRACTICES, OR
PROCEDURES

A district shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7), .136(a)* [See FB(LEGAL)]

ACCESS

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a district’s facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 CFR 35.136(g)*

EXCEPTIONS

A district may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or
2. The animal is not housebroken.

28 CFR 35.136(b)

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that

district when that individual poses a direct threat to the health or safety of others. *28 CFR 35.139* [See FB(LEGAL)]

If a district properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 CFR 35.136(c)*

ANIMAL
UNDER
HANDLER'S
CONTROL

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). *28 CFR 35.136(d)*

INQUIRIES

A district shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A district may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A district shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a district may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

28 CFR 35.136(f)

CARE OR
SUPERVISION OF
ANIMAL

A district is not responsible for the care or supervision of a service animal. *28 CFR 35.136(e)*

SURCHARGES

A district shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

If a district normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

28 CFR 35.136(h)

MINIATURE HORSES REASONABLE MODIFICATIONS	A district shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
ASSESSMENT FACTORS	<p>In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a district shall consider:</p> <ol style="list-style-type: none">1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;2. Whether the handler has sufficient control of the miniature horse;3. Whether the miniature horse is housebroken; and4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.
OTHER REQUIREMENTS	<p>Provisions at 28 CFR 35.136(c) through (h) shall also apply to miniature horses.</p> <p><i>28 CFR 35.136(f)</i></p>
ASSISTANCE ANIMALS	<p>"Assistance animal" means an animal that is specially trained or equipped to help a person with a disability and that:</p> <ol style="list-style-type: none">1. Is used by a person with a disability who has satisfactorily completed a specific course of training in the use of the animal; and2. Has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide animals with training of this type. <p><i>Human Resources Code 121.002(1)</i></p>
ASSISTANCE ANIMAL ACCESS	<p>No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.</p> <p>Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class.</p>

An assistance animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer who is an agent of an organization generally recognized by agencies involved in the rehabilitation of persons who are disabled as reputable and competent to provide training for assistance animals, and/or their handlers.

Human Resources Code 121.003(c), (e), (i)

HARASSMENT AND
HARM PROHIBITED

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. *Human Resources Code 121.003(j)*

TRANSPORTATION

No public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability solely because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal. *Human Resources Code 121.003(b)*

RESPONSIBILITIES
OF PERSONS WITH
DISABILITIES

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Human Resources Code 121.005

PENALTIES

A person, association, or other organization or the agent of a person, association, or other organization who violates a provision of Human Resources Code 121.003 commits a misdemeanor punishable by a fine of not less than \$300 or more than \$1,000 and is deemed to have deprived a person with a disability of his or her civil liberties. The person with a disability deprived of his or her civil liberties may maintain a cause of action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$100 to the person with a disability. *Human Resources Code 121.004*

PHYSICAL FITNESS ASSESSMENT	<p>Annually, a district shall assess the physical fitness of students in grades 3 through 12, using an assessment instrument adopted by the Commissioner.</p> <p>A district is not required to assess a student for whom, as a result of disability or other condition identified by Commissioner rule, the assessment instrument is inappropriate.</p> <p>Each student must be assessed based on factors related to student health, including aerobic capacity; body composition; and muscular strength, endurance, and flexibility, unless a particular factor is inappropriate for that student because of a health classification defined in 19 TACAdministrative Code 74.31 [see EHAA; CLASSIFICATION FOR PHYSICAL EDUCATION].</p>
REPORT	<p>A district shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by Commissioner rule, to TEA. The summary results may not contain the names of individual students or teachers.</p>
CONFIDENTIALITY	<p>The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.</p> <p>A district may accept donations made to facilitate implementation of this subchapter.</p> <p><i>Education Code Ch. 38, Subch. C; 19 TAC 101103.1001</i></p>
VISION AND HEARING SCREENING	<p>As soon as possible after admission and within a period set by rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (TDSHS). <i>Health and Safety Code 36.005(a)</i></p>
DISTRICT RESPONSIBILITY	<p>A superintendent shall ensure that each student admitted to a district complies with the screening requirements set by TDSHS or submits an affidavit of exemption (see below). <i>Health and Safety Code 36.005(c)</i></p>
SCREENING SCHEDULE ROUTINE SCREENING	<p>All students enrolled in a district shall be screened for vision and hearing problems in prekindergarten; kindergarten; and first, third, fifth, and seventh grades before May 31 of each year. Upon written request approved by TDSHS, the screening of vision and hearing may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. <i>25 TAC 37.23(d), (f)</i></p>

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

FFAA
(LEGAL)

SCREENING ON ENROLLMENT	Students four years of age and older, who are enrolled in a district for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested by December 31 of that year. <i>25 TAC 37.23(e)(1)</i>
OUTSIDE SCREENING	Except for students enrolled in kindergarten or first grade, a district shall exempt a student from screening if the student's parent or legal guardian submits proof that the student's vision and/or hearing has been screened within the prior reporting year. Proof of vision and hearing screening upon initial enrollment must be submitted to a district by the dates for screening upon enrollment. Proof for all other students must be submitted by May 31. <i>25 TAC 37.23(e)(3), 37.26(a), (b)</i>
PROVISIONAL ADMISSION	A parent, guardian, managing conservator, or person having legal responsibility for the student's support may execute an affidavit stating that a person other than the screener used by a district shall conduct the screening as soon as is feasible. The student may be admitted on a provisional basis, or the student may be denied admission, until the screening results are provided to the district. <i>25 TAC 37.23(g)</i>
EXEMPTION—RELIGIOUS BELIEFS	A district shall not require a student to be screened if the parent, guardian, managing conservator, or person having legal responsibility for the student's support submits to the district, on or before the date vision or hearing screening is scheduled, an affidavit in lieu of the record of screening stating that the vision or hearing screening conflicts with the tenets or practices of a church or religious denomination of which the affiant is an adherent or member. <i>Health and Safety Code 36.005(b); 25 TAC 37.23(h)</i>
RECORDS	A district shall maintain the screening records required by statute and regulation. <i>Health and Safety Code 36.006; 25 TAC 37.24</i>
TRANSFER OF RECORDS	A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. A district shall honor an original or true copy of the proofs of screening upon the transfer of a student from another Texas district. When a district's official record for a student contains entries of vision or hearing examinations or screening test results, the original or true and correct copy of the record may be transferred between districts. <i>Health and Safety Code 36.006(c); 25 TAC 37.28</i>
REPORTS	On or before June 30 of each year, a district shall submit to TDSHS a report on the screening status of its aggregate population screened during the reporting year. The results of required profes-

sional examinations or screening tests shall be reported as specified on forms approved by TDSHS. *Health and Safety Code 36.006; 25 TAC 37.26(c)(1)*

RISK ASSESSMENT
FOR TYPE 2 DIABETES

As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:

1. Identify students with acanthosis nigricans; and
2. Further assess students identified under paragraph 1 to determine the students':
 - a. Body mass index; and
 - b. Blood pressure.

The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.

Health and Safety Code 95.002(d), 95.003(a)

DISTRICT
RESPONSIBILITY

A superintendent shall ensure that each student admitted to a district complies with the risk assessment requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c)*

APPLICABILITY

Students who attend public schools located in TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. *Health and Safety Code 95.002(b)*

OUTSIDE
SCREENING

The student or minor student's parent, managing conservator, or guardian may elect to substitute a professional examination for the risk assessment. *Health and Safety Code 95.003(a)*

EXEMPTION—
RELIGIOUS BELIEFS

A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit, on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. *Health and Safety Code 95.003(b)*

RECORDS

A superintendent shall maintain the risk assessment records required by the statute and regulations and enter the risk assessment information for each individual on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for inspection by the Office or the local health department. *Health and Safety Code 95.004(a)*

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

FFAA
(LEGAL)

TRANSFER OF RECORDS	A student's risk assessment records may be transferred among schools without the consent of the individual, or, if the student is a minor, the student's parent, managing conservator, or guardian. <i>Health and Safety Code 95.004(c)</i>
ANNUAL REPORT	Each district shall submit to the Office an annual report on the risk assessment status of the students in attendance during the reporting year and shall include in the report any other required information. <i>Health and Safety Code 95.004(e)</i>
SPINAL SCREENING	Each student required by rule of the TDSHS to be screened shall undergo approved screening for abnormal spinal curvature. <i>Health and Safety Code 37.002(a)</i>
DISTRICT RESPONSIBILITY	A superintendent shall ensure that each student admitted to a district complies with the screening requirements or submits an affidavit of exemption (see below). <i>Health and Safety Code 37.002(c), 25 TAC 37.148(m)</i>
SCREENING SCHEDULE ROUTINE SCREENING	Students in grades six and nine shall be screened for abnormal spinal curvature before the end of the school year. The screening requirement for students entering grades six or nine may be met if the student has been screened for spinal deformities during the previous year. Districts may implement a program that includes screening in grades five and eight in lieu of grades six and nine. <i>25 TAC 37.148(a), (b)</i>
SCREENING ON ENROLLMENT	New students enrolling in grades scheduled for screening (i.e., grades six and nine or five and eight), who have no record of having received their scheduled screening(s) shall be screened the year they enroll. Districts shall consider offering a student enrolling in grades ten, eleven ¹¹ , or twelve ¹² the opportunity for spinal screening if the student has no record of having been screened previously. <i>25 TAC 37.148(c)</i>
EXEMPTION—RELIGIOUS BELIEFS	A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. The minor student's parent, managing conservator, or guardian must submit an affidavit stating the objections to screening. This affidavit shall be submitted on or before the day of the screening procedure each year the screening is performed. <i>Health and Safety Code 37.002(b); 25 TAC 37.148(d)</i>
ANNUAL REPORT	Each district shall submit to TDSHS an annual report of spinal screening performed during the school year no later than June 30 of the reporting year. The report shall be submitted as specified on a form issued by TDSHS. <i>25 TAC 37.148(n)</i>

TRANSFER OF
RECORDS

A student's health record shall be acceptable as proof of screening if such record contains entries of screening results. In such case, the original or a true and correct copy of that record may be transferred between schools and shall be honored upon transfer of a student from another district in Texas or within the United States.
25 TAC 37.148(o)

POLICY

As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that a district may administer to the student. A district shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies.

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1).

NOTIFICATION AND
OPT-OUT

At least annually at the beginning of the school year, a district shall directly notify the parent of a student of the specific or approximate dates during the school year when any non-emergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to nonemergency, invasive physical examinations or screenings that are:

- 1. Required as a condition of attendance;**
- 2. Administered and scheduled by the school in advance; and**
- 3. Not necessary to protect the immediate health and safety of the student or of other students.**

At a minimum, a district shall offer an opportunity for the parent to opt the student out of participation in the examination or screening.

EXCEPTION

These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.

20 U.S.C. 1232h(c)(1)(D), (2)–(4) [See EF]

This introductory page outlines the contents of the student records policy. See the following sections for statutory provisions on:

SECTION I	Education Records	pages 2–4
	<ol style="list-style-type: none"> 1. Definition of 'education records' 2. Screening records 3. Immunization records 4. Medical records 5. Assessment instruments 6. Academic achievement record 7. Enrollment records 	
SECTION II	Access, Disclosure, and Amendment	pages 4– 14 16
	<ol style="list-style-type: none"> 1. Access to education records: parent, student, and other persons 2. Information collection 2-3. Subpoenaed and sex offender records 3-4. Request procedure 4-5. Destruction of requested records 5-6. De-Identified records, authenticating requestors' identities 6-7. Transfer by third parties to other persons 7-8. Record of access to student records 8-9. Right to amend records 9-10. Fees for copies 10-11. Records of students with disabilities: access, consent, confidentiality, destruction 11-12. Annual notification of rights 	
SECTION III	Directory Information Directory Information	pages 14–17 16–19
	<ol style="list-style-type: none"> 1. Definition and disclosure of directory information 2. Designation of directory information 3. Annual notice, contents 4. Student recruiting information, parental consent to release 	
SECTION IV	Videotapes and Recordings	pages 17–18 page19
	<ol style="list-style-type: none"> 1. Parental consent 2. Exceptions to consent 	

STUDENT RECORDS

FL
(LEGAL)

SECTION V

Information from Law Enforcement

pages ~~18-20~~19-21

1. Criminal records: ~~disclosure, retention~~
2. Duty to flag records of missing children

SECTION I: EDUCATION RECORDS**'EDUCATION
RECORDS' DEFINED**

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term "education records" does not include:

1. Records that are created or received by ~~the~~ district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
2. Records made by district personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of a district that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 CFR 99.3

**SCREENING
RECORDS**

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office

may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning ACCESS BY OTHER PERSONS. *20 U.S.C. 1232g; Health & Safety Code 36.006, 37.003, 95.004; 25 TAC 37.148(o)* [See FFAA]

IMMUNIZATION
RECORDS

A district shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. A district shall cooperate with other districts in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by a district. On request of a student's parent or guardian, a district shall provide a copy of the student's medical records to the parent or guardian. A district may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBA]. *Education Code 38.0095*

PRIVACY RULE FOR
NON-EDUCATION
RECORDS'

To the extent a district is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the district must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 CFR 160.103, 164.501* [See CRD]

ASSESSMENT
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by a district are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district, and made available to the public, with appropriate interpretations, at regularly scheduled board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

ACADEMIC
ACHIEVEMENT
RECORD (GRADES
9-12)

A district shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the district. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. A dis-

trict shall respond promptly to all requests for student records from receiving districts. 19 TAC 74.14(b) [See EI]

ENROLLMENT RECORDS

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Education Code 25.002(a)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1) [See FD]

SECTION II: ACCESS, DISCLOSURE, AND AMENDMENT

ACCESS TO EDUCATION RECORDS

DEFINITIONS

'ATTENDANCE'

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

'DISCLOSURE'

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

'PARENT'

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

'PERSONALLY IDENTIFIABLE INFORMATION'

"Personally identifiable information" includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's biometric record, ~~as defined by 34 CFR 99.3;~~ **defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting);** social security number; or student number;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

'RECORD'

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

34 CFR 99.3

'SIGNED AND DATED WRITTEN CONSENT'

"Signed and dated written consent" may include a record and signature in electronic form that:

1. **Identifies and authenticates a particular person as the source of the electronic consent; and**
2. **Indicates such person's approval of the information contained in the electronic consent.**

34 CFR 99.30(d)

ACCESS BY PARENTS

Access to the education records of a student who is or has been in attendance at a school in a district shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

34 CFR 99.10, 99.31(a)(8)

A district shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

34 CFR 99.4; Family Code 153.012, 153.073

A parent is entitled to access to all written records of a district concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and counselor evaluations, and reports of behavioral patterns. *Education Code 26.004*

ACCESS BY
STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents a district from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 CFR 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

34 CFR 99.5

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 CFR 99.12(a)*

ACCESS BY OTHER
PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

SCHOOL
OFFICIALS

1. School officials, including teachers, who have legitimate educational interests. An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by a district for reasons determined in district policy.

A contractor, consultant, volunteer, or other party to whom a district has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

- a. Performs an institutional service or function for which the district would otherwise use employees;
- b. Is under the direct control of the district with respect to the use and maintenance of education records; and
- c. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

A district must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A district that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 CFR 99.31, .36; Education Code 38.009

OFFICIALS OF
OTHER SCHOOLS

- 2. Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that a district either:
 - a. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
 - b. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, a district shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

34 CFR 99.34(a)

AUTHORIZED
GOVERNMENTAL
REPRESENTATIVES

- 3. Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 CFR 99.35*

A district may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. A district is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. 8 U.S.C. 1372(c)(2); 8 CFR 214.1(h)

- | | | |
|--|----|--|
| FINANCIAL AID
PERSONNEL | 4. | Personnel involved with a student's application for, or receipt of, financial aid. |
| JUVENILE
JUSTICE
OFFICIALS | 5. | State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute adopted: <ul style="list-style-type: none"> a. Prior to November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or b. After November 19, 1974, if: <ul style="list-style-type: none"> (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and (2) The officials and authorities to whom such information is disclosed certify in writing to the district that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student. |
| ORGANIZATIONS
CONDUCTING
STUDIES | 6. | Organizations conducting studies for, or on behalf of, districts for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies. |

The district must enter into a written agreement with the organization that:

- a. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- b. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
- c. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
- d. Requires the organization to destroy or return to the district all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

A district is not required to initiate a study or agree with or endorse the conclusions or results of the study.

ACCREDITING
ORGANIZATIONS

7. Accrediting organizations that require the information for purposes of accreditation.

HEALTH OR
SAFETY
EMERGENCY

8. Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, a district may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the district determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the district in evaluating the circumstances and making its determination.

34 CFR 99.36

DIRECTORY
INFORMATION

9. Any person requesting directory information after a district has given public notice of that definition. *34 CFR 99.37*

20 U.S.C. 1232g(b); 34 CFR 99.31

WRITTEN
CONSENT

The parent shall provide a signed and dated written consent before a district discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 CFR 99.30*

INFORMATION
COLLECTIONU.S. DOE FUNDED
SURVEYS

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. **Political affiliations or beliefs of the student or the student's parents.**
2. **Mental and psychological problems of the student or the student's family.**
3. **Sex behavior and attitudes.**
4. **Illegal, anti-social, self-incriminating, and demeaning behavior.**
5. **Critical appraisals of other individuals with whom students have close family relationships.**
6. **Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.**
7. **Religious practices, affiliations, or beliefs of the student or student's parent.**
8. **Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.**

*20 U.S.C. 1232h(b)*INFORMATION
COLLECTION
FUNDED BY OTHER
SOURCES

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232(c)(2). [See EF]

SUBPOENAED
RECORDS

A district shall release student records to an entity or persons designated in a subpoena. A district shall not disclose to any person

the existence or contents of the subpoena if a court orders the district to refrain from such disclosure. Unless the court or other issuing agency orders the district to refrain from such disclosure or the order is an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, the district shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 CFR 99.31(a)(9)*

SEX OFFENDERS

A district may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the district under 42 U.S.C. 14071 and applicable federal guidelines. *34 CFR 99.31(a)(16)*

REQUEST
PROCEDURE

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. A district shall respond to reasonable requests for explanations and interpretations of the records. *34 CFR 99.10*

DESTRUCTION OF
RECORDS

A district shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 CFR 99.10(e)*

DE-IDENTIFIED
RECORDS

A district, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the district or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

EDUCATION
RESEARCH

A district, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. A district or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

AUTHENTICATING
REQUESTORS'
IDENTITIES

A district must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the district discloses personally identifiable information from education records.

34 CFR 99.31(b)–(c)

TRANSFER NOT
PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, a district shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 CFR 99.33(a)(1)*

A district shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 CFR 99.33(c), (d)*

A district may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the district if::

1. The disclosures meet the requirements of ~~34 CFR 99.31~~; **34 CFR 99.31**; and
2. The district has complied with the requirements of ~~34 CFR 99.32(b)~~ **34 CFR 99.32(b)** regarding the record of disclosure; or a state or local educational authority or federal official or agency listed ~~requesting~~ **re-questing** information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

34 CFR 99.33(b)

RECORD OF ACCESS
TO STUDENT
RECORDS

Each school shall maintain a record, kept with the education record of each student that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. A district must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

A district must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH & SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the district disclosed the information.

34 CFR 99.32

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the district maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.
20 U.S.C. 1232g(b)(4)(A)

The record shall not include requests for access by, or access granted to, parents of the student or officials of a district, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order. *34 CFR 99.32(d)*

RIGHT TO AMEND
RECORDS

The parent of a student whose records are covered by this policy may ask a district to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If a district decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If a district decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the

district decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the district. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.

34 CFR 99.20, 99.21

FEES FOR COPIES

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 CFR 99.11; Education Code 26.012*

RECORDS OF STUDENTS WITH DISABILITIES

A district shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 CFR 300.613(a)*

ACCESS RIGHTS

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect district records relating to the education of their child:

1. Parents may request that a representative inspect and review the records. *34 CFR 300.613(b)(3)*
2. A district shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 CFR 300.613(a)*
3. A district shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 CFR 300.614*

LIST OF TYPES AND LOCATIONS OF INFORMATION

A district shall provide parents on request a list of types and locations of education records. *34 CFR 300.616*

PARENTAL CONSENT

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or dis-

closed to anyone other than officials of agencies collecting or using this information. A district may not release information from these records without parental consent except as provided in FERPA.

34 CFR 300.622

CONFIDENTIALITY

A district shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in a district shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. A district shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 CFR 300.623*

DESTRUCTION OF INFORMATION

A district shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

34 CFR 300.624

ANNUAL NOTIFICATION OF RIGHTS

A district shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by the district to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If the district has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

A district may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

A district shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 CFR 99.7

SECTION III: DIRECTORY INFORMATION

DIRECTORY INFORMATION DEFINITION

““Directory information” means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student’s name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended. “Directory information” does not include a student’s:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

DISCLOSURE OF DIRECTORY INFORMATION

A district may release directory information if it has given public notice of:

1. The types of personally identifiable information that it has designated as directory information.

2. The right of the parent to refuse to permit the district to designate any or all of that information about the student as directory information.
3. The period of time within which the parent must notify the district in writing that he or she does not want any or all of those types of information about the student designated as directory information.

IN CLASS	A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent a district from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.
FORMER STUDENTS	A district may disclose directory information about former students without satisfying the public notice conditions above. However, the district must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.
CONFIRMATION OF IDENTITY OR RECORDS	A district may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records. <i>34 CFR 99.3, 99.37</i>
DESIGNATION OF DIRECTORY INFORMATION	A district may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by a district as directory information for that district is excepted from disclosure by the district under Government Code Chapter 552. [See GBA] Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or district publication, if any such purpose has been designated by a district, remains otherwise confidential and may not be released under Government Code Chapter 552.
ANNUAL NOTICE	A district shall provide the following to the parent of each district student, at the beginning of each school year or on enrollment of the student after the beginning of the school year: <ol style="list-style-type: none"> 1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and 2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

CONTENTS OF
NOTICE

The notice must contain:

1. The following statement in boldface type that is 14-point or larger:

“Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want [insert name of district] to disclose directory information from your child’s education records without your prior written consent, you must notify the district in writing by [insert date]. [Insert name of district] has designated the following information as directory information: [Here the district must include any directory information it chooses to designate as directory information for the district, such as a student’s name, address, telephone listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]”;
2. A form, such as a check-off list or similar mechanism, that:
 - a. Immediately follows, on the same page or the next page, the required statement; and
 - b. Allows a parent to record:
 - (1) The parent’s objection to the release of all directory information or one or more specific categories of directory information if district policy permits the parent to object to one or more specific categories of directory information;
 - (2) The parent’s objection to the release of a secondary student’s name, address, and telephone number to a military recruiter or institution of higher education; and
 - (3) The parent’s consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the district and is specifically identified, such as for a student directory, student yearbook, or district publication; and

3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 [~~see EHB~~] to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the district that the parent does not want the student's information disclosed without the parent's prior written consent.

Education Code 26.013

STUDENT
RECRUITING
INFORMATION

Notwithstanding the DIRECTORY INFORMATION provisions above, each district receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

CONSENT TO
RELEASE

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described above not be released without prior written parental consent, and a district shall notify parents of the option to make a request and shall comply with any request.

20 U.S.C. 7908

SECTION IV: VIDEOTAPES AND RECORDINGS

VIDEOTAPES AND
RECORDINGS

A district employee must obtain the written consent of a child's parent before the employee may make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

EXCEPTIONS

A district employee is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

1. The purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
2. A purpose related to a cocurricular or extracurricular activity;
3. A purpose related to regular classroom instruction; or
4. Media coverage of the school.

Education Code 26.009 [See EHA, FM, and FO]

SECTION V: INFORMATION FROM LAW ENFORCEMENT

INFORMATION FROM
LAW ENFORCEMENTORAL NOTICE OF
ARREST OR
REFERRAL

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense [see GRA], a superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

WRITTEN NOTICE
OF ARREST OR
REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, a superintendent or designee may send the information in the confidential notice to a district employee having direct supervisory responsibility over the student if the superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

ORAL NOTICE OF
CONVICTION OR
ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, a superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

NOTICE OF
TRANSFER OR
REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the superintendent of the district to which the student transfers or returns shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Code of Criminal Procedure 15.27

Information received by a district under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. A district shall destroy the information at the end of the academic year in which the report was filed. *Education Code 37.017*

DUTY TO FLAG
RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

REQUEST IN
PERSON

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN
WRITING

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REMOVAL OF FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

Code of Criminal Procedure 63.020–63.022

DEFINITION A “paging device” is a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

PAGING DEVICES POLICY A board may adopt a policy prohibiting students from possessing paging devices while on school property or while attending school-sponsored or school-related activities on or off school property.

PENALTIES The policy may establish disciplinary measures to be imposed for violation of the prohibition and may provide for confiscation of the paging device.

DISPOSAL A district policy may provide for:

1. Disposal of a confiscated paging device in any reasonable manner, provided the student’s parent and the paging company whose name and address appear on the device are given 30 days’ notice of the intent to dispose of the device. Such notice may be made by telephone, telegraph, or in writing, and must include the serial number of the device.
2. Charging the owner of the device or the student’s parent an administrative fee of not more than \$15 before it releases the device.

Education Code 37.082

SEARCHES OF
STUDENTS

Students shall be free from unreasonable searches and seizures by school officials. School officials may search a student's outer clothing, pockets, or property by establishing reasonable cause or securing the student's voluntary consent. Coercion, either expressed or implied, such as threatening to contact parents or police, invalidates apparent consent. *U.S. Const., Amend. 4.*; *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S.Ct. 733 (1985); *Jones v. La-texo ISD, Indep. Sch. Dist.*, 499 F.Supp. 223 (1980)

A search is reasonable if it meets both of the following criteria:

1. The action is justified at the inception; i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place; i.e., the measures adopted are reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733 (1985)

RANDOM DRUG
TESTING

Whether a particular search is reasonable is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests. Thus, the reasonableness of a random student drug-testing policy is determined by balancing the following factors:

1. The nature of the privacy interest compromised by the drug-testing policy.
2. The character of the intrusion imposed by the drug-testing policy.
3. The nature and immediacy of the governmental interests involved and the efficacy of the drug-testing policy for meeting them.

Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 115 S.Ct. 2386 (1995) (upholding a policy requiring urinalysis drug testing as a condition of participating in athletics); *Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls*, 122 S.Ct. 2559 (2002) (upholding a policy requiring urinalysis drug testing as a condition of participating in competitive extracurricular activities)

**SEARCHES OF
TELECOMMUNICA-
TIONS /
ELECTRONIC
DEVICES**

A person is prohibited from obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage by:

1. Intentionally accessing without authorization a facility through which an electronic communication service is provided; or
2. Intentionally exceeding an authorization to access that facility.

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(a), (c)

**ELECTRONIC
COMMUNICATION**

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12)*

**ELECTRONIC
STORAGE**

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

Messages that have been sent to a person, but not yet opened, are in temporary, intermediate storage and are considered to be in electronic storage. See *Steve Jackson Games, Inc. v. United States Secret Service*, 36 F.3d 457 (5th Cir. 1994). Electronic communications that are opened and stored separately from the provider are considered to be in post-transmission storage, not electronic storage. See *Fraser v. Nationwide Mut. Ins. Co.*, 352 F.3d 107 (3d Cir. 2004).

STUDENT RIGHTS AND RESPONSIBILITIES
INTERROGATIONS AND SEARCHES

FNF
(LEGAL)

USE OF TRAINED
DOGS

Trained dogs' sniffing of cars and lockers does not constitute a search under the Fourth Amendment. The alert of a trained dog to a locker or car provides reasonable cause for a search of the locker or car only if the dog is reasonably reliable in indicating that contraband is currently present.

Trained dogs' sniffing of students does constitute a search and requires individualized reasonable suspicion.

Horton v. Goose Creek ~~ISD~~, Indep. Sch. Dist., 690 F.2d 470 (5th Cir. 1982)

This introductory page outlines the contents of the public information policy. See the following sections for statutory provisions on:

SECTION I	Officer for Public Information and Required Notices	pages 2–3
	1. Duties	
	2. Training	
	2-3. Notice Regarding Public Information	
SECTION II	Access to Public Information	pages 23–7
	1. Procedural Rules Regarding Access	
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	4. Time for Response to Public Information Requests	
	5. Clarifying or Narrowing Scope of a Request	
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SECTION III	Attorney General Decisions	pages 7–10
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SECTION VI	Miscellaneous Provisions	pages 16–18
	1. Large or Frequent Requests	
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**SECTION I: OFFICER FOR PUBLIC INFORMATION AND
REQUIRED NOTICES**

OFFICER FOR PUBLIC
INFORMATION

A superintendent shall be a district's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

DUTIES

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)–.204

**PUBLIC
INFORMATION
COORDINATOR**

Within 90 days after assuming office, a public information coordinator shall complete a course of training regarding the responsibilities of a district and district officers and employees under Chapter 552 of the Texas Government Code (Public Information Act).

The training shall be not less than one nor more than two hours. The attorney general may provide the training and may also approve other acceptable sources of training.

A district shall maintain and make available for public inspection the record of a public information coordinator's completion of the training.

Gov't Code 552.012

SIGN

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a district, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the district's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Employees of the district whose duties include receiving or responding to public information requests.

Gov't Code 552.205

SECTION II: ACCESS TO PUBLIC INFORMATION

ACCESS TO PUBLIC
INFORMATION
PROCEDURAL
RULES

A district may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

It shall be the policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228*

TREATMENT OF
REQUESTS

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. *Gov't Code 552.222(a)-(b), 552.223-.224*

LOCATION OF
ACCESS

An officer for public information complies with a request for public information by:

1. Providing the information for inspection or duplication in a district's offices (see TIME FOR EXAMINATION, below); or
2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA (see COSTS AND CHARGES, below).

The PIA does not authorize a requestor to remove an original copy of a public record from the office of a district.

Gov't Code 552.221(b), 552.226

TIME FOR RESPONSE

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A district

may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221; Tex. Atty. Gen. ORD-664 (2000)

REQUESTS TO
NARROW OR CLARIFY

If a large amount of information has been requested, the district may discuss with the requestor how the scope of the request might be narrowed, but the district may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the district, the district may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the district must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond. If the district does not receive a written response by the 61st day after the district sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov't Code 552.222(b), (d)–(f)

TIME FOR
EXAMINATION

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Gov't Code 552.225

ELECTRONIC DATA

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A district shall provide a copy in the requested medium:

1. If the district has the technological ability to produce the information in the requested medium;
2. If the district is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between the district and a third party.

If a district is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the district shall provide a copy in another medium that is acceptable to the requestor. A district is not required to copy information onto a diskette or other material provided by the requestor but may use district supplies.

Gov't Code 552.228

REQUESTS
REQUIRING
PROGRAMMING OR
MANIPULATION

The district shall provide the requestor a written statement, described below, if the district determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
 - a. Compliance with the request is not feasible or will result in substantial interference with operations; or
 - b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;

3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general [see GBAA(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

RESPONSE TIME
WHEN
PROGRAMMING OR
MANIPULATION IS
REQUIRED

The A district shall provide the written statement to the requestor within 20 days after the date the district receives the request. The district has an additional ten days to provide the statement if the district gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

FURTHER ACTION

After providing the written statement described above, the district has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and the district agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

PROCESSING OF
REQUESTS

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A district shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code 552.231

REPETITIOUS OR
REDUNDANT
REQUESTS

If a district determines that a requestor has made a request for information for which the district has previously furnished or made copies available to the requestor, the district may:

1. Respond to the request for information as set forth below, at PROCEDURES; or
2. Furnish the information or make the information available to the requestor again in accordance with the request. If the dis-

istrict selects this option, the district is not required to comply with the procedures described below.

Gov't Code 552.232(a)

These provisions do not apply to information not previously furnished to a requestor. A district shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

PROCEDURES

The district shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the district received the requestor's original request for that information;
3. The date the district previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code 552.232

SECTION III: ATTORNEY GENERAL DECISIONS

ATTORNEY GENERAL
DECISIONS

If a district receives a written request for information that the district considers to be within one of the exceptions to required disclosure and that the district wishes to withhold from public disclosure, the district shall request a decision from the attorney general about whether the information is within the exception (see SUBMISSION TO ATTORNEY GENERAL, below). For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee.

TIME FOR REQUEST

A district must submit the request to the attorney general not later than the tenth business day after receiving the written request. If a district does not timely request a decision from the attorney general and comply with the requirements at STATEMENT TO REQUEST-

TOR, below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it.

Gov't Code 552.301(a)–(c), 552.302

A district may only request an attorney general decision if the district reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD-665 (2000)*

PREVIOUS
DETERMINATIONS
SAME
INFORMATION

Except as set forth at Government Code section 552.301(g), a district may not request an attorney general decision if the district has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from a district after the attorney general has previously issued a decision regarding the precise information or records at issue. *Gov't Code 552.301(f); Tex. Att'y Gen. ORD-673 (2001)*

CATEGORIES OF
INFORMATION

A district may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and
4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Att'y Gen. ORD-673 (2001)

A district that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A district may withhold from public disclosure the categories of personnel records listed at Texas Attorney General Open Records Decision 684 (2010).

Tex. Att'y Gen. ORD-684 (2010)

A district may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Education Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g [see FL]. *Tex. Att'y Gen. ORD-634 (1995)*

STATEMENT TO
REQUESTOR

If a district requests an attorney general decision, it shall provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the district wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and
2. A copy of the district's written communication to the attorney general asking for the decision. If a district's written communication to the attorney general discloses the requested information, the district shall provide a redacted copy of that written communication.

Gov't Code 552.301(d)

SUBMISSION TO
ATTORNEY
GENERAL

When a district requests an attorney general decision, it shall, within a reasonable time but not later than the 15th business day after receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;
3. A signed statement as to the date on which the written request for information was received by the district or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The district shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The district shall send a copy of the comments to the requestor not later than the 15th business day after the district receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e), (e-1)

Unless the information is confidential by law, the district may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction. *Gov't Code 552.303(a)*

ADDITIONAL
INFORMATION

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the district and the requestor written notice of that fact. The district shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the district does not comply with the attorney general's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.303(c)–(e)*

PRIVACY OR
PROPERTY
INTERESTS

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.104 (information related to competitive bidding), 552.110 (trade secrets), and 552.114 (student records), a district may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. A district may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)–(c)*

NOTICE TO
OWNER OF
PROPRIETARY
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.113 (geological or geophysical information), or 552.131 (economic development information), a district that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the district receives the request for information; and
2. Include:
 - a. A copy of any written request a district received for the information; and
 - b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the

person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code 552.305(d)

SECTION IV: CHARGES REGARDING PUBLIC INFORMATION REQUESTS

COSTS AND CHARGES The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

Charges for providing a copy of public information are considered to accrue at the time the district advises the requestor that the copy is available on payment of the applicable charges.

50 PAGES OR LESS If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

STATEMENT OF LABOR COSTS If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

Gov't Code 552.261, ~~552.262(a)~~

ATTORNEY GENERAL'S RULES A district shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. [See GBAA(EXHIBIT)]

A district may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, a district may not charge an amount that is greater

than 25 percent more than the amount established by the attorney general, unless the district requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b)*

EXEMPTIONS

A district may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a district receives notice from the attorney general that an exemption has been granted, the district may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

COPIES FOR
PARENTS

A district may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

STATEMENT OF
ESTIMATED
CHARGES

If a request for a copy of public information will result in the imposition of a charge that exceeds \$40, a district shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the district regarding the alternative method. A district must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a district provides the requestor the itemized statement but before it makes the copy or the paper record available, the district determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the district shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

REQUESTOR'S
RESPONSE

A request for which a district is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the district within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or

3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

ACTUAL
CHARGES

If the actual charges exceed \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

TIMING OF
DEADLINES

An original or updated itemized statement is considered to have been sent by a district, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a district for requesting a decision by the attorney general under Government Code 552, Subchapter G.

Gov't Code 552.2615

DEPOSIT OR BOND

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 (see STATEMENT OF ESTIMATED CHARGES, above); and
2. The charge for providing the copy is estimated by the district to exceed \$100, if the district has more than 15 full-time employees, or \$50, if the district has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request for a copy of public information is considered to have been received by the district on the date the district receives the deposit or bond.

Gov't Code 552.263(e)

A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(f)*

UNPAID AMOUNTS

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a district in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed \$100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

DOCUMENTATION
OF UNPAID
AMOUNTS

A district must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

WAIVERS

A district shall provide a copy of public information without charge or at a reduced charge if the district determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to a district of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the district may waive the charge.

Gov't Code 552.267

GOVERNMENT
PUBLICATION

The cost provisions described above do not apply to a publication that is compiled and printed by or for a district for public dissemination. If the cost of the publication is not determined by state law, a district may determine the charge for providing the publication, or the district may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

SECTION V: INSPECTION OF PUBLIC INFORMATION

INSPECTION OF
PUBLIC INFORMATION

If the requestor does not request a copy of public information, a district may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

CONFIDENTIAL INFORMATION	<p>If a page contains confidential information that must be edited from the record before the information can be made available for inspection, a district may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed.</p> <p><i>Gov't Code 552.271(b)</i></p>
PAYMENT, DEPOSIT, OR BOND	<p>The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:</p> <ol style="list-style-type: none">1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection. <p><i>Gov't Code 552.271(c)</i></p>
CERTAIN SMALL DISTRICTS	<p>If a district has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:</p> <ol style="list-style-type: none">1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection. <p><i>Gov't Code 552.271(d)</i></p>
ELECTRONIC RECORDS	<p>If a district receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the district may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, a district shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.</p> <p>If public information exists in an electronic form on a computer owned or leased by a district, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the district's computer before the information is copied. If such information</p>

does require processing, programming, or manipulation before it can be copied, a district may impose charges.

If a district creates or keeps information in an electronic form, the district is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

Gov't Code 552.272

SECTION VI: MISCELLANEOUS PROVISIONS

LARGE OR FREQUENT
REQUESTS

PERSONNEL TIME

A district may establish a reasonable limit on the amount of time that district employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. The time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to a district's fiscal year.

REQUEST BY
MINOR

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

EXCEPTION

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. A radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;
2. A newspaper that is qualified under Government Code 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;
3. A newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or

4. A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or a representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

WRITTEN
STATEMENT OF
PERSONNEL TIME

If a district establishes a time limit, each time the district complies with a request for public information, the district shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement.

WRITTEN ESTIMATE
OF CHARGES

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, a district shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The district shall provide the written estimate on or before the tenth day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

ADDITIONAL TIME

If a district provides the requestor with written notice that additional time is required to prepare the written estimate, the district must provide the written estimate as soon as practicable, but on or before the tenth day after the date the district provided the notice that additional time was required.

ACCEPTANCE OF
CHARGES

A district is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the district provided the written estimate, the requestor submits a written statement to the district in which the requestor commits to pay the lesser of:

1. The actual costs incurred in complying with the request, including the cost of materials, personnel time, and overhead; or
2. The amount stated in the written estimate.

If the requestor fails or refuses to submit a written statement, the requestor is considered to have withdrawn the request.

WAIVED OR
REDUCED
CHARGES

This section does not prohibit a district from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267 [see WAIVERS, above].

Gov't Code 552.275

FILING SUIT TO
WITHHOLD
INFORMATION

A district may file suit seeking to withhold information if the district receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The district must bring the suit not later than the 30th calendar day after the district receives the attorney general's decision. If the district wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), the district must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, ~~552.353(b)(3)~~

PARENT'S REQUEST
FOR INFORMATION

A district that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, a district may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a district does not bring suit within the period established, the district shall comply with the decision of the attorney general.

Education Code 26.0085

OUTDOOR
ADVERTISING

A person commits an offense if the person ~~willfully~~ erects or maintains outdoor advertising, or ~~allows outdoor advertising to be erected or maintained on property owned by the person,~~ a sign in violation of Transportation Code ~~Chapter~~ **Chapters 391.** ~~Trans. Code 391.031, 391.061~~

~~EXCEPTION~~

~~An outdoor advertising sign may include the logo or emblem of an entity if the sign is erected or maintained by a public school in a county with a population of 65,000 or less, the entity sponsors or provides significant funding to the school, through 395 and the entity's logo or emblem occupies less than 25 percent of the area of the sign.~~ **relevant provisions of the Administrative Code.** ~~Trans. Code 391.037~~ **003, .0031, .061, .067, 392.032, 393.005, 394.021; 43 TAC Chapter 21**

~~DEFINITION~~

**GENERAL
DEFINITIONS**

“Outdoor advertising” means an outdoor sign. **Trans. Code 391.001(10)**

“**Sign**” means a sign, display, light, device, figure, painting, drawing, message, plaque, poster, ~~billboard,~~ or other thing designed, intended, or used to advertise or inform ~~if any part of the advertising or.~~ **Trans. Code 392.001, 393.001, 394.001, 395.002**

“**Electronic sign**” means a sign, display, or device that changes its message or copy by programmable electronic or mechanical processes. **43 TAC 21.251**

“**Directional sign**” means a sign that contains only a message that identifies an attraction or activity and provides directional information ~~content,~~ such as mileage, route number, or exit number, useful to the traveler in locating the attraction or activity. **43 TAC 21.941**

**INTERSTATE OR
PRIMARY SYSTEM**

A district that wishes to erect or maintain outdoor advertising that is visible from the main-traveled way of the interstate or primary system. ~~Trans. Code 391.001(10)~~ shall comply with Transportation Code Chapter 391 and 43 Administrative Code Chapter 21, Subchapter I.

“**Interstate system**” means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.

“**Primary system**” means that portion of connected main highways located in this state that is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.

Trans. Code 391.001

STATE HIGHWAY RIGHT-OF-WAY	<p>A district that wishes to place or maintain a sign on a state highway right-of-way shall comply with Transportation Code Chapter 392.</p> <p>“State highway right-of-way” means the right-of-way of a highway designated as part of the state highway system. <i>Trans. Code 392.001</i></p>
PUBLIC ROAD	<p>A district that wishes to place a sign on the right-of-way of a public road shall comply with Transportation Code Chapter 393.</p>
RURAL ROAD	<p>A district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a rural road shall comply with Transportation Code Chapter 394 and 43 Administrative Code Chapter 21, Subchapter K.</p> <p>“Rural road” means a road, street, way, or bridge:</p> <ol style="list-style-type: none">1. That is located in an unincorporated area;2. That is not privately owned or controlled;3. Any part of which is open to the public for vehicular traffic; and4. That is under the jurisdiction of the state or a political subdivision. <p><i>Trans. Code 394.002</i></p>
TOLL ROAD	<p>A district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a toll road and erected for the purpose of having the message seen from the main-traveled way shall comply with any rules adopted by the governing body of the toll road authority under Transportation Code Chapter 395.</p> <p>This provision applies only to a toll road located in a county with a population of 3.3 million or more; or that is adjacent to a county with a population of 3.3 million or more and in which a municipality with a population of more than 60,000 is located. <i>Trans. Code 395.001</i></p>
ELECTRONIC SIGN	<p>A district that wishes to erect an electronic sign shall comply with 43 Administrative Code Subchapter J.</p>
DIRECTIONAL SIGN	<p>A district that wishes to erect a directional sign shall comply with 43 Administrative Code Subchapter Q.</p>
CHARITABLE RAFFLES	<p>A raffle is the awarding of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or</p>

promised a thing of value for a ticket that represents a chance to win a prize. *Occupations Code 2002.002(6)*

A “qualified nonprofit organization” for purposes of the Charitable Raffle Enabling Act may conduct raffles in accordance with the Act to benefit a district or school. A parent-teacher organization may be qualified to hold such raffles if it meets the requirements of the Act. *Occupations Code 2002.003, 2002.051; Atty. Gen. Op. JM-1176 (1990)* [See also FJ]

REPORTS TO LOCAL
LAW ENFORCEMENT

The principal, or a school employee under his or her supervision who is designated by the principal, shall notify the district police department (if one exists) and the police department of the municipality in which the school is located, or, if the school is not in a municipality, the sheriff of the county in which the school is located, if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. [See GRA(EXHIBIT)]
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16). [See FNCG]
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. [See GRA(EXHIBIT)]
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

The report shall include the name and address of each student the person believes may have participated in the activity, but is not required if the person reasonably believes that the activity does not constitute a criminal offense.

Education Code 37.015, ~~37.007~~(e)

REPORTS TO
JUVENILE JUSTICE
AGENCY

A superintendent or designee may disclose information contained in a student's educational records to a juvenile justice agency if the disclosure is under an interagency agreement authorized by Family Code 58.0051.

A district is not required or authorized to release student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g). [See FL]

Education Code 37.084

STUDENTS TAKEN
INTO CUSTODY

A district shall permit a student to be taken into custody:

1. Pursuant to an order of the juvenile court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer if there is probable cause to believe the student has engaged in delinquent conduct or conduct in need of supervision.
4. By a probation officer if there is probable cause to believe the student has violated a condition of probation imposed by the juvenile court.
5. Pursuant to a properly issued directive to apprehend.
6. By an authorized representative of Child Protective Services (CPS), Texas Department of Family and Protective Services (DFPS), a law enforcement officer, or a juvenile probation officer, without a court order, under the conditions set out in Family Code 262.104 relating to the student's physical health or safety.

Family Code 52.01, 262.104

STUDENTS IN
CUSTODY

A person taking a child into custody, without unnecessary delay and without first taking the child to any place other than a juvenile processing office designated under Family Code 52.025, may, if school is in session, bring the child to the school campus to which the child is assigned if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day. *Family Code 52.02(a)(7)*

NOTICE FROM LAW
ENFORCEMENT

ARREST OF
STUDENT

A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency knows or believes is enrolled as a student in a public primary or secondary school shall orally notify the superintendent or designee in the district in which the student is enrolled or believed to be enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. Within seven days after oral notice is given, the law enforcement agency shall mail written notice. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable a superintendent or a superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by a superintendent or designee in making such a determination. This notice shall be made only if the student

NOTICE OF DISPOSITION OF CHARGES	<p>has been arrested or referred for committing an offense specified at REPORTABLE OFFENSES. <i>Code of Criminal Procedure 15.27(a)</i></p> <p>On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student, for an offense or for any conduct specified at REPORTABLE OFFENSES, the office of the prosecuting attorney shall orally and in writing notify a superintendent or designee of the conviction, deferred prosecution, deferred adjudication, or adjudication and whether the student is required to register as a sex offender. <i>Code of Criminal Procedure 15.27(b)</i></p> <p>The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the district that removed a student to a disciplinary alternative education program, if:</p> <ol style="list-style-type: none">1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice. <p><i>Code of Criminal Procedure 15.27(g)</i></p>
SEX OFFENDER	<p>The local law enforcement authority shall immediately provide notice to the superintendent of the district in which the person subject to registration under the Sex Offender Registration Program intends to reside, by mail to the office of the superintendent, as set out below.</p>
LAW ENFORCEMENT NOTICE TO SUPERINTENDENT	<p>A local law enforcement authority shall provide notice to a superintendent regarding a registered sex offender only if:</p> <ol style="list-style-type: none">1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;2. The person subject to registration is a student enrolled in a public or private secondary school; or3. The basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or

Promotion of Child Pornography), or a substantially similar offense

A local law enforcement authority may not provide notice to a superintendent if the basis for the notice is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.

Code of Criminal Procedure 62.054

NOTICE TO
PERSONNEL
ARREST OF
STUDENT

A superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising a student who has been arrested or taken into custody as provided by a law enforcement agency. All personnel shall keep the information received confidential.

A superintendent or designee may send to an employee having direct supervisory responsibility over the student the information contained in the confidential notice of the student's arrest or referral as provided by the law enforcement agency if the superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

Code of Criminal Procedure 15.27(a), (a-1)

CONVICTION OR
ADJUDICATION OF
STUDENT

When a superintendent or designee receives information from a prosecuting attorney of a student's conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct for an offense specified at REPORTABLE OFFENSES, the superintendent or designee shall, within 24 hours of receiving notification from the office of the prosecuting attorney, notify all instructional and support personnel who have regular contact with the student.
Code of Criminal Procedure 15.27(b)

SEX OFFENDER

On receipt of the notice from law enforcement regarding a registered sex offender, a superintendent shall release the information contained in the notice to appropriate district personnel, including peace officers and security personnel, principals, nurses, and counselors. *Code of Criminal Procedure 62.053(e), ~~62.055(f)~~*

REPORTABLE
OFFENSES

The following are reportable offenses for purposes of this policy:

1. Any felony offense; and
2. The following misdemeanors:
 - a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault),

22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);

- b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and
- c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h)

JUVENILE JUSTICE
INFORMATION
SYSTEM

Juvenile justice agencies in a county or region of Texas may jointly create and maintain a local juvenile justice information system in accordance with Family Code Chapter 58, Subchapter D. A local juvenile justice information system shall include each public school district in the county. *Family Code 58.303, ~~58.305~~*

Districts that are served by a local juvenile justice information system shall have Level 1 Access. Level 1 Access is information that relates to a child:

- 1. Who:
 - a. A school official has reasonable grounds to believe has committed an offense for which a report is required under Education Code 37.015; or
 - b. Has been expelled, the expulsion of which is required to be reported under Family Code 52.041; and
- 2. Who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

Family Code 58.306

Information that is part of a local juvenile justice information system is not public information and may not be released, except as authorized by law. *Family Code 58.307*

CPS INVESTIGATIONS
AT SCHOOL

A school official may not refuse to permit a CPS investigator to interview at school a student who is alleged to be a victim of abuse or neglect under Family Code 261. A school official may not require the CPS investigator to permit district personnel to be present at a student interview conducted at school. *Family Code 261.302(b), ~~261.303(a)~~; Atty. Gen. Op. DM-476 (1998)*

A person that has confidential locating or identifying information regarding a family that is the subject of a CPS investigation shall release that information to DFPS on request. The release of infor-

mation to DFPS as required by this subsection by a person is not subject to Government Code 552.352 or any other law providing liability for the release of confidential information. *Family Code 261.303(e)*

CPS INVESTIGATIONS
OF SCHOOLS

On receipt of a report of alleged or suspected child abuse or neglect in a public school, DFPS shall perform an investigation as provided by Family Code 261. Investigations of school personnel or volunteers for child abuse or neglect shall be conducted by CPS in accordance with the procedures adopted in DFPS rule. *Family Code 261.406; 40 TAC 700.401–.412*

NOTIFICATION TO
PRINCIPAL

Prior to conducting an investigation of school personnel or volunteers, CPS shall notify the school principal (or the principal's supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.

The CPS investigator must request that the school principal (or the principal's supervisor) not alert the alleged perpetrator or others regarding the report until the investigator has first had an opportunity to interview the alleged perpetrator.

40 TAC 700.407

CONDUCTING
INTERVIEWS

School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the CPS investigator, provided the investigator notifies the school principal (or that individual's supervisor in the event that the principal is the alleged perpetrator) prior to conducting an interview or examination on school premises.

PARTICIPANTS

CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:

1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or
2. A better interview or examination of the child would result without school personnel or volunteers being present.

Family Code 261.303; 40 TAC 700.409(a)

REPORT OF
FINDINGS

After DFPS has closed the school investigation, CPS shall provide a report of the investigation to TEA, SBEC, the board president, and the school principal, unless the principal is the alleged perpetrator.

CPS need not provide a report of the investigation if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.

40 TAC 700.411(a), (d)

VISITING SCHOOL
RESOURCE OFFICER

“School resource officer” means a peace officer who is licensed under Occupations Code Chapter 1701 and assigned by the officer’s employing political subdivision to provide:

1. A police presence at a public school;
2. Safety or drug education to students; or
3. Other similar services.

Occupations Code 1701.601, ~~1701.602~~