



UPDATE 93 Adoption Notification Form

Update 93 contains (LOCAL) policies that require board action before we can incorporate Update 93 into your district's *Policy On Line* manual.

Please fill out this form and fax to the attention of Loretta Jeschke at 512-467-3618 or complete the form electronically through the *Policy On Line* Administrator Tools at <https://www.tasb.org/apps/PolicyAdmin> or e-mail pol-support@tasb.org.

181906 West Orange-Cove CISD

Your Name: _____

E-mail: _____

We will send a confirmation e-mail when your update is placed online.

About previous updates:

- Please check the box to confirm. The board has adopted all prior updates. [Please note: Policy Service cannot place Update 93 online unless the board has adopted all prior updates.]

About Update 93:

Please provide us with the **Adoption date:** _____ and **status** of Update 93 by checking the appropriate boxes below:

- Our board has adopted U93 as sent to us by TASB.
 - Place all of Update 93 online immediately.
- OR**
- Place Update 93 online immediately with the exception of FFH(LOCAL) and FFI(LOCAL). Place FFH(LOCAL) and FFI(LOCAL) online on _____ (effective date).

OR

- Our board has acted on all of Update 93, and made additional changes to the policies listed below*:

*If you have changes to the listed policies that you have not already sent to your policy consultant, please attach the policies to this form or e-mail them to your consultant to ensure they are processed as a Local District Update. Your policy consultant may contact you about these policies if necessary.

If you have any questions, please contact Loretta Jeschke by phone at 800-580-7529.

TASB Policy Service

Fax: 512-467-3618



Localized Policy Manual

Update 93

Please remember: Log in to myTASB.tasb.org and open *Policy Service Resource Library: Local Manual Updates* to download a PDF of this update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more.

West Orange-Cove CISD

Update 93 represents the second of the post-legislative updates and encompasses changes in law from the 82nd Legislative Session. Update 93 addresses a variety of major topics, including financial exigency, genetic nondiscrimination, reports of educator misconduct, partnership programs with community colleges, student early mental health intervention and suicide prevention, student expulsion for serious misbehavior while in DAEP, and student records.

Also included in Update 93 are local policies that address employee standards of conduct, challenges to instructional materials, bullying, and harassment.

Please note that Update 93 does *not* include local policy recommendations on student food allergies. The Texas Department of State Health Services will be publishing policy guidelines on that issue by May 1, 2012. Policy recommendations will follow.

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

In addition to the updated policies, your Localized Update 93 packet contains:

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

Vantage Points—A Board Member's Guide to Update 93 may be found in the separately wrapped package accompanying this packet. *Vantage Points* offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute the enclosed copies of *Vantage Points* to your board members** at the earliest possible opportunity, preferably with their review copies of this update.

Update 93 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this update, please call your policy consultant, Erin Oehler, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 93 . . .

- Board action on Localized Update 93 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 93, affecting (LOCAL) policies (see attached list of codes).” Policy On Line districts have access to a list of the (LOCAL) policies included in the update through the Local Manual Updates application in myTASB. Other districts may generate a list of the (LOCAL) policy codes added, revised, or deleted (and the titles/subtitles of those policies) using the Instruction Sheet as a guide and attach that list to the posting. BoardBook compilers should use “Policy Update 93, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.
- **Special Note About Adoption of FFH(LOCAL) and FFI(LOCAL):** Many of the Update 93 recommendations regarding FFH(LOCAL) and FFI(LOCAL) are based on HB 1942, which is effective beginning with the 2012–13 school year. Based on the effective date of HB 1942, some districts may want to implement the Update 93 policy recommendations for FFH(LOCAL) and FFI(LOCAL) effective with the 2012–13 school year so that any current (LOCAL) policies at FFH and FFI are not affected until then. The Update 93 policy recommendations are being provided at this time so districts can begin development of next year’s student handbooks and codes of conduct. Policy Service will release the 2012–2013 *Model Student Handbook* and 2012 *Model Student Code of Conduct* on March 20.

If you wish to delay the effective date of the Update 93 recommendations for FFH(LOCAL) and FFI(LOCAL), the board may indicate in the motion for action that the Update 93 changes to FFH(LOCAL) and FFI(LOCAL) are adopted effective on a future date. A suggested motion for board action on Localized Update 93 is as follows:

*“I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 93 [with the following changes:]. **FFH(LOCAL) and FFI(LOCAL) are adopted effective [insert specific date, not school year].**”*

- The board’s action on Localized Update 93 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the minutes where they make up the authoritative record of your board’s actions. Include a copy of new, replaced, or rescinded (LOCAL) policies.
- In constructing the separate historical record of the manual, the emphasis is on tracking the history of individual policies. For guidance on maintaining this record, please refer to the *Policy Administrator’s Guide* at http://www.tasb.org/services/policy/mytasb/admin_guide/index.aspx.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**



- The update should be incorporated into each of the district's Localized Policy Manuals as soon as practicable. If the district uses Policy On Line, you will need to notify us of the board's action on Update 93 so that your district's Localized Policy Manual as it appears on TASB's Web server can be updated. Policy On Line staff may be reached by phone (800-580-7529 or 512-467-0222), by fax (512-467-3618, using the Update 93 Adoption Notification Form enclosed), by e-mail (pol-support@tasb.org), or through the Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>).
 - Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 93 policy changes should be inspected and revised by the district as needed.
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PLEASE NOTE: This localized update packet and the Update 93 *Vantage Points* may not be considered as legal advice and are not intended as a substitute for the advice of the board's own legal counsel.

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Instruction Sheet

TASB Localized Policy Manual Update 93

District West Orange-Cove CISD

Code	Action To Be Taken	Note
ATTN (LOCAL)	No policy enclosed	See explanatory note
AIA (LEGAL)	Replace policy	Revised policy
BBBA (LEGAL)	Replace policy	Revised policy
BDAF (LEGAL)	Replace policy	Revised policy
BDF (LEGAL)	Replace policy	Revised policy
BQ (LEGAL)	Replace policy	Revised policy
C (LEGAL)	Replace table of contents	Revised table of contents
CCG (LEGAL)	Replace policy	Revised policy
CCH (LEGAL)	Replace policy	Revised policy
CDH (LEGAL)	Replace policy	Revised policy
CEA (LEGAL)	Replace policy	Revised policy
CH (LEGAL)	Replace policy	Revised policy
CQ (LEGAL)	Replace policy	Revised policy
CQA (LEGAL)	Replace policy	Revised policy
CRD (LEGAL)	Replace policy	Revised policy
D (LEGAL)	Replace table of contents	Revised table of contents
DAA (LEGAL)	Replace policy	Revised policy
DAB (LEGAL)	ADD policy	See explanatory note
DAB (LOCAL)	DELETE policy	See explanatory note
DAC (LOCAL)	ADD policy	See explanatory note
DBAA (LEGAL)	Replace policy	Revised policy
DBB (LEGAL)	Replace policy	Revised policy
DECA (LEGAL)	Replace policy	Revised policy
DF (LEGAL)	Replace policy	Revised policy
DFE (LEGAL)	Replace policy	Revised policy
DH (LEGAL)	Replace policy	Revised policy
DH (LOCAL)	Replace policy	Revised policy
DH (EXHIBIT)	Replace exhibit	Revised exhibit
EB (LEGAL)	Replace policy	Revised policy
EEM (LEGAL)	Replace policy	Revised policy
EFA (LOCAL)	Replace policy	Revised policy
EHBC (LEGAL)	Replace policy	Revised policy

Instruction Sheet
TASB Localized Policy Manual Update 93

EHBL	(LEGAL)	Replace policy	Revised policy
FDB	(LEGAL)	Replace policy	Revised policy
FDB	(LOCAL)	Replace policy	Revised policy
FEB	(LEGAL)	Replace policy	Revised policy
FFB	(LEGAL)	ADD policy	See explanatory note
FFB	(LOCAL)	No policy enclosed	See explanatory note
FFF	(LEGAL)	ADD policy	See explanatory note
FFH	(LOCAL)	Replace policy	Revised policy
FFI	(LEGAL)	ADD policy	See explanatory note
FFI	(LOCAL)	Replace policy	Revised policy
FL	(LEGAL)	Replace policy	Revised policy
FNAA	(LEGAL)	Replace policy	Revised policy
FO	(LEGAL)	Replace policy	Revised policy
FOC	(EXHIBIT)	Replace exhibit	Revised exhibit
FOD	(LEGAL)	Replace policy	Revised policy
G	(LEGAL)	Replace table of contents	Revised table of contents
GC	(LEGAL)	ADD policy	See explanatory note
GNC	(LEGAL)	Replace policy	Revised policy

Explanatory Notes

TASB Localized Policy Manual Update 93

District: West Orange-Cove CISD
ATTN (LOCAL) POLICY REVIEW

Please note: Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to bills from the 82nd Regular Legislative Session. Bills from the First Called Session of the 82nd Legislature are so noted. All referenced bills have already gone into effect unless otherwise noted.

AIA (LEGAL) ACCOUNTABILITY
ACCREDITATION AND PERFORMANCE INDICATORS

From HB 2135, we have added a provision allowing the commissioner to award a distinction designation to a campus with a significant number of students below grade 9 who perform satisfactorily on an end-of-course assessment. See CAMPUS DESIGNATIONS, beginning on page 4.

As reflected also on page 4, SB 653 created the Texas Juvenile Justice Department to take over the responsibilities previously held by the Texas Youth Commission, which has been abolished.

BBBA (LEGAL) ELECTIONS
REPORTING CAMPAIGN FUNDS

Two existing statutory provisions from the Election Code have been added to this legally referenced policy. The first requires a specific-purpose committee for supporting or opposing a board candidate to file its campaign treasurer appointment with the secretary of the district. The second provision, related to the process used to terminate the campaign treasurer appointment of an inactive candidate or committee, requires the board to define "inactive candidate or political committee" and requires written notice to the affected candidate or committee about the termination.

A new provision from HB 336 includes a requirement for larger districts to post on their Web sites certain campaign reports filed under Election Code Chapter 254. Reports must be posted not later than the fifth business day after the report is filed with the district. See INTERNET POSTING on page 2.

BDAF (LEGAL) OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

We have made several changes to this legally referenced policy on assessing and collecting taxes, including:

- Deleting an existing statutory provision giving the county appraisal district responsibility for appraising school district property located within the appraisal district, since this text has been moved to CCH.
- At REGISTRATION REQUIREMENTS, updating the name of the licensing agency to the Texas Department of Licensing and Regulation and adding the existing requirement for school district tax officials to satisfy certification requirements. In addition, we have clarified that the board designates the district's tax officials.
- Revising item 4 at DUTIES of the ASSESSOR to reflect new language from HB 843 that allows, by agreement of the assessor and tax payer, electronic delivery of tax bills.
- Reordering provisions so that more general provisions appear first in the policy.

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BDF (LEGAL) BOARD INTERNAL ORGANIZATION CITIZEN ADVISORY COMMITTEES

At COMPOSITION, SB 736 allows a board to appoint representatives of local domestic violence programs to the school health advisory council (SHAC).

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

The elements of the DISTRICT IMPROVEMENT PLAN have been revised as a result of HB 1386. Beginning with the 2012–13 school year, the district improvement plan must include any suicide prevention programs adopted by the district, in accordance with the Health and Safety Code. See item 3 on page 3.

See the explanatory note for FFB.

C (LEGAL) BUSINESS AND SUPPORT SERVICES

We have revised the C section table of contents to rename CDH, now subtitled Public and Private Facilities, and CW, now titled Naming Facilities.

CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

Beginning on page 10, changes to this legally referenced policy address tax exemptions for DISABLED VETERANS and their surviving spouses.

From SB 516 (approved by voters in November 2011) are new provisions allowing a SURVIVING SPOUSE of a disabled veteran to continue to receive the property tax exemption for a residential homestead after the veteran's death. A homestead will qualify if:

- It received the exemption from property taxes under the disabled veteran's exemption;
- The property was the residence homestead of the surviving spouse when the disabled veteran died;
- The property remains the residence homestead of the surviving spouse; and
- The surviving spouse has not remarried.

A surviving spouse who moves his or her residence homestead and has not remarried since the death of the disabled veteran may also qualify for an exemption on the new residence homestead.

Another provision from SB 201 provides for a PRORATED EXEMPTION based on a veteran's disability if the veteran or a surviving spouse qualified for an exemption for only part of a tax year.

CCH (LEGAL) LOCAL REVENUE SOURCES APPRAISAL DISTRICT

We have moved from BDAF(LEGAL) an existing statutory provision giving the county appraisal district responsibility for appraising school district property located within the appraisal district. See APPRAISAL FUNCTION on page 1.

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

Two new REQUIRED INTERNET POSTINGS have been added:

- At item 13, HB 1942 requires a district to post the procedure for reporting bullying as established in the district's local bullying policy; and
- At item 14, HB 336 requires certain larger districts to post a campaign-related report required by Election Code Chapter 254.

CRD (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT HEALTH AND LIFE INSURANCE

SB 155, as reflected at CONTINUATION COVERAGE on page 5, clarifies an employee's ability to continue health insurance through the summer after the employee has resigned. Previous law provided that an employee who resigns after the last day of instruction could continue health insurance until the first anniversary of the date participation in or coverage in the health insurance was first made available to district employees for the last instructional year.

The new law provides that the employee may continue coverage through the earlier of the date described above or the last calendar day before the first day of instruction of the next school year.

D (LEGAL) PERSONNEL

We have revised the D section table of contents to rename DAB, now subtitled Genetic Nondiscrimination. Provisions on Objective Criteria for Personnel Decisions, previously at DAB, have been moved to DAC.

DAA (LEGAL) EMPLOYMENT OBJECTIVES EQUAL EMPLOYMENT OPPORTUNITY

A cross-reference to DAB has been added next to the reference to genetic information at NONDISCRIMINATION—IN GENERAL. DAB, Genetic Nondiscrimination, is a new code at Update 93 that includes material from the Genetic Information Nondiscrimination Act. See the explanatory note for DAB, below.

At RELIGIOUS DISCRIMINATION, on page 3, we have added an existing statutory provision that prohibits the district from directly or indirectly asking about the religious affiliation of a person applying for employment.

The other changes to this legally referenced policy result from final rules on the Americans with Disabilities Act Amendments Act (ADAAA), effective March 25, 2011. Changes include:

- Reorganization of existing provisions to accommodate new material;
- At MITIGATING MEASURES beginning on page 4, clarification that "ordinary eyeglasses and contact lenses" as defined in the regulations will be considered in determining whether an impairment substantially limits a major life activity;

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- New definitions of 'PHYSICAL OR MENTAL IMPAIRMENT' and 'MAJOR LIFE ACTIVITIES' on page 5;
- Clarification that the district has no duty to provide REASONABLE ACCOMMODATIONS when an individual meets the definition of disability solely under the "regarded as" prong of the definition (see page 6);
- On page 7, a prohibition on the use of QUALIFICATION STANDARDS that screen out or tend to screen out individuals with disabilities unless the standards are shown to be job related for the position and consistent with business necessity; and
- New references to the legal authority addressing use of SERVICE ANIMALS by employees.

For more information on the ADA rules, see www.federalregister.gov/articles/2011/03/25/2011-6056/regulations-to-implement-the-equal-employment-provisions-of-the-americans-with-disabilities-act.

Please note: Policy Service records reflect that your school district employs 15 or more employees. If this information is no longer correct, contact your policy consultant for appropriate policy provisions.

DAB (LEGAL) EMPLOYMENT OBJECTIVES GENETIC NONDISCRIMINATION

This new legally referenced policy includes information on Title II of the federal Genetic Information Non-discrimination Act (GINA). In general, GINA prohibits discrimination against employees or applicants based on genetic information; restricts districts from requesting, requiring, or purchasing genetic information; and strictly limits the disclosure of genetic information. The Equal Employment Opportunity Commission adopted final regulations, effective January 10, 2011.

As explained in the Note at the beginning of the legally referenced policy, GINA only applies to districts with 15 or more employees. However, this legally referenced policy is recommended for inclusion in all school district policy manuals because of possible fluctuations in a district's number of employees, which could trigger application of the statutory provisions for a district not previously subject to the provisions.

This policy organizes the material into four main sections: definitions, notices, prohibited practices, and confidentiality.

Districts subject to GINA must post a workplace notice with excerpts from the regulation and information about filing a complaint. TASB HR Services has updated its work-site posters, available in the TASB Bookstore at <http://store.tasb.org>, to include the required notification provisions.

The Equal Employment Opportunity Commission has further information on GINA, available at: <http://www.eeoc.gov/laws/types/genetic.cfm>.

DAB (LOCAL) EMPLOYMENT OBJECTIVES GENETIC NONDISCRIMINATION

We have moved material addressing Objective Criteria for Personnel Decisions to DAC. DAB now addresses Genetic Nondiscrimination.

Explanatory Notes

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DAC (LOCAL) EMPLOYMENT OBJECTIVES
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS

This local policy text addressing Objective Criteria for Personnel Decisions has been moved unchanged from DAB to accommodate new material now at that code addressing the Genetic Information Nondiscrimination Act (GINA).

DBAA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CRIMINAL HISTORY AND CREDIT REPORTS

From new State Board for Educator Certification (SBEC) rules, effective December 19, 2011, we have added a definition of "reported criminal history." SBEC has defined this term to mean information concerning any formal criminal justice system charges and dispositions. See SBEC NOTIFICATION on page 5.

DBB (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

We have added on page 2 a provision from the Genetic Information Nondiscrimination Act (GINA) regulations addressing receipt of GENETIC INFORMATION when a district lawfully requests medical information not related to a request for leave under the Family and Medical Leave Act (FMLA). If the district's request for medical information includes specific language telling the provider not to include any genetic information, any release of genetic information will be deemed inadvertent.

A similar provision has been added in this update at DECA(LEGAL) to address requests for medical information pursuant to the FMLA.

Please note: Policy Service records reflect that your school district employs 15 or more employees. If this information is no longer correct, contact your policy consultant for appropriate policy provisions.

DECA (LEGAL) LEAVES AND ABSENCES
FAMILY AND MEDICAL LEAVE

In Section III on Notices and Medical Certification, we have added to this legally referenced policy a provision from the Genetic Information Nondiscrimination Act (GINA) regulations for districts subject to GINA. [See DAB(LEGAL) for information about the applicability of GINA.] The regulations address receipt of GENETIC INFORMATION when a district lawfully requests medical information pursuant to the Family and Medical Leave Act (FMLA). See page 15. If the district's request for medical information includes specific language telling the provider not to include any genetic information, any release of genetic information will be deemed inadvertent.

A similar provision has been added in this update at DBB(LEGAL) to address requests for medical information not made pursuant to the FMLA.

Explanatory Notes

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DF (LEGAL) TERMINATION OF EMPLOYMENT

At REPORT TO SBEC OF EDUCATOR MISCONDUCT, beginning on page 4, we have added a new provision from amended State Board for Educator Certification (SBEC) rules, effective December 19, 2011, explaining that a superintendent may notify SBEC of any educator misconduct that the superintendent believes in good faith may be subject to sanctions by SBEC. This new provision has also been added to DH(LEGAL) in Update 93.

The amended rules also affected the definition of "SOLICITATION OF A ROMANTIC RELATIONSHIP," beginning on page 5. The revised definition explains that a romantic relationship is often characterized by a strong emotional or sexual attachment, but does not include relationships that arise out of legitimate contexts, such as familial connections or longtime acquaintance. The list of acts that may constitute evidence that an educator has solicited a romantic relationship must be considered in context and now includes creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images and requesting sexual contact, or any activity intended for the sexual gratification of the educator.

DFE (LEGAL) TERMINATION OF EMPLOYMENT RESIGNATION

Amended State Board for Educator Certification (SBEC) rules, effective December 19, 2011, addressing SANCTIONS FOR ABANDONMENT OF CONTRACT have been added, beginning on page 1. Previously the deadline for the board to submit a written complaint to SBEC was within 30 calendar days after the educator submitted a written resignation. Under the amended rules, a board must file the complaint within 30 days of the effective date of the separation. Unless there is a written agreement to the contrary, the effective date of separation is the first day that the educator fails to appear for work without permission. A former provision allowing the district to designate an effective date not later than 14 days after the educator fails to report for duty has been deleted.

The amended rules also list the documents that must be attached to the written complaint, which include the resignation letter, if any; any agreement regarding the effective date of separation from employment; the educator's contract; and board meeting minutes indicating that the board found no good cause for the resignation. If the board does not meet within 30 calendar days of the separation from employment, the minutes may be submitted within 10 calendar days of the next board meeting.

DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

Revisions to this legally referenced policy are from amended State Board for Educator Certification (SBEC) rules, effective December 19, 2011, and include:

- A new definition of "reported criminal history" to mean information concerning any formal criminal justice system charges and dispositions;
- Reordering of the list of circumstances a superintendent must report to match the order in the rules; and
- A new provision explaining that a superintendent may notify SBEC of any educator misconduct that the superintendent believes in good faith may be subject to sanctions by SBEC.

On page 2, we have also added an existing statutory provision requiring a superintendent to provide NOTICE to the board and the educator that the superintendent has filed a written report with SBEC.

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DH (LOCAL) EMPLOYEE STANDARDS OF CONDUCT

Recommended changes at ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS, item 4, reflect revisions to the drug and alcohol related offenses described in Administrative Code Chapter 19, section 249.16(b). As revised, crimes involving moral turpitude include conspiracy to possess a controlled substance or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute a controlled substance. In addition, felony driving while intoxicated (DWI) is listed as a crime involving moral turpitude, replacing previous text that included acts constituting public intoxication, operating a vehicle under the influence, or disorderly conduct. An act constituting neglect under the Family Code is also a crime involving moral turpitude.

Minor stylistic revisions have been made throughout the policy.

DH (EXHIBIT) EMPLOYEE STANDARDS OF CONDUCT

Based on amended State Board for Educator Certification (SBEC) rules, effective December 19, 2011, we have revised the heading of this exhibit to read EDUCATORS' CODE OF ETHICS.

We have also revised Standards 3.6 and 3.9 to better match Administrative Code language:

- Standard 3.6 now prohibits an educator from soliciting or engaging in sexual conduct or a romantic relationship with a student "or minor."
- Standard 3.9 has been adjusted to clarify that the list of electronic communications an educator should not engage in with a student or minor is not an exhaustive list. The list of factors that may be considered in assessing whether a communication is inappropriate is also not exhaustive.

EB (LEGAL) SCHOOL YEAR

HB 1555 creates an EXCEPTION from the general prohibition on scheduling the first day of instruction before the fourth Monday in August. A district may schedule the first day of school on or after the *first* Monday in August at a campus, or at not more than 20 percent of the district's campuses, if the district enrolls 190,000 or more students and the district funds supplemental days of instruction in addition to the statutorily required days of instruction at each campus. Each campus must be undergoing comprehensive reform as determined by the board, and a majority of the students on each campus must be educationally disadvantaged. Currently this exception only applies to Houston ISD.

EEM (LEGAL) INSTRUCTIONAL ARRANGEMENTS JUVENILE RESIDENTIAL FACILITIES

As reflected on page 1 at DEFINITIONS, SB 653 created the Texas Juvenile Justice Department to take over the responsibilities previously held by the Texas Youth Commission, which has been abolished.

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EFA (LOCAL) INSTRUCTIONAL RESOURCES INSTRUCTIONAL MATERIALS

SB 6 (First Called Session) made significant revisions to the law on instructional materials, including replacing the term “textbooks” with “instructional materials.” As a result, we recommend changes to this local policy at OBJECTIVES and at INFORMAL RECONSIDERATION, item 3, to refer to *instructional materials*.

At APPEAL, recommended changes:

- Direct the complainant to file an appeal with the appropriate administrator, rather than a specific level, under the district’s grievance policies; and
- Clarify the documentation that the complainant must include with the appeal, including documentation of the informal reconsideration process, if any, and the Request for Reconsideration of Instructional Materials.

Other recommended changes include:

- Clarifying that the SELECTION CRITERIA apply to the selection of all instructional resources;
- Adding principal *or designee* throughout at INFORMAL RECONSIDERATION; and
- Replacing the specific list of individuals who may raise an objection with the more general term “a complainant” at GUIDING PRINCIPLES.

Please note: We recommend for deletion your unique locally developed language at GUIDING PRINCIPLES requiring principals to review this policy with staff annually, as this information can be placed in administrative regulations.

EHBC (LEGAL) SPECIAL PROGRAMS COMPENSATORY/ACCELERATED SERVICES

HB 3708 and SB 975 establish a new type of PUBLIC JUNIOR COLLEGE PARTNERSHIP PROGRAM. See page 4. Beginning September 1, 2012, a school district may partner with a community college district in which the school district is located to provide a dropout recovery program on the community college campus for students to successfully complete and receive a high school diploma from the school district. See the explanatory note for GNC, below.

Information on MAXIMUM ALLOWABLE INDIRECT COST has also been added to this legally referenced policy, beginning on page 9. As revised by the State Board of Education in November 2011, for the 2011–12 school year the indirect cost allotments increased for compensatory, special, bilingual, and career and technical education. Indirect cost allotments for gifted and talented programs were not changed.

Beginning with the 2012–13 school year, a district may choose to use a greater indirect cost allotment than specified to the extent the district receives less funding per weighted student in maintenance and operations revenue than in the 2011–12 school year.

EHL (LEGAL) SPECIAL PROGRAMS HIGH SCHOOL EQUIVALENCY

As reflected throughout this legally referenced policy, SB 653 created the Texas Juvenile Justice Department to take over the responsibilities previously held by the Texas Youth Commission, which has been abolished.

Explanatory Notes

TASB Localized Policy Manual Update 93

FDB (LEGAL) ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGN-
MENTS

Applicable with the 2012–13 school year, HB 1942 provides new options for a school district to transfer STUDENTS WHO ENGAGE IN BULLYING, as reflected on page 3.

Districts are currently permitted to transfer a victim of bullying. The new law now allows a board to transfer a student who has engaged in bullying to another classroom within the same campus or another campus within the district. A transfer to another campus requires consultation with a parent. The decision to transfer a student receiving special education services must be made by an ARD committee.

HB 1942 also established a new definition of bullying, as referenced in this policy and included in FFI(LEGAL), also issued at this update. See the explanatory note for FFI.

FDB (LOCAL) ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGN-
MENTS

As explained above, beginning with the 2012–13 school year, HB 1942 allows a board to transfer a student who engaged in bullying in addition to a student who was a victim of bullying. As a result, we recommend a change to the Note in this local policy to refer to transfers of victims of bullying or students “who engaged in bullying.”

Please note: We have retained, lightly edited for consistency with policy style, your unique locally developed language throughout this policy.

FEB (LEGAL) ATTENDANCE
ATTENDANCE ACCOUNTING

As added by HB 3708 and SB 975, effective September 1, 2012, a student who is not on campus when attendance is taken may be considered in attendance if the student is participating in a DROPOUT RECOVERY EDUCATION PROGRAM operated by a public junior college under Education Code 29.402. See page 4.

See also the explanatory note for GNC.

FFB (LEGAL) STUDENT WELFARE
CRISIS INTERVENTION

This new legally referenced policy addressing crisis intervention includes new provisions from HB 1386 on early mental health intervention and suicide prevention programs.

HB 1386 requires that the Texas Department of State Health Services (TDSHS) and TEA provide a list of recommended early mental health intervention and suicide prevention programs for implementation in public schools within the general education setting. Each school district may select a program or programs from the list to implement.

The board may adopt a POLICY concerning early mental health intervention and suicide prevention that:

Explanatory Notes

TASB Localized Policy Manual Update 93

FFH (LOCAL) STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RE-
TALIATION

Special Note About Adoption of FFH(LOCAL) and FFI(LOCAL): Many of the Update 93 recommendations regarding FFH(LOCAL) and FFI(LOCAL) are based on HB 1942, which is effective beginning with the 2012–13 school year. Based on the effective date of HB 1942, some districts may want to implement the Update 93 policy recommendations for FFH(LOCAL) and FFI(LOCAL) effective with the 2012–13 school year so that any current (LOCAL) policies at FFH and FFI are not affected until then. The Update 93 policy recommendations are being provided at this time so districts can begin development of next year’s student handbooks and codes of conduct. Policy Service will release the 2012–2013 *Model Student Handbook* and 2012 *Model Student Code of Conduct* on March 20.

If you wish to delay the effective date of the Update 93 recommendations for FFH(LOCAL) and FFI(LOCAL), the board may indicate in the motion for action that the Update 93 changes to FFH(LOCAL) and FFI(LOCAL) are adopted effective on a future date. A suggested motion for board action on Localized Update 93 is as follows:

*“I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 93 [with the following changes:]. **FFH(LOCAL) and FFI(LOCAL) are adopted effective [insert specific date, not school year].**”*

Most of the recommended revisions to this local policy are to coordinate the district's response when alleged conduct could constitute prohibited conduct, as defined at FFH (discrimination, harassment, and dating violence), and/or bullying, as defined at FFI. As indicated in the Note on page 1, the district will need to use FFH and FFI in conjunction in these circumstances, since the district may have additional notification obligations if the conduct also constitutes bullying.

Recommended changes at INVESTIGATION OF THE REPORT specify that if the district official determines that the alleged conduct *would not* constitute prohibited conduct as defined by the policy, the district official will then refer the complaint for consideration under FFI so that the district may consider whether the alleged conduct constitutes bullying. When the district official determines that the alleged conduct *could* constitute prohibited conduct and thus proceeds with an investigation under FFH, the district official must also determine whether the allegations constitute bullying. If appropriate, the district must take interim action to address prohibited conduct or bullying during the investigation.

At CONCLUDING THE INVESTIGATION, new recommended text requires the investigation report to include a determination of whether prohibited conduct or bullying occurred since the DISTRICT ACTION will depend on what type of conduct the investigation reveals.

- If PROHIBITED CONDUCT occurred, the district will take appropriate disciplinary action and may take corrective action reasonably calculated to address the conduct. Examples of CORRECTIVE ACTION are included in the policy.
- If BULLYING occurred, the district will refer to FFI for appropriate notice to parents and district action and to FDB for transfer provisions.
- If IMPROPER CONDUCT occurred that did not rise to the level of prohibited conduct or bullying, the policy clarifies that the district may still take disciplinary or other corrective action to address the conduct.

Other recommended changes to the policy include:

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- Requires that any discipline of a student with disabilities found to have engaged in bullying comply with applicable requirements of federal law, including the IDEA.

The policy and procedures adopted by the board must be included in student and employee handbooks on an annual basis and in the district improvement plan. The procedures for reporting bullying must be posted on a district's Web site "to the extent practicable."

FFI (LOCAL) STUDENT WELFARE
FREEDOM FROM BULLYING

Special Note About Adoption of FFH(LOCAL) and FFI(LOCAL): Many of the Update 93 recommendations regarding FFH(LOCAL) and FFI(LOCAL) are based on HB 1942, which is effective beginning with the 2012–13 school year. Based on the effective date of HB 1942, some districts may want to implement the Update 93 policy recommendations for FFH(LOCAL) and FFI(LOCAL) effective with the 2012–13 school year so that any current (LOCAL) policies at FFH and FFI are not affected until then. The Update 93 policy recommendations are being provided at this time so districts can begin development of next year's student handbooks and codes of conduct. Policy Service will release the 2012–2013 *Model Student Handbook* and 2012 *Model Student Code of Conduct* on March 20.

If you wish to delay the effective date of the Update 93 recommendations for FFH(LOCAL) and FFI(LOCAL), the board may indicate in the motion for action that the Update 93 changes to FFH(LOCAL) and FFI(LOCAL) are adopted effective on a future date. A suggested motion for board action on Localized Update 93 is as follows:

"I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 93 [with the following changes:]. FFH(LOCAL) and FFI(LOCAL) are adopted effective [insert specific date, not school year]."

Recommended changes to this policy reflect the new local policy requirements added by HB 1942, as explained above:

- Conduct that is reported to the district as alleged bullying may also constitute prohibited conduct (discrimination, harassment, and dating violence), as defined at FFH; therefore, the Note on page 1 requires the consideration of both FFH and FFI when an allegation is made.
- The DEFINITION of bullying has been revised to match the statutory definition.
- We have added a new provision prohibiting RETALIATION by a student or district employee against any person who reports bullying, serves as a witness, or otherwise participates in an investigation. EXAMPLES of retaliation have also been included.
- At STUDENT REPORT, we have added text to clarify that the purpose of the report is for the student to obtain assistance and intervention.
- New provisions at PROHIBITED CONDUCT emphasize that alleged bullying may also constitute prohibited conduct, as defined at FFH (discrimination, harassment, and dating violence). If the principal determines that the allegations would constitute prohibited conduct, the investigation will proceed under FFH and that investigation will need to include a determination on both prohibited conduct and bullying.

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- At CONCLUDING THE INVESTIGATION, we have added a requirement that the investigation report include a determination of whether the victim used reasonable self-defense. This is based on the new law, which states that a student who is a victim of bullying and who used reasonable self-defense in response to the bullying cannot be subject to disciplinary action. See also DISCIPLINE.
- If BULLYING occurred, the district shall take appropriate disciplinary action, may take corrective action reasonably calculated to address the conduct, and shall refer to FDB for TRANSFER provisions. Examples of CORRECTIVE ACTION are included in the policy. As stated in the new law, the discipline of a student with a disability is subject to state and federal law. In addition, the principal must notify the victim, the student who engaged in bullying, and any students who witnessed the bullying of available COUNSELING options.
- If IMPROPER CONDUCT occurred that did not rise to the level of prohibited conduct or bullying, the policy clarifies that the district may still take disciplinary or other corrective action to address the conduct.
- New requirements govern publication of the policy and any accompanying procedures. These must be distributed annually in the employee and student handbooks and posted on the district's Web site to the extent practicable. The policy continues to require that the materials be available at each campus and the district's administrative offices.

Other recommended changes to the policy include:

- Reordering of the provisions addressing student FALSE CLAIMS and REPORT FORMAT for better flow.
- Broadening of the employee reporting standard to require a report if the employee *suspects* bullying occurred, whether of a single student or a group of students.

If your district has a designated staff member who coordinates districtwide anti-bullying programs and you would like to include that person's contact information in the district's bullying policy, please contact your policy consultant for sample policy text.

FL (LEGAL) STUDENT RECORDS

New Family Educational Rights and Privacy Act (FERPA) regulations, effective January 3, 2012, resulted in several changes to this legally referenced policy, including:

- New definitions of 'AUTHORIZED REPRESENTATIVE' and 'EDUCATION PROGRAM,' on page 6.
- Beginning on page 9, a new provision clarifying that ORGANIZATIONS CONDUCTING STUDIES for or on behalf of districts must destroy personally identifiable information when no longer needed. These organizations are no longer permitted to return the information to the district in lieu of destroying the information. Another new provision at this margin note provides that a district may redisclose personally identifiable information from education records as part of an agreement with an organization conducting a study for or on behalf of the district.
- On page 17, the new rules clarify that a district may designate as DIRECTORY INFORMATION student ID numbers or other unique personal identifiers displayed on a student ID badge if the number or identifier cannot be used by itself without a PIN, password, or other factor to gain access to education records. If a student or other person could access student records using only the ID number or identifier, then the district could not list the student ID number or identifier as directory information.

Explanatory Notes

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FNAA (LEGAL) STUDENT EXPRESSION DISTRIBUTION OF NONSCHOOL LITERATURE

We have added to this legally referenced policy on distribution of nonschool literature, at NO VIEWPOINT DISCRIMINATION, the recent Fifth Circuit Court of Appeals case *Morgan v. Swanson*. In this case, the Fifth Circuit recognized that private, non-disruptive, student-to-student speech expressing a religious viewpoint is protected speech under the First Amendment and a district may not discriminate against a student based on that speech.

At TIME, PLACE, AND MANNER LIMITATIONS, we have revised the text to refer to permissible viewpoint-neutral regulations and have added a citation to the Fifth Circuit Court of Appeals case *Canady v. Bossier Parish School Board*.

FO (LEGAL) STUDENT DISCIPLINE

As mentioned above, HB 1942, effective with the 2012–13 school year, adopts a new definition of bullying. As a result, we have revised item 7 on page 1 to explain that the definition of bullying has the meaning provided by Education Code 37.0832 as included in FFI.

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

As reflected in this exhibit, at Penal Code Section 20A.02, HB 260 changed the felony offense of “trafficking of persons” to “smuggling of persons.”

FOD (LEGAL) STUDENT DISCIPLINE EXPULSION

HB 968 revises the provisions addressing permissive expulsion for persistent misbehavior in DAEP to permit expulsion when a student engages in documented SERIOUS MISBEHAVIOR IN DAEP despite documented behavioral interventions. See page 4. These changes apply beginning with the 2012–13 school year.

“Serious misbehavior” is defined to include deliberate violent behavior that poses a direct threat to the health or safety of others; extortion; coercion; and conduct that constitutes the offense of public lewdness, indecent exposure, criminal mischief, hazing, or harassment of a student or district employee. Previous language permitting removal for “persistent misbehavior” has been deleted.

G (LEGAL) COMMUNITY AND GOVERNMENTAL RELATIONS

We have revised the G section table of contents to add the new code GC, Public Notices.

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GC (LEGAL) PUBLIC NOTICES

This new legally referenced policy includes provisions from HB 1812 that govern newspaper publication of notices when the law does not specify the manner of publication, including the number of times the notice must be published or the period during which the notice must be published.

If a district is required to publish notice in a county with a population between 30,000 and 36,000 that borders the Red River or in a county that does not have a newspaper meeting the requirements for regular newspaper publication, the district may select a newspaper for publication with less stringent requirements. See SELECTION OF NEWSPAPER IN CERTAIN COUNTIES on page 2.

The legal RATE FOR PUBLICATION is defined as the newspaper's lowest published rate for classified advertising. If no newspaper in the district or county will publish the notice at or below the legal rate, a district may publish the notice using an alternate method of publication, as specified in the policy.

GNC (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES COLLEGES AND UNIVERSITIES

HB 3708 and SB 975 establish a new type of DROPOUT RECOVERY PROGRAM. Beginning September 1, 2012, a school district may partner with a community college district in which the school district is located to provide a dropout recovery program on the community college campus for students to successfully complete and receive a high school diploma from the school district. The APPLICABILITY requirements for colleges and school districts to participate in the program are included on page 3 and limit which colleges and districts may enter into such an agreement. These applicability provisions expire September 1, 2013.

To be eligible to enroll in the program, a student must be under 26 years of age and either: (1) lack no more than three course credits to graduate or (2) have failed to perform satisfactorily on state assessments needed to graduate.

As reflected at FUNDING, the school district must pay the college district a negotiated amount for each enrolled student, not to exceed a certain amount. The student is included in the school district's ADA.

Note: The following provisions apply beginning with the 2011–12 school year. For transition provisions relating to the accreditation and accountability system adopted by the 81st Legislature, see Education Code 39.116.

ACCREDITATION

Each district must be accredited by TEA. A district that is not accredited may not receive funds from TEA or hold itself out as operating a public school of this state. *Education Code 11.001, 39.052(f)*

ACCREDITATION
STATUSES

The Commissioner shall determine criteria for the following accreditation statuses:

1. Accredited
2. Accredited-warned
3. Accredited-probation

Education Code 39.051

ACCREDITATION
CRITERIA

In determining the accreditation status of the District, the Commissioner shall consider performance on student achievement indicators [see STUDENT ACHIEVEMENT INDICATORS, below] and financial accountability [see CFA].

The Commissioner may also consider:

1. The District's compliance with statutory requirements and requirements imposed by rule of the Commissioner or State Board of Education that relate to:
 - a. Reports required by state or federal law or court order;
 - b. High school graduation requirements; or
 - c. Extracurricular activities, student health and safety, purchasing, elementary class size limits, removal of a disruptive student from the classroom, at-risk programs, and prekindergarten programs.
2. The effectiveness of the District's programs for special populations; and
3. The effectiveness of the District's career and technology program.

The District's accreditation status may be raised or lowered based on the District's performance. The District's accreditation status may be lowered based on the performance of one or more cam-

uses in the District that is below a standard required by Education Code Chapter 39, Subchapter F.

Education Code 39.052(b)

STUDENT
ACHIEVEMENT
INDICATORS

The Commissioner shall adopt a set of indicators of student achievement. The student achievement indicators shall include:

1. The results of state assessments, including the results of assessments required for graduation and retaken by students;
2. Dropout rates; and
3. High school graduation rates.

Performance on the state assessment and dropout rate indicators shall be compared to state standards and required improvement. State standards shall be adopted by the Commissioner.

“Required improvement” is the progress necessary for the campus or District to meet state standards and, for the state assessment indicator, the progress necessary for the students to meet each of the performance standards under Education Code 39.0241 (state assessment standards).

Education Code 39.053

NOTICE OF STATUS

The Commissioner shall notify the District if the District has received an accreditation status of accredited-warned or accredited-probation, or a campus’s performance is below standard. The District must notify the parents of students enrolled in the District and property owners in the District of the accreditation status and its implications. *Education Code 39.052(e)*

QUALITY OF
LEARNING
INDICATORS

In addition to the student achievement indicators, the Commissioner shall adopt indicators of the quality of learning for the purpose of preparing performance reports [see AIB]. The quality of learning indicators must include:

1. The percentage of graduating students who meet the course requirements for the Minimum High School Program, the Recommended High School Program, and the Advanced/Distinguished Achievement High School Program;
2. The results of the SAT, ACT, articulated postsecondary degree programs, and certified workforce training programs;
3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;

4. For each campus, the number of students, disaggregated by major student subpopulations, who agree to take courses under the Minimum High School Program;
5. The percentage of students provided accelerated instruction after unsatisfactory performance on a state assessment, the subject of the assessment on which each student failed to perform satisfactorily, the results of second and third administrations of the assessment, the percentage of such students promoted through the grade placement committee process, and the performance of those students in the following school year on the state assessments;
6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;
10. The percentage of students who are not educationally disadvantaged;
11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and
12. The percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

Education Code 39.301

PERFORMANCE
RATINGS

Each year, the Commissioner shall assign each district and campus a performance rating of either acceptable or unacceptable performance. The Commissioner shall evaluate against state standards and consider the performance of each campus in the District on the basis of the campus's performance on the student achievement indicators.

Acceptable performance shall be defined as meeting the state standard established by the Commissioner, based on:

1. Student performance in the current school year; or
2. Student performance as averaged over the current school year and the preceding two school years.

The Commissioner may assign an acceptable performance rating if the campus or District:

1. Performs satisfactorily on 85 percent of the measures the Commissioner determines appropriate with respect to the student achievement indicators. The Commissioner may grant an exception from this criterion only in special circumstances; and
2. Does not fail to perform satisfactorily on the same measure for two consecutive school years.

The Commissioner may grant an exception to the District or a campus if the performance is within a certain percentage, determined by the Commissioner, of the minimum performance standard for the measure of evaluation, or if the District or campus satisfies alternative performance criteria established by the Commissioner.

Education Code 39.054

A student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department or another governmental entity is not considered to be a student of the District in which the program or facility is physically located. *Education Code 39.055*

ACADEMIC
EXCELLENCE
DISTINCTION
DESIGNATIONS

The Commissioner shall award distinction designations. The District or campus may not be awarded a distinction designation unless the District or campus has acceptable performance on the student achievement indicators. *Education Code 39.201*

The Commissioner shall establish a recognized and exemplary rating for districts and campuses. *Education Code 39.202*

CAMPUS
DESIGNATIONS

The Commissioner shall award distinction designations to campuses that meet one or more of the following criteria:

1. The campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement.
2. The campus demonstrates an ability to significantly diminish or eliminate performance differentials between student sub-populations and the campus is ranked in the top 25 percent of campuses in this state under performance criteria adopted by the Commissioner.
3. The campus satisfies the criteria developed by the Commissioner for the following programs or the following specific categories of performance:

- a. Academic achievement in English language arts, mathematics, science, or social studies;
- b. Fine arts;
- c. Physical education;
- d. 21st Century Workforce Development program; and
- e. Second language acquisition program.

In addition, the Commissioner may award a distinction designation to a campus with a significant number of students below grade 9 who perform satisfactorily on an end-of-course assessment instrument. [See EKB]

Education Code 39.203

EXCELLENCE
EXEMPTIONS

Except as listed below, a school or district that is rated exemplary is exempt from requirements and prohibitions imposed under the Education Code, including regulations adopted under the Education Code.

An exemplary campus or district is not exempt from:

1. A prohibition on conduct that constitutes a criminal offense;
2. Requirements imposed by federal law or rule, including requirements for special education or bilingual education programs;
3. A requirement, restriction, or prohibition relating to:
 - a. Curriculum essential knowledge and skills or high school graduation requirements;
 - b. Public school accountability;
 - c. Extracurricular activities;
 - d. Health and safety;
 - e. Purchasing;
 - f. Elementary class size limits;
 - g. Removal of a disruptive student from the classroom;
 - h. At-risk programs;
 - i. Prekindergarten programs;
 - j. Rights and benefits of school employees;
 - k. Special education programs; or

I. Bilingual education programs.

The Commissioner may exempt an exemplary campus from class size limits if the campus submits a written plan showing steps that will be taken to ensure that the exemption will not be harmful to the academic achievement of the students on the school campus. If granted, the exemption remains in effect until the Commissioner determines that achievement levels of the campus have declined.

Education Code 39.232

ELECTIONS
REPORTING CAMPAIGN FUNDS

BBBA
(LEGAL)

Candidates for the Board shall file the designation of a campaign treasurer and all required financial statements with the secretary of the District in accordance with applicable law and directives from the Texas Ethics Commission. *Election Code 251.001–254.001 et seq.*

A specific-purpose committee for supporting or opposing a candidate for the Board shall file its campaign treasurer appointment with the secretary of the District. *Election Code 252.006*

TERMINATION OF
CAMPAIGN
TREASURER
APPOINTMENT

The Board by order may adopt a process by which the secretary of the District may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the secretary of the District.

The order must define “inactive candidate or political committee” and require written notice to the affected candidate or committee of the proposed termination and the effect of termination on the campaign treasurer appointment.

A candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254;
2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the Board; and
3. Has not filed a final report under Election Code 254.065 or 254.125, or a dissolution report under Election Code 254.126 or 254.159.

Before the secretary of the District may terminate a campaign treasurer appointment, the Board must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the Board votes to terminate the appointment. Following that meeting, the secretary of the District shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

Election Code 252.0131

Note: The following provisions apply only to a district located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000.

INTERNET POSTING

The District shall post on its Web site a report filed under Election Code Chapter 254 by a Board member, a candidate for membership on the Board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or Board member. This access is in addition to the public's access to the information through other electronic or print distribution of the information.

The report must be available to the public on the District's Web site not later than the fifth business day after the date the report is filed with the District.

Before making a report available on its Web site, the District may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The information must remain available on the report maintained in the District's office.

Election Code 254.04011

OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF
(LEGAL)

SELECTION OF
ASSESSOR AND
COLLECTOR

The Board may employ a person to assess or collect the District's taxes and may compensate the person as the Board considers appropriate. *Education Code 45.231*

The District may also provide for the assessment or collection of the District's taxes under one of the following methods:

1. Require the county to assess and collect taxes for the District. The Board may revoke the requirement at any time by official action. *Tax Code 6.22(c)*
2. Contract with another taxing unit or the county appraisal district(s) to perform duties relating to the assessment or collection of taxes. *Tax Code 6.24(a)*

REGISTRATION
REQUIREMENTS

In accordance with the Property Taxation Professional Certification Act, the following District tax officials shall be registered with the Texas Department of Licensing and Regulation and satisfy all requirements for certification:

1. An assessor-collector, collector, or other person designated by the Board as the chief administrator of the District's assessment functions, collection functions, or both;
2. All persons engaged in appraisals of real or personal property for ad valorem tax purposes; and
3. A person who performs assessment or collection functions for the District and who is required to register by the chief administrator of the District's tax office.

Occupations Code 1151.151, .160

DUTIES

The assessor and collector shall assess, collect, or assess and collect taxes, as applicable. *Tax Code 6.23(b)*

ASSESSOR

In addition to any other duties that may be required by law, the assessor shall:

1. On receipt of the appraisal roll, determine the total appraised value, total assessed value, and total taxable value of property taxable by the District. *Tax Code 26.04(a)*
2. By August 1 or as soon thereafter as practicable, submit to the Board the appraisal roll showing the total appraised, assessed, and taxable values. *Tax Code 26.04(b)*
3. On receipt of notice of the tax rate for the current tax year, calculate the tax imposed on each property on the appraisal roll for the District. *Tax Code 26.09*

OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF
(LEGAL)

4. By October 1 or as soon thereafter as practicable, prepare and mail a tax bill to each person in whose name the property is listed on the tax roll and to the person's authorized agent. The assessor is not required to mail a tax bill if on or before September 15, the individual or entity entitled to receive a tax bill and the assessor enter into a signed, written agreement providing for delivery of the tax bill by electronic means. *Tax Code 31.01(a), (k)*

COLLECTOR

In addition to any other duties that may be required by law, the collector shall:

1. By August 1 or as soon thereafter as practicable, certify to the Board an estimate of the collection rate for the current year. If the collector certified an anticipated collection rate in the preceding year that was lower than the actual collection rate, the collector shall also certify the amount collected in excess of the anticipated amount in the preceding year. *Tax Code 26.04(b)*
2. Each month, prepare and submit to the Board a written report made under oath accounting for all taxes collected during the preceding month. Reports of collections made in the months of October through January are due on the 25th day of the month following the month that is the subject of the report. Reports of collections made in all other months are due on the 15th day of the month following the month that is the subject of the report. *Tax Code 31.10(a)*
3. Each year, prepare and submit to the Board an annual report made under oath accounting for all taxes collected or delinquent on property taxed by the District during the preceding 12-month period. Annual reports are due on the 60th day following the last day of the fiscal year. *Tax Code 31.10(b)*
4. At least monthly, deposit in the District's depository all taxes collected for the District. The Board may require deposits to be made more frequently. *Tax Code 31.10(c)*
5. If the District's taxes are collected by another taxing unit or the appraisal district, the collector shall deposit taxes in the District's depository daily, unless the Board by official action provides that deposits may be made less often than daily. *Tax Code 31.10(d)*
6. Each year, prepare a current and cumulative delinquent tax roll for the District. *Tax Code 33.03*

OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF
(LEGAL)

7. At least once each year, deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls.
Tax Code 33.04

COLLECTOR'S BOND

The District shall require a tax collector who is a District employee to give bond conditioned on the faithful performance of duties. The bond shall be made payable to and be approved by the Board in an amount determined by the Board. The Board may require a new bond at any time, and failure to give new bond within a reasonable time after demand is a ground for removal from office. The Board may prescribe additional requirements for the bond.

If the District's taxes are collected by a person who is not an employee of the District, the Board may require the person to give bond conditioned on the faithful performance of duties. The bond shall be payable to, approved by, and paid for by the Board in an amount determined by the Board. The Board may prescribe additional requirements for the bond.

The District shall pay the premium for the required bond from its general fund or as provided by intergovernmental contract.

Tax Code 6.29

LIMIT ON
CONTRACTING

The District may not enter into a contract relating to the performance of an activity governed by Title 1 of the Tax Code (i.e., the Property Tax Code) with a member of the board of directors of an appraisal district in which the District participates or with a business entity in which a member of the appraisal board has a substantial interest.

For purposes of the above paragraph, an individual has a substantial interest in a business entity if:

1. The combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or share of the business entity or the individual; or
2. The individual's spouse is a partner, limited partner, or officer of the business entity.

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

Tax Code 6.036(c), (d)

BOARD INTERNAL ORGANIZATION
CITIZEN ADVISORY COMMITTEES

BDF
(LEGAL)

SCHOOL HEALTH ADVISORY COUNCIL	<p>The Board shall establish a local school health advisory council (SHAC) to assist the District in ensuring that local community values are reflected in the District's health education instruction. <i>Education Code 28.004(a)</i> [See EHAA regarding duties of the SHAC]</p> <p>The SHAC shall meet at least four times each year. <i>Education Code 28.004(d-1)</i></p>
COMPOSITION	<p>The Board shall appoint at least five members to the council. A majority of the members must be parents of students enrolled in the District and must not be employed by the District. One of those members shall serve as chair or co-chair of the council.</p> <p>The Board may also appoint one or more public school teachers, public school administrators, District students, health-care professionals, members of the business community, law enforcement representatives, senior citizens, clergy, representatives of nonprofit health organizations, representatives of local domestic violence programs, or representatives of another group.</p> <p><i>Education Code 28.004(d)</i></p>
ANNUAL REPORT	<p>In addition to its other duties, the council shall submit to the Board, at least annually, a written report that includes:</p> <ol style="list-style-type: none">1. Any council recommendation concerning the District's health education curriculum and instruction or related matters that the council has not previously submitted to the Board;2. Any suggested modification to a council recommendation previously submitted to the Board; and3. A detailed explanation of the council's activities during the period between the date of the current report and the date of the last prior written report. <p><i>Education Code 28.004(m)</i></p>
CHANGES IN CURRICULUM	<p>The District must consider the recommendations of the local SHAC before changing the District's health education curriculum or instruction. <i>Education Code 28.004(b)</i></p>
PUBLIC STATEMENT	<p>The District shall publish in the student handbook and post on the District's Internet Web site, if the District has an Internet Web site, a statement of:</p> <ol style="list-style-type: none">1. District policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Education Code 28.002(l) [see EHAB and EHAC];

2. The number of times during the preceding year the SHAC has met;
3. Whether the District has adopted and enforces policies to ensure compliance with TEA's vending machine and food service guidelines for restricting student access to vending machines;
4. Whether the District has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and
5. Notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year [see FFAA].

Education Code 28.004(k)

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

PLANNING AND
DECISION-MAKING
PROCESS

The Board shall adopt a policy to establish a District- and campus-level planning and decision-making process that will involve the professional staff of the District, parents of students enrolled in the District, business representatives, and community members in establishing and reviewing the District's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. *Education Code 11.251(b)*

The planning and decision-making requirements do not:

1. Prohibit the Board from conducting meetings with teachers or groups of teachers other than the District-level committee meetings.
2. Prohibit the Board from establishing policies providing avenues for input from others, including students or paraprofessional staff, in District- or campus-level planning and decision making.
3. Limit or affect the power of the Board to govern the public schools.
4. Create a new cause of action or require collective bargaining.

Education Code 11.251(g), .252(e)

EVALUATION

At least every two years, the District shall evaluate the effectiveness of the District's decision-making and planning policies, procedures, and staff development activities related to District- and campus-level decision making and planning to ensure that they are effectively structured to positively impact student performance. *Education Code 11.252(d)*

ADMINISTRATIVE
PROCEDURE

The Board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the Superintendent, central office staff, principals, teachers, District-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization.

The Board shall ensure that the District-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision making at the District and campus levels.

Education Code 11.251(d)

FEDERAL
REQUIREMENTS

The District policy must provide that all pertinent federal planning requirements are addressed through the District- and campus-level planning process. *Education Code 11.251(f)*

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

REQUIRED PLANS

The Board shall ensure that a District improvement plan and improvement plans for each campus are developed, reviewed, and revised annually for the purpose of improving the performance of all students. The Board shall annually approve District and campus performance objectives and shall ensure that the District and campus plans:

1. Are mutually supportive to accomplish the identified objectives; and
2. At a minimum, support the state goals and objectives under Education Code Chapter 4.

Education Code 11.251(a)

SHARED SERVICES
ARRANGEMENT
FOR DAEP
SERVICES

A district participating in a shared services arrangement for disciplinary alternative education program (DAEP) services shall ensure that the District improvement plan and each campus-level plan include the performance of the DAEP student group for the District. The identified objectives for the improvement plans shall include:

1. Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
2. Attendance rates;
3. Pre- and post-assessment results;
4. Dropout rates;
5. Graduation rates; and
6. Recidivism rates.

19 TAC 103.1201(b)

DISTRICT
IMPROVEMENT
PLAN

The District shall have a District improvement plan that is developed, evaluated, and revised annually, in accordance with District policy, by the Superintendent with the assistance of the District-level committee. The purpose of the District improvement plan is to guide District and campus staff in the improvement of student performance for all student groups, including students in special education programs under Education Code Chapter 29, Subchapter A, in order to attain state standards in respect to the student achievement indicators. *Education Code 11.252(a)* [See AIA]

The District improvement plan must include provisions for:

1. A comprehensive needs assessment addressing performance on the student achievement indicators, and other appropriate

- measures of performance, that are disaggregated by all student groups served by the District, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.
2. Measurable District performance objectives for all appropriate student achievement indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.
 3. Strategies for improvement of student performance that include:
 - a. Instructional methods for addressing the needs of student groups not achieving their full potential.
 - b. Methods for addressing the needs of students for special programs, including:
 - (1) Suicide prevention programs adopted by the District, if any, in accordance with Health and Safety Code Chapter 161, Subchapter O-1 [see FFB];
 - (2) Conflict resolution programs;
 - (3) Violence prevention programs; and
 - (4) Dyslexia treatment programs.
 - c. Dropout reduction.
 - d. Integration of technology in instructional and administrative programs.
 - e. Discipline management.
 - f. Staff development for professional staff of the District.
 - g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.
 - h. Accelerated education.
 4. Strategies for providing to middle school, junior high school, and high school students, those students' teachers and counselors, and those students' parents information about:
 - a. Higher education admissions and financial aid opportunities.

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

- b. The TEXAS grant program and the Teach for Texas grant program.
 - c. The need for students to make informed curriculum choices to be prepared for success beyond high school.
 - d. Sources of information on higher education admissions and financial aid.
5. Resources needed to implement identified strategies.
 6. Staff responsible for ensuring the accomplishment of each strategy.
 7. Time lines for ongoing monitoring of the implementation of each improvement strategy.
 8. Formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

Education Code 11.252(a)

9. A discipline management program providing for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in schools, on school grounds, and in school vehicles. *Education Code 37.083(a)*
10. A dating violence policy that must:
 - a. Include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Family Code 71.0021; and
 - b. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

Education Code 37.0831 [See FFH]

11. A policy addressing sexual abuse and other maltreatment of children that must include:
 - a. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a

child may be a victim of sexual abuse or other maltreatment, using resources developed by TEA. These methods must include the staff training described at Education Code 38.0041(c) [see DMA];

- b. Actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention; and
- c. Available counseling options for students affected by sexual abuse or other maltreatment.

The policy must be included in any informational handbook provided to students and parents.

Education Code 38.0041

The District's plan for the improvement of student performance is not filed with TEA, but the District must make the plan available to TEA on request. *Education Code 11.252(b)*

CAMPUS-LEVEL
PLAN

Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan. The purpose of the campus-level plan is to improve student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the student achievement indicators and any other appropriate performance measures for special needs populations. *Education Code 11.253(c)*

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the student achievement indicator system.
2. Set the campus performance objectives based on the student achievement indicator system, including objectives for special needs populations, including students in special education programs under Education Code Chapter 29, Subchapter A.
3. Identify how the campus goals will be met for each student.
4. Determine the resources needed to implement the plan.
5. Identify staff needed to implement the plan.
6. Set time lines for reaching the goals.
7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.

PLANNING AND DECISION-MAKING PROCESS

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8. Provide for a program to encourage parental involvement at the campus.
9. Include goals and methods for violence prevention and intervention on campus.
10. If the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on:
 - a. Student fitness assessment data, including any data from research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;
 - b. Student academic performance data;
 - c. Student attendance rates;
 - d. The percentage of students who are educationally disadvantaged;
 - e. The use and success of any method to ensure that students participate in moderate to vigorous physical activity; and
 - f. Any other indicator recommended by the local school health advisory council.

Education Code 11.253(d)

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 and Private Facilities
CE	ANNUAL OPERATING BUDGET
CEA	Financial Exigency
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	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	Construction Manager-Agent
CVD	Construction Manager-At-Risk
CVE	Design-Build
CVF	Job Order Contracts
CW	NAMING FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS
CY	INTELLECTUAL PROPERTY

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

MAINTENANCE TAX	The Board may levy, assess, and collect annual ad valorem taxes for the maintenance of the District's schools. <i>Education Code 45.002</i>
TAX RATE CAP	<p>If authorized by a majority of qualified voters of the District voting at an election held for that purpose, the District may impose a maintenance tax rate at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per \$100 of taxable value adopted by the District may not exceed the rate equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by \$1.50.</p> <p>A rate that exceeds this maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.</p> <p>Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than \$1.50 per \$100 of taxable value in the District as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per \$100 of taxable value that is equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by the rate of the maintenance tax levied by the District for the 2005 tax year.</p> <p><i>Education Code 45.003(a), (d)–(f)</i></p>
APPRAISAL ROLL	By August 1 or as soon thereafter as practicable, the District's tax assessor shall submit to the Board the District's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.

Note: The Texas comptroller of public accounts annually publishes *Truth in Taxation: A Guide for Setting School District Tax Rates*. School districts should consult the *Truth in Taxation* guide, available in print form or through the comptroller's Web site at <http://www.window.state.tx.us/taxinfo/proptax/tnt11/pdf/96-1212.pdf>, for detailed guidance on setting local property tax rates.

By August 1 or as soon thereafter as practicable, the District's tax collector shall certify to the Board the estimates and amounts required by law.

Tax Code 26.04(b)

LOCAL REVENUE SOURCES
AD VALOREM TAXES

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CERTIFIED ESTIMATE	By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of District property. <i>Tax Code 26.01(e)</i>
MEETING ON BUDGET AND PROPOSED TAX RATE	The Board shall call a public meeting to discuss and adopt its budget and proposed tax rate. The Board must provide notice of the budget and proposed tax rate meeting, as described below. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. [See CE]
PUBLISHED NOTICE	The Board President shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the District. If no daily, weekly, or biweekly newspaper is published in the District, the President shall provide for publication of notice in at least one newspaper of general circulation in the county in which the District's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.
FORM OF NOTICE	The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law. The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.
TAXPAYER INJUNCTION	If the District has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the District is entitled to an injunction restraining the collection of taxes by the District. An action to enjoin the collection of taxes must be filed before the date the District delivers substantially all of its tax bills.
DISTRICTS WITH JULY 1 FISCAL YEAR	A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of District property in preparing the published notice if the District does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the District may not adopt a tax rate before the District receives the certified appraisal roll for the District. After receipt of the certified appraisal roll, the District must publish a revised notice and hold another public meeting before the District may adopt a tax rate that exceeds:

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1. The rate proposed in the notice prepared using the estimate;
or
2. The District's rollback rate determined under Tax Code 26.08 using the certified appraisal roll.

DECREASE IN DEBT
SERVICE RATE

If the debt service rate calculated under Education Code 44.004(c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the Board President is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

Education Code 44.004

TAX RATE

Before the later of September 30 or the 60th day after the date the certified appraisal roll is received, the Board shall adopt a tax rate for the current tax year that reflects the two components, maintenance and operations expenditures and the debt service rate calculated under Education Code 44.004(c)(5)(A)(ii)(b), and shall notify the assessor of the tax rate adopted. The two components shall be approved separately. *Tax Code 26.05(a)*

The Board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The budget shall be adopted before the adoption of the tax rate. *Tax Code 26.05(b); Education Code 44.004(g)*

EXCEPTION

The District may adopt a budget after the District adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the District elects to adopt a tax rate before receiving the certified appraisal roll for the District. The Board may adopt a tax rate for the current tax year before receipt of the certified appraisal roll if the chief appraiser of the appraisal district in which the District participates has, by April 30, certified to the assessor for the District an estimate of the taxable value of property in the District as provided by Education Code 26.01(e). If the District adopts a tax rate before the adoption of the budget, the effective tax rate and the rollback tax rate of the District shall be calculated based on the certified estimate of taxable value. *Education Code 44.004(j); Tax Code 26.01(e), .05(g)*

EFFECTIVE TAX RATE

The vote on the ordinance setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is

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effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate.”

MAINTENANCE AND
OPERATIONS TAX
RATE

If the ordinance sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the Board must include in the ordinance in type larger than the type used in any other portion of the document the following statement: “THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE”; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: “THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount).”

INTERNET POSTING

The District shall also include on the home page of any Internet Web site operated by the District the following statement: “(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE”; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: “THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount).”

Tax Code 26.05(b)

ELECTION TO RATIFY
SCHOOL TAXES

If the Board adopts a tax rate that exceeds the District’s rollback tax rate as defined in Tax Code 26.08, the registered voters of the District at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money is necessary due to a natural disaster and the governor has requested federal disaster assistance, an election is not required.

Tax Code 26.08(a)

The Board shall order that the election be held in the District on a date not less than 30 or more than 90 days after the date on which it adopted the tax rate. The election need not be held on a uniform election date unless a uniform election date falls within the 30–90 day time period. *Tax Code 26.08(b)*

PROPOSITION

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a

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	<p>proposition submitted to the voters for approval of the imposition or increase of a tax shall specifically state the amount of or maximum tax rate of the tax or tax increase for which approval is sought. <i>Education Code 52.072(e)</i></p>
APPROVAL OF PROPOSITION	<p>If a majority of votes cast in the District favor the proposition, the tax rate for the current year is the rate that was adopted by the Board. If the proposition is not approved, the Board may not adopt a tax rate for the current year that exceeds the District's rollback tax rate. <i>Tax Code 26.08(c)-(d)</i></p>
CALL FOR ELECTION	<p>A call for an election shall be made not later than the 62nd day before election day.</p>
EXCEPTIONS	<p>For an election to be held on the date of the general election for state and county officers, the November uniform election date of even-numbered years, the election shall be called not later than the 78th day before the election day.</p> <p>For an election to be held on a uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 71st day before election day.</p> <p>An election under Tax Code 26.08 to ratify a tax rate adopted by the Board under Tax Code 26.05(g) shall be ordered not later than the 30th day before election day.</p> <p><i>Election Code 3.003, .005, 41.002 [See BBB]</i></p>
NOTICE TO COUNTY CLERK	<p>The Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day.</p>
EXCEPTION	<p>If the Board orders an election under Tax Code 26.08 to ratify a tax rate adopted by the Board under Tax Code 26.05(g), the Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 30th day before election day.</p> <p><i>Election Code 4.008</i></p>
PRECLEARANCE REQUIRED	<p>A rollback election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a rollback election or scheduling of events leading up to or following a rollback election is subject to the preclearance requirement. <i>28 CFR 51.17 [See BBB]</i></p>
TAX INFORMATION TO COUNTY	<p>The District shall provide to the county assessor-collector for each county in which all or part of District territory is located the District's adopted tax rate, maintenance and operations rate, debt rate, ef-</p>

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(LEGAL)

fective tax rate, effective maintenance and operations rate, and rollback tax rate for posting on the county's Internet Web site. The District shall provide the information annually following the adoption of a tax rate by the District for the current tax year. *Tax Code 26.16(a)-(b)*

DISCOUNTS

The Board may adopt one or both of the following discount options for early payment of District taxes. *Tax Code 31.05(a)*

OPTION 1

If the Board adopts Option 1, the following apply regardless of the date on which the District mails its tax bills.

1. Three percent if the tax is paid in October or earlier.
2. Two percent if the tax is paid in November.
3. One percent if the tax is paid in December.

Tax Code 31.05(b)

This discount does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*

OPTION 2

If the Board adopts Option 2, the following discounts apply only when the District mails its tax bills after September 30:

1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.
2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

Tax Code 31.05(c)

BOTH OPTIONS

If the Board adopts both discount options, the discounts described at Option 1 apply unless the District mails its tax bills after September 30, in which case only the discounts described at Option 2 apply. *Tax Code 31.05(a)*

RESCISSION

The Board may rescind a discount lawfully adopted by the Board. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded. *Tax Code 31.05(d)*

SPLIT PAYMENT

The Board may provide for split payment of taxes. If a person pays one-half of the taxes before December 1, he or she may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year. This payment option does

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not apply to taxes that are calculated too late for it to be available.
Tax Code 31.03, .04(c)

DISASTER AREA

Owners of certain property in a disaster area are permitted to pay taxes in installment payments. This option applies to:

1. Real property that:
 - a. Is the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units, or is owned or leased by a business entity that had not more than the amount calculated as provided by Tax Code 31.032(h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity; and
 - b. Is located in a disaster area and has been damaged as a direct result of the disaster;
2. Tangible personal property that is owned or leased by a business entity described above at number 1(a); and
3. Taxes that are imposed on the property by a taxing unit before the first anniversary of the disaster.

If the owner of such property pays at least one-fourth of the taxes imposed on the property before the delinquency date, accompanied by notice that the person will pay the remaining taxes in installments, the owner may make the remainder of the payments in three equal installments. Such installment payments shall not incur penalty or interest if paid by the applicable dates provided for in Tax Code 31.032.

Tax Code 31.032(a)-(b)

PERFORMING
SERVICES IN LIEU OF
PAYING TAXES

The Board may permit certain individuals or business entities to provide certain services to the District in lieu of paying the District property taxes. While performing services for the District, the individual is not an employee of the District and is not entitled to any benefit, including workers' compensation coverage, that the District provides to its employees.

PERSONS 65 AND
OVER

Subject to the requirements contained in Tax Code 31.035, the Board by order or resolution may permit an individual who is at least 65 years of age to perform services for the taxing unit in lieu of paying taxes imposed by the District on property owned by the individual and occupied as the individual's residence homestead.

Tax Code 31.035

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TEACHING SERVICES BY INDIVIDUAL	Subject to the requirements contained in Tax Code 31.036, the Board by resolution may permit qualified individuals, who are not employed by the District, to perform teaching services for the District at a junior high school or high school of the District in lieu of paying taxes imposed by the District on property owned and occupied by the individual as a residence homestead. <i>Tax Code 31.036</i>
TEACHING SERVICES BY EMPLOYEE OF BUSINESS ENTITY	Subject to the requirements contained in Tax Code 31.037, the Board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the District in lieu of paying taxes imposed by the District on property owned by the business entity. <i>Tax Code 31.037</i>
INSTALLMENT PAYMENTS CERTAIN HOMESTEADS	An individual who is disabled or at least 65 and qualifies for a homestead exemption may pay taxes on the residence homestead property in installments. To do so, the individual must pay at least one-fourth of the taxes due before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in installments. The person may pay the remaining taxes without penalty or interest. The first installment must be paid before April 1, the second before June 1, and the third before August 1. <i>Tax Code 31.031</i>
PARTIAL PAYMENTS	The tax collector may decide to accept partial payments of District property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of District taxes. <i>Tax Code 31.07(c)</i>
DELINQUENCY DATE	Taxes are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below: <ol style="list-style-type: none">1. The District has provided for split payments. <i>Tax Code 31.03</i>2. The District's tax bills are mailed after January 10. <i>Tax Code 31.04(a)</i>3. The District's tax bills are mailed after September 30 and the Board has adopted discounts provided by Tax Code 31.05(c). <i>Tax Code 31.04(d)</i> <i>Tax Code 31.02</i>
DELINQUENT TAX COLLECTION	The Board may contract with any competent attorney to represent the District to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of

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compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. *Tax Code 6.30(c)*

ADDITIONAL
PENALTIES

If the District or the tax collector for the District has contracted with a private attorney for the collection of delinquent taxes, the Board may impose, by official action, an additional penalty on taxes that become delinquent on or after February 1 but not later than May 1 and remain delinquent on July 1 of the year in which they become delinquent. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall deliver notice to the property owner of the delinquency and the penalty 30 to 60 days before July 1. *Tax Code 33.07*

If the District or the tax collector for the District has imposed the penalty described above and has contracted with a private attorney for collection of delinquent taxes, the Board may impose, by official action, an additional penalty on all taxes that become delinquent on or after June 1 under Tax Code 26.15(e), 31.03, 31.031, 31.032, 31.04, or 42.42. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall send notice of the delinquency and the penalty to the property owner. The penalty is incurred on the first day of the first month that begins at least 21 days after the date the notice is sent. *Tax Code 33.08*

HOMESTEAD
EXEMPTIONS

An adult is entitled to exemption from taxation of \$15,000 of the appraised value of his or her residence homestead except that \$10,000 of the exemption does not apply to an entity operating under former Education Code Chapters 17, 18, 25, 26, 27, or 28, as those chapters existed on May 1, 1995. An adult who is disabled or 65 or older is entitled to an additional \$10,000 exemption of the appraised value of his or her residence homestead. *Tax Code 11.13(b)-(c)*

APPLICATION FOR
EXEMPTION

To receive the residence homestead exemptions, the person claiming the exemption must apply for the exemption. *Tax Code 11.43*

PERSONS 65
AND OVER OR
DISABLED
PERSONS

The District shall not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older, or on the residence homestead of an individual who is disabled as defined by Section 11.13 of the Tax Code, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for an applicable exemption. *Tax Code 11.26(a)*

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OTHER LIMITATIONS	<p>Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Tax Code 11.13(c) for the same homestead was the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed as provided by Tax Code 11.26(a-1). <i>Tax Code 11.26(a-1)</i></p> <p>Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Tax Code 11.13(c) for the same homestead was a tax year before the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed as provided by Tax Code 11.26(a-2). <i>Tax Code 11.26(a-2)</i></p> <p>Except as provided at IMPROVEMENTS, below, a limitation on tax increases provided by this section on a residence homestead computed under Tax Code 11.26(a-1) or (a-2) continues to apply to the homestead in subsequent tax years until the limitation expires. <i>Tax Code 11.26(a-3)</i></p>
IMPROVEMENTS	<p>The District may increase the taxes if improvements are made to the property, but that tax amount is then frozen. <i>Tax Code 11.26(b)</i></p>
PORTABILITY OF LIMITATION	<p>If an individual who receives the 65-and-over limitation on tax increases subsequently qualifies for a different resident homestead, the District may impose taxes on the subsequently acquired homestead only in accordance with Tax Code 11.26. <i>Tax Code 11.26(g)-(h)</i></p>
HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE	<p>If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land in accordance with Tax Code 11.135 and 11.26(n)-(o) and 34 Administrative Code 9.416. <i>Tax Code 11.135, .26(n)-(o); 34 TAC 9.416</i></p>
DISABLED VETERANS	<p>A disabled veteran who receives from the U.S. Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption</p>

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from taxation of the total appraised value of the veteran's residence homestead.

SURVIVING
SPOUSE

The surviving spouse of a disabled veteran who qualified for an exemption when the veteran died is entitled to an exemption from taxation of the total appraised value of the same property to which the disabled veteran's exemption applied if:

1. The surviving spouse has not remarried since the death of the disabled veteran; and
2. The property:
 - a. Was the residence homestead of the surviving spouse when the disabled veteran died; and
 - b. Remains the residence homestead of the surviving spouse.

If a surviving spouse who qualifies for an exemption subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption of the former homestead in the last year in which the surviving spouse received an exemption for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

The surviving spouse is entitled to receive a written certificate providing the information necessary to determine the amount of the exemption to which the surviving spouse is entitled from the chief appraiser of the appraisal district in which the former residence homestead was located.

PRORATED
EXEMPTION

A disabled veteran or surviving spouse who qualifies for an exemption for part of a tax year may receive the exemption, calculated in accordance with Tax Code 26.1125, for the applicable portion of the tax year upon qualification for the exemption.

Tax Code 11.131, .42(e)

ADDITIONAL
EXEMPTIONS

The Board may grant additional tax exemptions for homesteads, historic sites, certain tax-exempt corporations, and charitable organizations, as provided by law. *Tax Code 11.13, .184, .24; Tex. Const. Art. VIII, Sec. 1-b*

NOTICE OF OPTIONAL
EXEMPTION

If the District adopts, amends, or repeals an exemption that the District by law has the option to adopt or not, the District shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action. *Tax Code 6.08*

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NATURAL DISASTER	If the District is located partly or entirely inside an area declared by the governor to be a natural disaster area, the Board may authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. <i>Tax Code 23.02(a)</i>
REINVESTMENT ZONES / TAX INCREMENT FINANCING	The governing body of a municipality or county may designate a geographic area as a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, in accordance with the Tax Increment Financing Act, Tax Code Chapter 311. <i>Tax Code 311.003(a)</i>
BOARD OF DIRECTORS	<p>The Board may appoint one member of the reinvestment zone's board of directors if the District has approved the payment of all or part of the tax increment produced by the District into the tax increment fund for the zone or may waive that right. <i>Tax Code 311.009(a)</i></p> <p>In certain reinvestment zones, the Board may be entitled to appoint more than one member of the reinvestment zone's board of directors. <i>Tax Code 311.0091(a)-(b)</i></p> <p>When the reinvestment zone has been designated upon petition of property owners under Tax Code 311.005(a)(4), the Board may appoint a member or members, as appropriate, of the reinvestment zone's board of directors only if it has approved the payment of all or part of the tax increment produced by the District into the tax increment fund for the zone. <i>Tax Code 311.009(b), .0091(c)</i></p>
COLLECTION AND DEPOSIT OF TAX INCREMENTS	<p>The District shall provide for the collection of its taxes in the zone as for any other property tax and shall pay into the zone's tax increment fund the amount specified by law. Notwithstanding any termination of the reinvestment zone and unless otherwise specified by an agreement between the District and the municipality or county that created the zone, this payment shall be made no later than 90 days after the later of the delinquency date for District property taxes or the date the municipality or county that created the zone submits to the District an invoice specifying the tax increment produced by the District and the amount the District is required to pay into the tax increment fund for the zone. The District is not required to pay the portion attributable to delinquent taxes until those taxes are collected. The District shall not be required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, except as provided by law. <i>Tax Code 311.013</i></p> <p>The District is not required to pay into the tax increment fund any of its tax increment produced from a reinvestment zone created upon</p>

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petition of property owners under Tax Code 311.005(a) unless it enters into an agreement to do so with the governing body of the municipality or county that designated the zone. *Tax Code 311.013(f)*

The District is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to a reinvestment zone under Tax Code 311.007 unless the Board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.013(k)*

A district that participates in a zone is not required to increase the percentage or amount of the tax increment to be contributed by the District because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the Board by official action approves the amendment. *Tax Code 311.011(g)*

A district whose taxable value is reduced under Government Code 403.302(d)(4) shall pay into the tax increment fund, in addition to the amount otherwise required to be paid, the amount by which the amount of taxes the District would have been required to pay into the fund in the current year if the District levied taxes at the rate the District levied in 2005 exceeds the amount the District is otherwise required to pay into the fund in the year of the reduction. This additional amount may not exceed the amount the District receives in state aid for the current tax year under Education Code 42.2514. The District shall pay the additional amount after the District receives the state aid to which the District is entitled for the current tax year under Education Code 42.2514. *Tax Code 311.013(n)*

Notwithstanding the designation of a later termination date under Tax Code 311.017(a), a district that taxes real property located in the reinvestment zone is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the Board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.017(a-1)*

If the governing body of the municipality or county that designated a reinvestment zone extends the term of all or a portion of the zone, the District is not required to participate in the zone or portion of the zone for the extended term unless the District enters into a written agreement to do so. *Tax Code 311.007(c)*

GOODS-IN-TRANSIT

A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit.

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In accordance with Tax Code 11.253, the Board may provide for the taxation of goods-in-transit exempt as set out above and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the Board must conduct a public hearing as required by Texas Constitution Article VIII, Section 1-n(d). The goods-in-transit remain subject to taxation by the District until the Board rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed above will apply to that District.

Notwithstanding official action that was taken before October 1, 2011, to tax goods-in-transit, the District may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the Board takes official action on or after October 1, 2011, to provide for the taxation of the goods-in-transit.

EXCEPTION

If the Board, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the District, the District tax officials may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

Tax Code 11.253(b), (j)–(j-2)

REINVESTMENT
ZONES
TAX ABATEMENT

On or after September 1, 2001, the District may not enter into a tax abatement agreement under Tax Code Chapter 312. *Tax Code 312.002(f)*

DISTRICT
DESIGNATED

Notwithstanding any other provision of Tax Code Chapter 312 to the contrary, the Board, in the manner required for official action and for purposes of Tax Code Chapter 313, Subchapter B or C [see TEXAS ECONOMIC DEVELOPMENT ACT, below], may designate an area entirely within the territory of the District as a reinvestment zone if the Board finds that, as a result of the designation and the granting of a limitation on appraised value, for property located in the reinvestment zone, the designation is reasonably likely to:

1. Contribute to the expansion of primary employment in the reinvestment zone; or
2. Attract major investment in the reinvestment zone that would:
 - a. Be a benefit to property in the reinvestment zone and to the District; and

- b. Contribute to the economic development of the region of this state in which the District is located.

The Board may seek the recommendation of the commissioners court of each county and the governing body of each municipality that has territory in the District before designating an area as a reinvestment zone.

Tax Code 312.0025

TEXAS ECONOMIC
DEVELOPMENT ACT

In order to attract large-scale capital investments, create new jobs, strengthen the economy, and expand the property tax base, districts may offer certain ad valorem tax benefits and financial benefits in accordance with the Texas Economic Development Act. *Tax Code 313*

Districts should strictly interpret the criteria and selection guidelines and approve only those applications for an ad valorem tax benefit or financial benefit that:

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and
4. Advance the economic development goals of Texas as identified by the Texas Strategic Economic Development Planning Commission.

Tax Code 313.004(3)

Note: For complete information regarding the Texas Economic Development Act, refer to Tax Code Chapter 313 and 34 Administrative Code Chapter 9, Subchapter F.

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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PARTICIPATION The District shall participate in the appropriate countywide appraisal district or districts. *Tex. Const., Art. VIII, Sec. 18(b)*

APPRAISAL FUNCTION The county appraisal district shall be responsible for appraising District property in the appraisal district for ad valorem tax purposes. *Tax Code 6.01(b)*

APPRAISAL DISTRICT BOARD OF DIRECTORS The Board shall participate in the election of the board of directors of the appraisal district or districts as provided by law.

ELIGIBILITY To be eligible to serve on the appraisal district board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the appraisal district and must have resided in the appraisal district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the appraisal district board is not ineligible because of membership on the governing body of a taxing unit.

A District employee is not eligible to serve on the board of directors unless the employee is also a member of another governing body or an elected official of a taxing unit that also participates in the appraisal district.

Tax Code 6.03(a)

RESTRICTIONS NEPOTISM An individual is ineligible to serve on an appraisal district board of directors if the individual is related:

1. Within the second degree by consanguinity or affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE], to an individual who is engaged in the business of appraising property for compensation for use in proceedings relating to property taxes or of representing property owners for compensation in proceedings relating to property taxes in the appraisal district.
2. Within the third degree by consanguinity or within the second degree by affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE], to a member of the appraisal district's board of directors.

DELINQUENT TAXES An individual is ineligible to serve on an appraisal district board of directors if the individual owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless the delinquent taxes and any penalties and interest are being paid under an installment payment agreement, or a suit to collect the delinquent taxes is deferred or abated.

Tax Code 6.035(a)

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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(LEGAL)

CONFLICT OF INTEREST	<p>An individual is not eligible to be appointed to or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:</p>
	<ol style="list-style-type: none">1. The appraisal district; or2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity relating to property taxes.
	<p>An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or shares of the business entity or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.</p>
	<p>"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.</p>
	<p><i>Tax Code 6.036</i></p>
RECALL	<p>The School Board, by resolution submitted to the county clerk, may call for the recall of a member of the board of directors of an appraisal district for whom the School Board cast any of its votes in the appointment of the appraisal district board in accordance with Tax Code 6.033. <i>Tax Code 6.033(a)</i></p>
TERMS	<p>The taxing units participating in an appraisal district may provide that the terms of the appointed members of the appraisal district board of directors be staggered in accordance with Tax Code 6.034. <i>Tax Code 6.034(a)</i></p>
APPRAISAL OFFICE	<p>The board of directors of an appraisal district may contract with a taxing unit in the appraisal district to perform the duties of the appraisal office for the appraisal district. <i>Tax Code 6.05(b)</i></p>
OWNERSHIP OR LEASE OF REAL PROPERTY	<p>The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of appraisal district board members.</p>
	<p>The appraisal district board of directors by resolution may propose a property transaction or other action for approval of the taxing units. The chief appraiser shall notify the School Board President by delivering a copy of the appraisal district board's resolution, together with information showing the costs of other available alternatives to the proposal.</p>

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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On or before the 30th day after the date the School Board President receives notice of the proposal, the School Board by resolution may approve or disapprove the proposal. If the School Board fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the 10th day after that 30th day, the proposal is treated as if it were disapproved by the School Board.

PROCEEDS

The proceeds of a conveyance of appraisal district property shall be credited to each taxing unit that participates in the appraisal district in proportion to the unit's allocation of the appraisal district budget in the year in which the transaction occurs.

Tax Code 6.051(b)-(c)

BUDGET AND
FINANCING

Each year the chief appraiser shall prepare a proposed budget for the operations of the appraisal district for the following tax year as described in Tax Code 6.06(a) and shall submit a copy to the School District before June 15.

PUBLIC POSTING

Each taxing unit entitled to vote on the appointment of appraisal district board members shall maintain a copy of the proposed budget for public inspection at its principal administrative office.

BUDGET ADOPTION

The appraisal district board of directors shall hold a public hearing to consider the budget. The secretary of the appraisal district board shall deliver to the School Board President not later than the 10th day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The appraisal district board of directors shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15.

If governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving a budget and file them with the secretary of the appraisal district board within 30 days after its adoption, the budget does not take effect, and the appraisal district board shall adopt a new budget within 30 days of the disapproval.

AMENDMENTS

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the district not later than the 30th day before the date the board acts on it.

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

CCH
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ALLOCATION	<p>Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget and must pay its allocation as provided by Tax Code 6.06.</p> <p><i>Tax Code 6.06(a)–(d)</i></p>
CHANGES IN METHOD OF FINANCING	<p>The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the appraisal district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit that participates in the appraisal district adopts a resolution opposing the different method, and files it with the appraisal district board of directors before September 1. If an appraisal district board proposal is rejected, the appraisal district board shall notify, in writing, each taxing unit participating in the appraisal district before September 15.</p> <p>The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the district in accordance with Tax Code 6.061.</p> <p><i>Tax Code 6.061(a)–(b)</i></p>
DISAPPROVAL OF APPRAISAL DISTRICT BOARD ACTIONS	<p>If the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. <i>Tax Code 6.10</i></p>
APPRAISAL REVIEW BOARD	<p>An appraisal review board is established for each appraisal district, unless the boards of directors of two or more adjoining appraisal districts provide for the operation of a consolidated appraisal review board by interlocal contract. Members of the appraisal review board are appointed by the appraisal district board of directors.</p> <p>Members of the appraisal review board are subject to the eligibility restrictions described in Tax Code 6.412, including prohibitions on service by school district board members, officers, and employees, and Tax Code 6.413, including prohibitions on service by individuals who are parties to certain contracts.</p> <p><i>Tax Code 6.41, .412–.413</i></p>
EXCEPTION	<p>In a county with a population of 3.3 million or more or a county with a population of 550,000 or more that is adjacent to a county with a population of 3.3 million or more, the members of the appraisal re-</p>

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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(LEGAL)

view board are appointed in accordance with Tax Code 6.41 by the local administrative district judge in the county in which the appraisal district is established. *Tax Code 6.41(d-1)*

PROHIBITION ON
CONTRACTS

The School District may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the School District participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413. *Tax Code 6.413*

AUXILIARY APPRAISAL
REVIEW BOARD
MEMBERS

The board of directors of an appraisal district by resolution of a majority of the members may provide for a number of auxiliary appraisal review board members that the appraisal district board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the appraisal district board in performing its duties. *Tax Code 6.414(a)*

An auxiliary board member is appointed in the same manner and for the same term as an appraisal review board member and is subject to the same eligibility requirements. *Tax Code 6.414(b)*

An auxiliary board member may:

1. Attend meetings of the appraisal review board but may not vote in a determination made by the board or serve as chairman or secretary of the board. An auxiliary board member is not included in determining what constitutes a quorum of the board or whether a quorum is present at any meeting of the board.
2. Hear taxpayer protests before the appraisal review board. If one or more auxiliary board members sit on a panel established under Tax Code 41.45 to conduct a protest hearing, the number of regular appraisal review board members required to constitute the panel is reduced by the number of auxiliary board members sitting. An auxiliary board member sitting on a panel is considered a regular board member for all purposes related to the conduct of the hearing.
3. Make a recommendation to the appraisal review board regarding a protest heard by the member but is not entitled to vote on the determination of the protest by the board.

Tax Code 6.414(c), (d), (e)

OTHER REVENUES
PUBLIC AND PRIVATE FACILITIES

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(LEGAL)

PUBLIC FACILITIES
CORPORATIONS

If the Board determines that it is in the public interest and to the benefit of its residents and the citizens of this state that a corporation be created under Local Government Code Chapter 303 to finance, refinance, or provide the costs of District public facilities, the Board by resolution may authorize and create one or more nonmember, nonstock, nonprofit public facility corporations to issue bonds to purchase District obligations, finance public facilities for the District, or loan the proceeds of the obligations to other entities to accomplish the purposes of the District.

The District may use the corporation to acquire, construct, rehabilitate, renovate, repair, equip, furnish, or place in service public facilities of the District or to issue bonds on the District's behalf to finance the cost of District's public facilities.

Local Gov't Code Ch. 303

PUBLIC AND PRIVATE
FACILITIES AND
INFRASTRUCTURE
PARTNERSHIPS

The District may enter into a partnership with a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities that serve a public need and purpose in accordance with the requirements of Government Code Chapter 2267. *Government Code Ch. 2267*

ANNUAL OPERATING BUDGET
FINANCIAL EXIGENCY

CEA
(LEGAL)

DEFINITION	Financial exigency means the financial position of the District as a whole is such that the financial resources of the District are insufficient to support existing academic programs or the District is unable to finance the full compensation of staff for the current or succeeding fiscal year.
DECLARING A FINANCIAL EXIGENCY	<p>The Board may adopt a resolution declaring a financial exigency for the District under one or more of the following conditions:</p> <ol style="list-style-type: none">1. A decrease of more than 20 percent in unassigned General Fund balance per student in weighted average daily attendance over the past two years or a projected reduction of 20 percent compared to the current year;2. A decline in enrollment by more than ten percent over the past five years;3. A reduction of more than ten percent in total General Fund total funding per student in weighted average daily attendance or a projected reduction of ten percent compared to the current year;4. An unforeseen natural disaster requiring significant expenditures for repair or remediation in excess of 15 percent of the current year General Fund budget;5. An unanticipated major expense, including significant repair costs; litigation expenses, excluding lawsuits against the state; or tax refunds in excess of 15 percent of the current year General Fund budget; or6. Any other circumstances approved in writing by the Commissioner.
EXPIRATION AND CONTINUATION OF DECLARATION	The declaration expires at the end of the fiscal year during which the declaration is made unless the Board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year. The Board is not limited in the number of times the Board may adopt a resolution declaring continuation of the financial exigency.
TERMINATION OF DECLARATION	The Board may terminate a financial exigency declaration at any time if the Board considers it appropriate.
NOTICE TO THE COMMISSIONER	Each time the Board adopts a resolution under Education Code 44.011, the Board must notify the Commissioner within 20 calendar days of the adoption. The notice must include the date the resolution was adopted and the reason(s) for the declaration of financial exigency. The notice must be signed by the Board President and

West Orange-Cove CISD
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ANNUAL OPERATING BUDGET
FINANCIAL EXIGENCY

CEA
(LEGAL)

submitted to the Texas Education Agency division responsible for
financial audits.

Education Code 44.011; 19 TAC 109.2001

[See DFF]

PURCHASING AND ACQUISITION

CH
(LEGAL)

BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.</p>
DISASTER EXCEPTION	<p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting the District, the Board may delegate to the Superintendent or designated person the authority to contract for the replacement or repair of school equipment under Education Code Chapter 44, Subchapter B if emergency replacement or repair is necessary for the health and safety of District students and staff.</p> <p><i>Education Code 44.0312</i></p>
PURCHASES VALUED AT OR ABOVE \$50,000	<p>All District contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the District:</p> <ol style="list-style-type: none">1. Competitive bidding for services other than construction services.2. Competitive sealed proposals for services other than construction services.3. A request for proposals for services other than construction services.4. An interlocal contract.5. The reverse auction procedure as defined by Government Code 2155.062(d).6. The formation of a political subdivision corporation under Local Government Code 304.001. <p><i>Education Code 44.031(a)</i></p>

Note: Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC and CVD for contracts using a construction manager; CVE for design/build contracts; and CVF for job order contracts for minor repairs/alterations.

FACTORS

In awarding a contract, the District shall consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the District's needs.
5. The vendor's past relationship with the District.
6. The impact on the ability of the District to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the District to acquire the goods or services.
8. For a contract that is not for goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.
9. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.
Education Code 44.031(b-1)

The factors listed above are the only criteria that may be considered by the District in its decision to award a contract. R.G.V.

PURCHASING AND ACQUISITION

CH
(LEGAL)

Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.)

OUT-OF-STATE
BIDDERS

The Board shall not award a contract for services or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. *Gov't Code 2252.001–.002*

This requirement shall not apply to a contract involving federal funds. The District shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003–.004*

CONTRACT WITH
PERSON INDEBTED
TO DISTRICT

The Board may, by resolution, establish regulations permitting the District to refuse to enter into a contract or other transaction with a person indebted to the District. The District may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the District.

The term “person” includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the District requiring Board approval.

Education Code 44.044

NOTICE
PUBLICATION

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the District's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

ELECTRONIC BIDS OR
PROPOSALS

The District may receive bids or proposals through electronic transmission if the Board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

PURCHASING AND ACQUISITION

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(LEGAL)

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the Board.

Education Code 44.0313

PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, certified public accountant, engineer, or fiscal agent.

The District may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, .003(a)*

An interlocal contract between the District and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

[See also CV]

EMERGENCY DAMAGE
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

COMPUTERS

The District may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

PURCHASING AND ACQUISITION

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(LEGAL)

AUTOMATED
INFORMATION
SYSTEM

The District may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*

AUTOMATED
EXTERNAL
DEFIBRILLATORS

A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. *Education Code 44.047*

SOLE SOURCE

Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Education Code 44.031(j)-(k)

INSURANCE

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR
CONTRACTS

The District may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If the District executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the District will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE
BIDDING

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, the District may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).

PURCHASING AND ACQUISITION

CH
(LEGAL)

The District shall award a competitively bid contract at the bid amount to the bidder offering the best value for the District. In determining the best value for the District, the District is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see FACTORS, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.

Education Code 44.0351

OPENING BIDS

Bids may be opened only by the Board at a public meeting or by an officer or employee of the District at or in an office of the District. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. *Local Gov't Code 271.026*

The Board shall have the right to reject any and all bids. *Local Gov't Code 271.027(a)*

SAFETY RECORD

In determining who is a responsible bidder, the Board may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that:

1. The Board has adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. The Board has given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275

IDENTICAL BIDS

If the District receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of the District, that bidder shall be selected. If two or more such bidders are residents of the District, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

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The Board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

Local Gov't Code 271.901

COMPETITIVE SEALED PROPOSALS

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), the District shall follow the procedures prescribed below.

REQUEST FOR PROPOSALS

The District shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The District shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

OPENING PROPOSALS

The District shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the District shall evaluate and rank each proposal submitted in relation to the published selection criteria.

SELECTION

The District shall select the offeror that offers the best value for the District based on the published selection criteria and on its ranking evaluation. The District shall first attempt to negotiate a contract with the selected offeror. The District may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the District is unable to negotiate a satisfactory contract with the selected offeror, the District shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

BEST VALUE DETERMINATION

In determining the best value for the District, the District is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

Education Code 44.0352

INTERLOCAL AGREEMENTS

To increase efficiency and effectiveness, the District may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions. *Gov't Code 791.001, .011, .025*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

PURCHASING AND ACQUISITION

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(LEGAL)

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed and may have a specified term of years.

Gov't Code 791.011(d)–(f), (i)

The District may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b)–(c); Atty. Gen. Op. JC-37 (1999)

STATE PURCHASING
PROGRAM

Purchasing services performed for the District by the comptroller shall include:

1. The extension of state contract prices to the District when the comptroller considers it feasible.
2. Solicitation of bids on items desired by the District if the solicitation is considered feasible by the comptroller and is desired by the District.
3. Provision of information and technical assistance to the District about the purchasing program.

The comptroller may charge the District its actual costs in providing purchasing services.

Local Gov't Code 271.082

DISTRICT
REQUIREMENTS

The District may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the Board requesting that the District be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the Board shall:

1. Designate an official to act for the District in all matters relating to the program, including the purchase of items from the vendor under any contract.

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2. Direct the decisions of its representative.
3. Be responsible for:
 - a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the comptroller reports on actual purchases.
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

MULTIPLE AWARD
CONTRACT
SCHEDULE

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.

The District may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code 2157.

The price listed for a good or service under a multiple award contract is a maximum price. The District may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155, Subch. 1

COOPERATIVE
PURCHASING
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative stating that the District will:

1. Designate a person to act on behalf of the District in all matters relating to the program.
2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

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(LEGAL)

If the District participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

CONTRACT-RELATED
FEE

A district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the Board. The written report must appear as an agenda item. The Commissioner may audit the written report.

Education Code 44.0331

STATE COUNCIL ON
COMPETITIVE
GOVERNMENT

As approved by the State Council on Competitive Government, the District may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A district that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

REVERSE AUCTION

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the District and fair to vendors. *Local Gov't Code 271.906(b)*

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

COMMITMENT OF
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only,

PURCHASING AND ACQUISITION

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provided the contract contains either or both of the following provisions:

1. Retains to the Board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the Board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the District may approve change orders making the changes. The District may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

ENERGY OR WATER
CONSERVATION
MEASURES

The District may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004.

The Board shall establish a long-range energy plan to reduce the District's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the District's energy plan.

Education Code 44.901-.902 [See policy CL for legal requirements pertaining to such contracts and plans]

RECYCLED
PRODUCTS

The District shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The District shall regularly review and revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

PURCHASING AND ACQUISITION

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(LEGAL)

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the District purchase products that may be recycled when they have served their intended use.

The District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the District.

Health and Safety Code 361.426

AGRICULTURAL
PRODUCTS

If the cost and quality are equal, the District shall give preference in purchasing to agricultural products, including textiles and other similar products that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, the District shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

The District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR
LANDSCAPING

If cost is equal and the quality is not inferior, the District shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

Education Code 44.042

BUS PURCHASE OR
LEASE

Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)* [See CNB]

RIGHT TO WORK

While engaged in procuring goods and services or awarding a contract, the District:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right

PURCHASING AND ACQUISITION

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of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

LOBBYING
RESTRICTION:
TOBACCO EDUCATION
GRANT FUNDS

The District may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:

1. Lobbying expenses incurred by the District;
2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission;
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2); or
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Gov't Code 403.1067

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

IMPERMISSIBLE
PRACTICES

A Board member, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. "Sequential purchases" means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A Board member who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is in-

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eligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

Education Code 44.032

INJUNCTION

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. *Education Code 44.032(f)*

TECHNOLOGY RESOURCES

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PEIMS The 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 the District to submit information. *Education Code 42.006; 19 TAC 61.1025*

CHILDREN'S INTERNET PROTECTION ACT Under the Children's Internet Protection Act (CIPA), the 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). *47 U.S.C. 254* [See UNIVERSAL SERVICE DISCOUNTS, below, for details]

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). *20 U.S.C. 6777* [See ESEA FUNDING, below, for details]

DEFINITIONS "Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

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; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

47 U.S.C. 254(h)(7)(G); 20 U.S.C. 6777(e)(6)

"Technology protection measure" means a specific technology that blocks or filters Internet access. *47 U.S.C. 254(h)(7)(I)*

UNIVERSAL SERVICE DISCOUNTS An elementary or secondary school having computers with Internet access may not receive universal service discount rates unless the 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. *47 U.S.C. 254(h)(5)(A); 47 CFR 54.520*

TECHNOLOGY RESOURCES

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(LEGAL)

“Universal service” means telecommunications services including Internet access, Internet services, and internal connection services 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

The 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

The 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 the Board or designee. *47 U.S.C. 254(l)(2)*

TECHNOLOGY
PROTECTION
MEASURE

In accordance with the appropriate certification, the 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 the 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)*

TECHNOLOGY RESOURCES

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MONITORED USE In accordance with the appropriate certification, the 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, the 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, the 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, the District is enforcing an Internet safety policy and operating a technology protection measure during any use of the computers.

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 the 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.

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

CERTIFICATION TO DOE The 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

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TRANSFER OF
EQUIPMENT TO
STUDENTS

The 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 2175.905;
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, the 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

The 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)

The District shall not pay a fee or other reimbursement to a state eleemosynary institution or institution or agency of higher education or other state agency for surplus or salvage data processing equipment it transfers to the District. *Government Code 2175.905(c)*

USE OF PUBLIC
FUNDS

The 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

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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 the District. The District shall give preference to educationally disadvantaged students. <i>Education Code 32.103</i>
RETURN OF EQUIPMENT	Except as provided below, a student who receives data processing equipment from the District under this policy shall return the equipment to the District not later than the earliest of: <ol style="list-style-type: none"><li data-bbox="560 604 1414 638">1. Five years after the date the student receives the equipment;<li data-bbox="560 659 1044 693">2. The date the student graduates;<li data-bbox="560 714 1295 747">3. The date the student transfers to another district; or<li data-bbox="560 768 1203 802">4. The date the student withdraws from school. 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. <i>Education Code 32.106</i>
UNIFORM ELECTRONIC TRANSACTIONS ACT	The 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>
SECURITY BREACH NOTIFICATION TO INDIVIDUALS	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 individual 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.
TO THE OWNER OR LICENSE HOLDER	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.

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TO A CONSUMER REPORTING AGENCY

If the 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.

CRIMINAL INVESTIGATION EXCEPTION

The 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;

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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

The 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;

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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, photo-electronic 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
COMMUNICATION
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 the 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 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, the 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. The District shall provide access to the conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CHE]
3. The District shall post the statements regarding activities to support student health, under Education Code 28.004. [See BDF]
4. The 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 Government Code 551.056. [See BE]
5. The 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. The District shall post a summary of its proposed budget concurrently with publication of the proposed budget, under Education Code 44.0041. [See CE]
7. The 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. The 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]

TECHNOLOGY RESOURCES
DISTRICT, CAMPUS, AND CLASSROOM WEB SITES

CQA
(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. The District shall post the Board's employment policies, under Education Code 21.204(d). [See DCB]
11. The 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. The District shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements, under Education Code 38.019. [See FFAB]
13. To the extent practicable, the District must post the procedure for reporting bullying established by the District's bullying policy, under Education Code 37.0832(c). [See FFI]
14. A district that is located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000 shall post a report filed pursuant to Election Code Chapter 254 by a Board member, a candidate for membership on the Board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a Board, under Election Code 254.04011. [See BBBA]

OPTIONAL INTERNET
POSTINGS

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

1. The 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. The 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. The 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]

GEOSPATIAL DATA
PRODUCTS

“Geospatial data product” means a document, computer file, or Internet Web site that contains geospatial data; a map; or information about a service involving geospatial data or a map. *Gov’t Code 2051.101(1)*

NOTICE

The District shall include a notice on each geospatial data product that:

1. Is created or hosted by the District;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: “This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.”

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an Internet Web site, be included on a separate page that requires the person accessing the Web site to agree to the terms of the notice before accessing the geospatial data product.

Gov’t Code 2051.102

EXEMPTION

The District is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

Gov’t Code 2051.103

INSURANCE AND ANNUITIES MANAGEMENT
HEALTH AND LIFE INSURANCE

CRD
(LEGAL)

COVERAGE
REQUIREMENTS

UNIFORM
PROGRAM
(TRS-ACTIVE
CARE)

Unless an exemption applies, a district with 500 or fewer employees is required to participate in the uniform group coverage program established under Insurance Code 1579 (TRS-Active Care). A district with more than 500 employees may elect to participate in the program. *Insurance Code 1579.151-.152; Education Code 22.004(a)*

The Teacher Retirement System (TRS) shall implement and administer the uniform group coverage program. TRS shall establish plans of group coverages for employees participating in the program and their dependents. *Insurance Code 1579.051, .101*

EMPLOYEE
ELIGIBILITY

Participation in the program is limited to employees of participating districts who are full-time employees and to part-time employees who are participating members in TRS.

A part-time employee who is not a participating member in TRS is eligible to participate in the program only if the employee pays all of the premiums and other costs associated with the health coverage plan selected by the employee.

A participating employee may select coverage in any coverage plan offered by TRS. If the combined state and District contributions [see COST OF COVERAGE, below] exceed the cost of a coverage plan selected by the employee, the employee may use the excess contributions to obtain coverage under a higher tier coverage plan, or to pay all or part of the cost of coverage for the employee's dependents. A married couple, both of whom are eligible for coverage under the program, may pool the amount of contributions to which the couple are entitled under the program to obtain coverage for themselves and dependent coverage.

Insurance Code 1579, Subch. E

OPTIONAL
COVERAGES

Districts participating in the uniform group coverage program may enter contracts to provide optional insurance coverages for District employees. *Education Code 22.004(j)*

OTHER PROGRAMS

Districts that do not participate in the uniform group coverage program shall make available to their employees group health coverage provided by a risk pool established by one or more districts under Local Government Code Chapter 172, or under a policy of group insurance or group contract issued by an insurer, a company subject to Insurance Code Chapter 842, or a health maintenance organization under Insurance Code Chapter 843.

FINANCIAL
STATEMENT

The District may not contract with an insurer, company, or health maintenance organization to issue a policy or contract for group health insurance, or with any person to assist the District in obtaining or managing the policy or contract unless the insurer, company,

organization, or person provides the District with an audited financial statement.

Education Code 22.004(b), (c)

SMALL
EMPLOYER
MARKET
ELECTION

A district that does not participate in the uniform group coverage program may elect to participate in the small employer market without regard to the number of eligible employees in the District. If the District makes this election, it will be treated as a small employer for the purposes of Article 1501 of the Texas Insurance Code.

A district that is participating in the uniform group coverage program may not renew a health insurance contract obtained in accordance with Article 1501 after the date on which the program of coverages provided under the uniform group coverage program is implemented. This provision does not affect a contract for the provision of optional coverages.

Insurance Code 1501.009

EMPLOYEE
ELECTION —
SPOUSES

A District employee who is eligible for coverage under a large or small employer health benefit plan providing coverage to the District's employees and who is the spouse of another District employee covered under the plan may elect whether to be treated under the plan as an employee or as the dependent of the other employee. *Insurance Code 1501.0095*

SELF-FUNDED
HEALTH CARE PLAN

Except as otherwise provided above, the Board may establish a self-funded health care plan for District employees and their dependents. In implementing the plan, the Board shall establish a fund to pay all or part of plan-authorized costs for health care incurred by program participants. The fund consists of money contributed by the District and money deducted from the employee's salary for coverage, upon the employee's written authorization. *Education Code 22.005*

COMPARABILITY

If the District does not participate in the uniform group coverage plan, the coverage it provides must be comparable to the basic health coverage provided under Insurance Code Chapter 1551 (Texas Employees Group Benefits Act) and must meet the substantive coverage requirements set forth in Education Code 22.004(b).

COMPLIANCE
REPORT

The District shall report its compliance with the comparability requirements to TRS by March 1 of each even-numbered year. The report must be based on the District group health coverage plan in effect during the current plan year and must include:

1. Appropriate documentation of:

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- a. The District's contract for group health coverage, or
 - b. A Board resolution authorizing a self-insurance plan.
2. The schedule of benefits.
 3. The premium rate sheet, including the amount paid by the District and the employee.
 4. The number of employees covered by each health coverage plan offered by the District.
 5. Information concerning the ease of completing the report, as required by TRS.
 6. Any other information considered appropriate by TRS.

The report must be available for review, together with the policy or contract for the group health coverage plan, at the central administrative office of each campus in the District and must be posted on the District's Internet Web site if the District maintains a Web site.

Education Code 22.004(d); 34 TAC 41.91(d)

COST OF COVERAGE	The cost of coverage under the uniform group coverage program shall be shared by the state, the District, and the employees, as set forth below.
TRS-ACTIVE CARE	
STATE CONTRIBUTION	The state shall provide for each covered employee the amount of \$900 each state fiscal year or a greater amount as provided by the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Education Code Chapters 41 and 42 and used by districts as provided by Education Code 42.2514 and 42.260. <i>Insurance Code 1579, Subch. F</i>
EMPLOYEE CONTRIBUTION	An employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of the state contribution and the District's contribution. The District may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee. <i>Insurance Code 1579.253</i>
OTHER PROGRAMS	If the District does not participate in the uniform group coverage program, the cost of coverage shall be shared by the employees and the District, using the contributions by the state described at Insurance Code Chapter 1579, Subchapter F. [See STATE CONTRIBUTION, above] <i>Education Code 22.004(c)</i>

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DISTRICT CONTRIBUTION	The District shall, for each fiscal year, pay an amount equal to the number of participating employees multiplied by \$1,800.
MINIMUM EFFORT	
MAXIMUM EFFORT	Subject to the minimum effort requirement, a district that paid amounts for the 2000–01 school year for employees' health coverage shall, for each fiscal year, continue to pay at least the same amounts for each participating employee, computed as follows: the District shall divide the amount the District paid during the 2000–01 school year for the prior group health coverage plan by the total number of full-time employees in the 2000–01 school year and multiply the result by the number of full-time employees in the fiscal year for which the computation is made. If, for the 2000–01 school year, the District provided group health coverage to its employees through a self-funded insurance plan, the amount the District paid during that school year for the plan includes only the amount of regular contributions made by the District.
EXCESS FUNDS	<i>Insurance Code 1581.052</i> If the amount the District is required to pay for maintenance of effort exceeds \$1,800 per participating employee, the District may use the excess only to provide employee compensation at a rate greater than the rate of compensation that the District paid an employee in the 2000–01 school year, benefits, or both. <i>Insurance Code 1581, Subch. B</i>
HEALTH INSURANCE CONTRIBUTIONS FOR REHIRED RETIREES	Each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. [See DEAB]
EXCEPTION	The District is not required to contribute these amounts for a retiree who retired from TRS before September 1, 2005. <i>Gov't Code 825.4092; Insurance Code 1575.204</i>
DESIGNATION OF COMPENSATION FOR BENEFITS	An employee who is covered by a cafeteria plan or who is eligible to pay health care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health care supplementation. [See DEAB]
USE	An employee may use the compensation designated for health care supplementation for any employee benefit, including deposit-

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ing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan.

Education Code 22.103, .106

CONTINUATION
COVERAGE
AFTER
RESIGNATION

Notwithstanding any other law, an employee whose resignation is effective after the last day of an instructional year is entitled to participate or be enrolled in the uniform group coverage plan or the group health coverage through the earlier of:

1. The first anniversary of the date participation in or coverage under the uniform group coverage plan or the group health coverage was first made available to District employees for the last instructional year in which the employee was employed by the District; or
2. The last calendar day before the first day of the instructional year immediately following the last instructional year in which the employee was employed by the District.

The District may not diminish or eliminate its contribution [see DISTRICT CONTRIBUTION, above] before the last date on which the employee is entitled to participation or enrollment.

Education Code 22.004(k), (l)

DURING MILITARY
LEAVE

An employee who is absent from a position of employment by reason of service in the uniformed services may elect to continue coverage under a health plan. The maximum period of coverage of such a person and the person's dependents shall be the lesser of:

1. The 24-month period beginning on the date on which the person's absence begins; or
2. The day after the date on which the person fails to apply for or return to a position of employment. [See DECB]

38 U.S.C. 4317

DURING FMLA
LEAVE

During any period of leave under the Family and Medical Leave Act (FMLA), the District shall allow the employee to maintain coverage under any group health plan for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. *29 U.S.C. 2614(c); 29 CFR 825.209, .210, .213* [See also DECA]

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UPON
TERMINATION OR
OTHER QUALIFYING
EVENT (COBRA)

In accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the District shall offer continuation coverage under any group health insurance plan established after July 1, 1986, to the following qualified beneficiaries for the stated period of time:

1. To the employee for 18 months after a termination (other than for gross misconduct) or reduction in hours. An employee providing notice of being disabled under Title II or XVI of the Social Security Act before the end of the initial 18 months of coverage shall be offered up to 29 months of continuation coverage.
2. To dependents of the covered employee for 36 months after the employee becomes eligible for Medicare benefits.
3. To dependents of the covered employee for 36 months after the employee's death or the divorce or legal separation of the employee from a spouse.
4. To a dependent child for 36 months after the child ceases to be a dependent under the terms of the plan.

42 U.S.C. 300bb-1, 300bb-2, 300bb-3

PREMIUM

The District may require premium payments not to exceed 102 percent of the usual cost of the plan for continuation coverage. Individuals entitled to 29 months of continuation coverage may be required to pay premiums not to exceed 150 percent of the usual cost for any month after the 18th month. The qualified beneficiary may choose to pay the premiums in monthly installments. In no event may payment be required before the day that is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage. *42 U.S.C. 300bb-2(3)*

NOTICE

The District shall notify its group health plan administrator within 30 days of an employee's death, termination or reduction of hours, or becoming eligible for Medicare payments.

The qualified beneficiary is responsible for notifying the plan administrator of a divorce or legal separation from a spouse or of a dependent child's ceasing to be a dependent. A qualified beneficiary who is determined to have been disabled at the time of termination is responsible for notifying the plan administrator of that determination within 60 days of the determination and within 30 days after a subsequent determination that he is no longer disabled.

42 U.S.C. 300bb-6

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TERMINATION OF COVERAGE Coverage of qualified beneficiaries shall end on the earliest of the following dates:

1. The required period of coverage expires.
2. The District ceases to provide any group health plan to any employee.
3. Coverage ceases for failure to pay the premium.
4. The qualified beneficiary becomes covered under any other group plan.
5. The qualified beneficiary becomes entitled to Medicare benefits.

42 U.S.C. 300bb-2(2)

Note: See also DEB for continuation benefits that are available to survivors of District peace officers under certain conditions.

COVERAGE OF
PREEXISTING
CONDITIONS

Notwithstanding any other law, group health benefit coverage provided by or offered through the District to its employees under any law other than the uniform group coverage program is subject to the requirements of Sections 1501.102–1501.105, Insurance Code, which limit exclusion for preexisting conditions. This requirement applies to all group health benefit coverage provided by or offered through the District to its employees, including a standard health benefit plan issued under the Insurance Code and health and accident coverage provided through a risk pool established under Chapter 172, Local Government Code. *Education Code 22.004(m)*

TRS-ACTIVE CARE

Coverage provided under the uniform group coverage program may not be made subject to a pre-existing condition limitation during the initial period of eligibility. *Insurance Code 1579.105*

FEDERAL LAW

In addition, a group health plan may not impose a preexisting condition exclusion unless:

1. The exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date;
2. The exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

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3. The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

42 U.S.C. 300gg(a)(1); 45 CFR 146.111(a)

HEALTH INSURANCE
PORTABILITY AND
ACCOUNTABILITY ACT
(HIPAA)

CERTIFICATE OF
CREDITABLE
COVERAGE

A group health plan shall provide certification:

1. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision. This certification may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision;
2. In the case of an individual covered under COBRA, at the time the individual's COBRA coverage ceases; and
3. On the request on behalf of an individual made not later than 24 months after the date of cessation of coverage.

The certification is a written certification of:

1. The period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision; and
2. The waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

To the extent that medical care under a plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirements if any issuer offering the coverage provides for certification.

42 U.S.C. 300gg(e); 45 CFR 146.115

OTHER HIPAA
REQUIREMENTS

HIPAA requires plan sponsors to observe certain coverage requirements and restrictions, including:

1. Limitations on preexisting condition exclusion periods;
2. Special enrollment periods for individuals;
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;
4. Standards relating to benefits for mothers and newborns;
5. Parity in the application of certain limits to mental health benefits.

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ELECTION TO BE EXEMPTED	<p>The plan sponsor of a nonfederal governmental group health plan may elect to be exempted from the following provisions of HIPAA:</p> <ol style="list-style-type: none">1. Limitations on preexisting condition exclusion periods;2. Special enrollment periods for individuals;3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;4. Standards relating to benefits for mothers and newborns;5. Parity in the application of certain limits to mental health benefits;6. Required coverage for reconstructive surgery and certain other services following a mastectomy under section 2706 of the Public Health Service Act.
FORM OF ELECTION	<p>The election must be in writing and state the name of the plan and the name and address of the plan administrator. The election document must either state that the plan does not include health insurance coverage, or identify which portion of the plan is not funded through insurance. The election must be made in conformity with all the plan sponsor's rules, including any public hearing, if required. The election document must be signed, and must certify that the person signing the election document, including if applicable a third party plan administrator, is legally authorized to do so by the plan sponsor.</p>
TIMING OF ELECTION	<p>The election must be received by the Health Care Financing Administration by the day preceding the beginning date of the plan year. The election applies for a single specified plan year.</p> <p>An election may be extended through subsequent elections.</p>
CONTENTS OF NOTICE	<p>If this election is made, the plan shall provide for notice to enrollees, on an annual basis and at the time of enrollment under the plan. The notice shall be provided to each participant individually.</p> <p><i>42 U.S.C. 300gg-21; 45 CFR 146.180</i></p>
PRIVACY OF HEALTH INFORMATION	<p>To the extent the District is a covered entity under the Administrative Simplification provisions of HIPAA, the District must maintain the privacy of protected health information in accordance with the Privacy Rule, 45 CFR Part 164. <i>42 U.S.C. 1320d et seq.</i></p>
'COVERED ENTITY' DEFINED	<p>The District is a "covered entity" under the Privacy Rule to the extent it is:</p> <ol style="list-style-type: none">1. A health plan;

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2. A health-care clearinghouse; or
3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule.

45 CFR 160.103

'PROTECTED
HEALTH
INFORMATION'
DEFINED

"Protected health information" means individually identifiable health information that is transmitted or maintained in any form or medium, including electronic media and oral communications. "Protected health information" excludes individually identifiable health information in:

1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended.
2. Medical treatment records, as described at 20 U.S.C. 1232g(a)(4)(B)(iv), on a student who is at least 18 years of age.
3. Employment records held by a covered entity in its role as employer.

20 U.S.C. 1232g; 45 CFR 160.102, 164.501 [See FL]

SPONSORS OF
GROUP HEALTH
PLANS

Before a group health plan may disclose protected health information to the District that is a plan sponsor, the group health plan must ensure that the plan documents restrict uses and disclosures of such information by the District consistent with the requirements of the Privacy Rule. *45 CFR 164.504(f)*

The group health plan may disclose the following information to a district that is a plan sponsor without amending the plan documents:

1. Summary health information, consistent with the requirements of the Privacy Rule; and
2. Enrollment and disenrollment information relating to an individual participating in the plan.

45 CFR 164.504(f)

'PLAN SPONSOR'
DEFINED

The term "plan sponsor" includes employers who establish or maintain employee benefit plans, alone or jointly with one or more employers. *29 U.S.C. 1002(16)(B)*

SELF-FUNDED
PLANS

A district that is a sponsor of a self-funded group health plan is a covered entity under the Privacy Rule. *45 CFR 160.103*

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	Genetic Nondiscrimination
DAC	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
DBA	Credentials and Records
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DE	COMPENSATION AND BENEFITS
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DF	TERMINATION OF EMPLOYMENT
DFA	Probationary Contracts
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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

DFFA	Financial Exigency
DFFB	Program Change
DFFC	Continuing Contracts
DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Immunity
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

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NONDISCRIMINATION
— IN GENERAL

The District shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information [see DAB].

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Labor Code Ch. 21 (Texas Commission on Human Rights Act); Labor Code Ch. 21, Subchapter H (genetic information)

Title VII proscribes employment practices that are overtly discriminatory (disparate treatment), as well as those that are fair in form but discriminatory in practice (disparate impact). *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989)

DISPARATE
TREATMENT

Disparate treatment (intentional discrimination) occurs when members of a protected group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. 29 CFR 1607.11

DISPARATE IMPACT

Disparate impact occurs when an employer uses a particular employment practice that causes a disparate (disproportionate) impact on a protected group and the employer fails to demonstrate that the challenged practice is job-related and consistent with business necessity. 42 U.S.C. 2000e-2(k)(1)(A); Labor Code 21.115, .122

JOB QUALIFICATION

The District may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. 42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119

EMPLOYMENT
POSTINGS

The District shall not print or publish any notice or advertisement relating to District employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion,

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	sex, disability, or national origin, unless the characteristic is a bona fide occupational qualification. <i>42 U.S.C. 2000e-3(b); Labor Code 21.059</i>
HARASSMENT OF EMPLOYEES	The District has an affirmative duty to maintain a working environment free of harassment on the basis of a protected characteristic. <i>42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11</i> [See DIA]
RETALIATION	The District may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. <i>29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); <u>Jackson v. Birmingham Bd. of Educ.</u>, 544 U.S. 167 (2005) (Title IX); Labor Code 21.055</i> [See DIA]
NOTICES	The District shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. <i>29 U.S.C. 627; 42 U.S.C. 2000e-10</i>
SECTION 504 NOTICE	<p>A district that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability.</p> <p>The notice shall state:</p> <ol style="list-style-type: none">1. That the District does not discriminate in employment in its programs and activities; and2. The identity of the District's 504 coordinator. <p>Methods of notification may include:</p> <ol style="list-style-type: none">1. Posting of notices;2. Publication in newspapers and magazines;3. Placing notices in District publications; and4. Distributing memoranda or other written communications. <p>If the District publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its nondiscrimination policy.</p> <p><i>34 CFR 104.8</i></p>

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AGE DISCRIMINATION	The District may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. <i>29 U.S.C. 623(f); Labor Code 21.102</i>
SEX DISCRIMINATION	The District may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. <i>Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)</i>
GENDER STEREOTYPES	
PREGNANCY	The prohibition against discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. The District shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs. <i>42 U.S.C. 2000e(k); 29 CFR 1604.10; Labor Code 21.106</i>
EQUAL PAY	The District may not pay an employee at a rate less than the rate the District pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. <i>29 U.S.C. 206(d) (Equal Pay Act); 34 CFR 106.54 (Title IX)</i>
RELIGIOUS DISCRIMINATION	<p>The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless the District demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the District's business. "Undue hardship" means more than a <i>de minimus</i> (minimal) cost. <i>42 U.S.C. 2000e(j); 29 CFR 1605.2; Labor Code 21.108</i></p> <p>The District may not substantially burden an employee'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. <i>Civ. Prac. & Rem. Code 110.003</i></p> <p>A person employed or maintained to obtain or aid in obtaining positions for public school employees may not directly or indirectly ask about, orally or in writing, the religion or religious affiliation of anyone applying for employment in a public school of this state. A violation of this provision is a Class B misdemeanor. A person who</p>

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violates this provision is subject to civil penalties. *Education Code 22.901*

DISABILITY
DISCRIMINATION

The District may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 CFR 1630.4(b); Labor Code 21.051*

In addition, each district that receives assistance under the Individuals with Disabilities Education Act (IDEA) must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted by the IDEA. *34 CFR 300.177(b)*

DISCRIMINATION
BASED ON LACK OF
DISABILITY

The Americans with Disabilities Act (ADA) and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 CFR 1630.4(b); Labor Code 21.005(c)*

DEFINITION OF
DISABILITY

"Disability" means:

1. An actual disability: a physical or mental impairment [see definition, below] that substantially limits one or more of an individual's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

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.

'REGARDED AS'
HAVING AN
IMPAIRMENT

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA 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.

TRANSITORY
AND MINOR

The "regarded as" prong of the definition does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. The "transitory" exception does not apply to the "actual disability" or "record of disability" prongs of the definition.

MITIGATING
MEASURES

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 sup-

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plies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g), .3(j)(1); Labor Code 21.002, .0021

OTHER
DEFINITIONS

'PHYSICAL OR
MENTAL
IMPAIRMENT'

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 CFR 1630.3(h)

'MAJOR LIFE
ACTIVITIES'

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

"Major life activities" also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

42 U.S.C. 12102(2); 29 CFR 1630.3(i); Labor Code 21.002

'QUALIFIED
INDIVIDUAL'

"Qualified individual" means an individual who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and

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2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to a district's judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

42 U.S.C. 12111(8); 29 CFR 1630.3(m)

REASONABLE
ACCOMMODATIONS

The District is required, absent undue hardship, to make a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the "actual disability" or "record of disability" prongs. The District is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the "regarded as" prong. *42 U.S.C. 12112(b)(5); 29 CFR 1630.4(o)(4), .9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.128* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b)

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the District, and other factors set out in law. *42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c)*

DISCRIMINATION
BASED ON
RELATIONSHIP

The District shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 CFR 1630.8; 34 CFR 104.11*

ILLEGAL DRUGS AND
ALCOHOL

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the District acts on the basis of such use.

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DRUG TESTING	<p>The District is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.</p> <p><i>42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A)</i> [See DHE]</p>
ALCOHOL USE	<p>The term “qualified individual with a disability” does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.</p> <p><i>42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 CFR 1630.3(a); 28 CFR 35.104; Labor Code 21.002(6)(A)</i></p>
QUALIFICATION STANDARDS	<p>It is unlawful for the District to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the District, is shown to be job related for the position in question and is consistent with business necessity. <i>29 CFR 1630.10(a)</i></p>
DIRECT THREAT TO HEALTH OR SAFETY	<p>As a qualification standard, the District may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. <i>42 U.S.C. 12111(3); 29 CFR 1630.2(r); Labor Code 21.002(6)(B)</i></p>
VISION STANDARDS AND TESTS	<p>The District shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the District, is shown to be job-related for the position in question and consistent with business necessity. <i>42 U.S.C. 12113(c); 29 CFR 1630.10(b); Labor Code 21.115(b)</i></p>
COMMUNICABLE DISEASES	<p>The District may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. <i>42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B)</i></p>
SERVICE ANIMALS	<p>A district that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (employment discrimination) shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See REASONABLE ACCOMMODATIONS, above]</p> <p>A district that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An</p>

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	employer that is subject to Title II shall comply with 28 CFR part 35, including the requirements relating to service animals at 28 CFR 35.136 [see FBA]. <i>28 CFR 35.140</i>
MILITARY SERVICE	The District shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. The District shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). <i>38 U.S.C. 4311</i> [See also DECB]
GRIEVANCE POLICIES SECTION 504	A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. <i>34 CFR 104.7(b), .11</i>
AMERICANS WITH DISABILITIES ACT	A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. <i>28 CFR 35.107, .140</i>
TITLE IX	A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. <i>34 CFR 106.8(b); <u>North Haven Board of Education v. Bell</u>, 456 U.S. 512 (1982)</i>
COMPLIANCE COORDINATOR	The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The District shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. <i>34 CFR 104.7(b), .11; 28 CFR 35.107, .140; 34 CFR 106.8(b)</i>

Note: The provisions below apply to a district that has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. *42 U.S.C. 2000e(b), 2000ff(2)(B)*

DEFINITIONS

For the purpose of the Genetic Information Nondiscrimination Act (GINA), "genetic information" means information about:

1. An individual's genetic tests;
2. The genetic tests of that individual's family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual's request for or receipt of genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or
5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

"Genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

29 CFR 1635.3(c)

"Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, for example:

1. A test to determine whether someone has the BRCA1 or BRCA2 variant evidencing a predisposition to breast cancer, a test to determine whether someone has a genetic variant associated with hereditary nonpolyposis colon cancer, and a test for a genetic variant for Huntington's Disease;
2. Carrier screening for adults using genetic analysis to determine the risk of conditions such as cystic fibrosis, sickle cell anemia, spinal muscular atrophy, or fragile X syndrome in future offspring;
3. Amniocentesis and other evaluations used to determine the presence of genetic abnormalities in a fetus during pregnancy;

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4. Newborn screening analysis that uses DNA, RNA, protein, or metabolite analysis to detect or indicate genotypes, mutations, or chromosomal changes, such as a test for PKU performed so that treatment can begin before a disease manifests;
5. Pre-implantation genetic diagnosis performed on embryos created using in vitro fertilization;
6. Pharmacogenetic tests that detect genotypes, mutations, or chromosomal changes that indicate how an individual will react to a drug or a particular dosage of a drug;
7. DNA testing to detect genetic markers that are associated with information about ancestry; and
8. DNA testing that reveals family relationships, such as paternity.

Examples of tests or procedures that are not genetic tests are:

1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes;
2. A medical examination that tests for the presence of a virus that is not composed of human DNA, RNA, chromosomes, proteins, or metabolites;
3. A test for infectious and communicable diseases that may be transmitted through food handling;
4. Complete blood counts, cholesterol tests, and liver-function tests.

A test for the presence of alcohol or illegal drugs is not a genetic test. However, a test to determine whether an individual has a genetic predisposition for alcoholism or drug use is a genetic test.

29 CFR 1635.3(f)

NOTICES

The District shall post in conspicuous places on its premises, where notices to employees and applicants for employment are customarily posted, a notice setting forth excerpts from or summaries of the pertinent provisions of the GINA regulation and information pertinent to the filing of a complaint. *29 CFR 1635.10(c)*

PROHIBITED
PRACTICES
DISCRIMINATION

The District shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment. Notwithstanding the foregoing, a cause of action for disparate impact is not available under GINA. *42 U.S.C. 2000ff-1(a); 29 CFR 1635.4*

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RETALIATION	<p>The District shall not discriminate against an individual because the individual has opposed any act or practice made unlawful by GINA or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under GINA. <i>42 U.S.C. 2000ff-6(f); 29 CFR 1635.7</i></p>
ACQUISITION	<p>Except as set forth below or otherwise provided in the GINA regulations, the District shall not request, require, or purchase genetic information of an individual or family member of the individual. <i>42 U.S.C. 2000ff-1(b); 29 CFR 1635.8(a)</i></p> <p>“Request” includes:</p> <ol style="list-style-type: none">1. Conducting an Internet search on an individual in a way that is likely to result in the District’s obtaining genetic information;2. Actively listening to third-party conversations or searching an individual’s personal effects for the purpose of obtaining genetic information; and3. Making requests for information about an individual’s current health status in a way that is likely to result in the District’s obtaining genetic information. <p><i>29 CFR 1635.8(a)</i></p>
DISCLOSURE	<p>A district that possesses genetic information, regardless of how the District obtained the information, shall not disclose the information except as set forth in the GINA regulations. <i>29 CFR 1635.9(b)</i> [See CONFIDENTIALITY, below]</p>
MANIFESTED CONDITION	<p>The District shall not be considered to be in violation of the GINA regulations based on the use, acquisition, or disclosure of medical information about a manifested disease, disorder, or pathological condition of an employee or member, even if the disease, disorder, or pathological condition has or may have a genetic basis or component. However, genetic information about a manifested disease, disorder, or pathological condition is subject to the requirements and prohibitions of GINA. <i>29 CFR 1635.12</i></p> <p>“Manifestation” or “manifested” means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health-care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not manifested if the diagnosis is based principally on genetic information. <i>29 CFR 1635.3(g)</i></p>
INADVERTENT ACQUISITION	<p>The general prohibition against requesting, requiring, or purchasing genetic information does not apply where the District inadvertently</p>

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requests or requires genetic information of the individual or family member of the individual. This exception applies in situations where a manager or supervisor learns genetic information about an individual by:

1. Overhearing a conversation between the individual and others;
2. Receiving the information during a casual conversation, including in response to an ordinary expression of concern that is the subject of the conversation. This exception does not apply where a manager or supervisor follows up with questions that are probing in nature, such as whether other family members have the condition or whether the individual has been tested for the condition, because the supervisor or official should know that these questions are likely to result in the acquisition of genetic information;
3. Receiving unsolicited information (e.g., where a manager or supervisor receives an unsolicited e-mail about the health of an employee's family member from a co-worker); or
4. Accessing a social media platform that the manager or supervisor was given permission to access by the creator of the profile at issue (e.g., a supervisor and employee are connected on a social networking site and the employee provides family medical history on his page).

29 CFR 1635.8(b)(1)(ii)

REQUESTS FOR
MEDICAL
INFORMATION

If the District acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless the District directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information [see SAFE HARBOR, below]. *29 CFR 1635.8(b)(1)(i)(A)*

Situations involving lawful requests for medical information include, for example:

1. Requests for documentation to support a request for reasonable accommodation under federal, state, or local law;
2. Requests for medical information as required, authorized, or permitted by federal, state, or local law, such as where an employee requests leave under the Family and Medical Leave Act (FMLA) to attend to the employee's own serious health condition or where an employee complies with the FMLA's employee return to work certification requirements; or

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3. Requests for documentation to support leave that is not governed by federal, state, or local laws requiring leave, as long as the documentation required to support the request otherwise complies with the requirements of the Americans with Disabilities Act (ADA) and other laws limiting the District's access to medical information.

29 CFR 1635.8(b)(1)(i)(D)

SAFE HARBOR

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if the District uses language such as the following:

"The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."

The District's failure to give such a notice or to use this or similar language will not prevent the District from establishing that a particular receipt of genetic information was inadvertent if the request for medical information was not likely to result in the District's obtaining genetic information (for example, where an overly broad response is received in response to a tailored request for medical information).

29 CFR 1635.8(b)(1)(i)(B), (C)

EMPLOYMENT
EXAMINATIONS

The prohibition on acquisition of genetic information applies to medical examinations related to employment. The District shall tell health-care providers not to collect genetic information, including family medical history, as part of a medical examination intended to determine the ability to perform a job. *29 CFR 1635.8(d)*

REMEDIAL
MEASURES

The District shall take additional reasonable measures within its control if it learns that genetic information is being requested or required in medical examinations related to employment. Such reasonable measures may depend on the facts and circumstances under which a request for genetic information was made, and may include no longer using the services of a health-care professional

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who continues to request or require genetic information during medical examinations after being informed not to do so. *29 CFR 1635.8(d)*

HEALTH OR GENETIC
SERVICES

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where the District offers health or genetic services, including services offered as part of a voluntary wellness program, if the conditions at 29 CFR 1635.8(b)(2) are met.

The District may not offer a financial inducement for individuals to provide genetic information but may offer financial inducements for completion of health risk assessments that include questions about family medical history or other genetic information. The District shall make clear, in language reasonably likely to be understood by those completing the health risk assessment, that the inducement will be made available whether or not the participant answers questions regarding genetic information.

The District may offer financial inducements to encourage individuals who have voluntarily provided genetic information (e.g., family medical history) that indicates that they are at increased risk of acquiring a health condition in the future to participate in disease management programs or other programs that promote healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. However, the District must also offer these programs to individuals with current health conditions and/or to individuals whose lifestyle choices put them at increased risk of developing a condition.

29 CFR 1635.8(b)(2)

LEAVE REQUESTS

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where the District requests family medical history to comply with the certification provisions of the FMLA or state or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of federal, state, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave. *29 CFR 1635.8(b)(3)*

PUBLICLY AVAILABLE
INFORMATION

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where the District acquires genetic information from documents that are commercially and publicly available for review or purchase, including newspapers, magazines, periodicals, or books, or through electronic media, such as information communicated through television, movies, or the Internet, except that this exception does not apply to:

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1. Medical databases, court records, or research databases available to scientists on a restricted basis;
2. Genetic information acquired through sources with limited access, such as social networking sites and other media sources which require access permission from a specific individual or where access is conditioned on membership in a particular group, unless the District can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if the District sought access to those sources with the intent of obtaining genetic information; or
4. Genetic information obtained through media sources, whether or not commercially and publicly available, if the District is likely to acquire genetic information by accessing those sources, such as Web sites and online discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination.

29 CFR 1635.8(b)(4)

WORKPLACE
MONITORING

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where the District acquires genetic information for use in the genetic monitoring of the biological effects of toxic substances in the workplace. Such monitoring must meet the criteria at 29 CFR 1635.8(b)(5). *29 CFR 1635.8(b)(5)*

INQUIRIES MADE OF
FAMILY MEMBERS

The District does not violate the GINA regulations when it requests, requires, or purchases information about a manifested disease, disorder, or pathological condition of an employee whose family member is also employed by the District or who is receiving health or genetic services on a voluntary basis. For example, the District does not violate the GINA regulations by asking someone whose sister also works for the District to take a post-offer medical examination that does not include requests for genetic information. *29 CFR 1635.8(c)*

CONFIDENTIALITY

A district that possesses genetic information in writing about an employee must maintain such information on forms and in medical files (including where the information exists in electronic forms and files) that are separate from personnel files. The District must treat such information as a confidential medical record. The District may maintain genetic information about an employee in the same file in which it maintains confidential medical information under the ADA.

Genetic information placed in personnel files before November 21, 2009, need not be removed. The District will not be liable under the GINA regulations for the mere existence of the information in

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the file. However, the prohibitions on use and disclosure of genetic information apply to all genetic information that meets the statutory definition, including genetic information requested, required, or purchased before November 21, 2009.

Genetic information that the District receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 CFR part 1635.

Genetic information that the District acquires through sources that are commercially and publicly available, as provided by 29 CFR 1635.8(b)(4), is not considered confidential genetic information but may not be used to discriminate against an individual.

29 CFR 1635.9(a)

DISCLOSURE
PERMITTED

A district that possesses any genetic information, regardless of how the District obtained the information (except for genetic information acquired through commercially and publicly available sources), may disclose the information:

1. To the employee (or family member if the family member is receiving genetic services) about whom the information pertains upon receipt of the employee's written request;
2. To an occupational or other health researcher if the research is conducted in compliance with the regulations and protections at 45 CFR part 46;
3. In response to an order of a court. The District may disclose only the genetic information expressly authorized by the order. If the order was secured without the knowledge of the employee to whom the information refers, the District shall inform the employee of the order and any genetic information that was disclosed pursuant to the order;
4. To government officials investigating compliance with Title II of GINA if the information is relevant to the investigation;
5. To the extent the information is disclosed in support of an employee's compliance with the certification provisions of the FMLA or certification requirements under state family and medical leave laws; or
6. To a federal, state, or local public health agency, only with regard to information about the manifestation of a disease or disorder that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, provided that the individual whose family member is the subject of the disclosure is notified of such disclosure.

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29 CFR 1635.9(b)

RELATIONSHIP TO
HIPAA PRIVACY
REGULATIONS

The GINA regulations do not apply to the use or disclosure of genetic information that is protected health information subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). *29 CFR 1635.9(c)* [See CRD(LEGAL)]

EMPLOYMENT OBJECTIVES
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS

DAC
(LOCAL)

The Board establishes the following objective criteria for decisions regarding the hiring, dismissal, reassignment, promotion, and demotion of District personnel. These criteria are not rank-ordered and may be considered in whole or in part in making such decisions.

1. Academic or technical preparation, supported by transcripts.
2. Proper certification for grade level, subject, or assignment, including emergency permits and endorsements for specific subjects, programs, or positions.
3. Experience.
4. Recommendations and references.
5. Appraisals and other performance evaluations.
6. The needs of the District.

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CRIMINAL HISTORY AND CREDIT REPORTS

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DEFINITIONS

“Criminal history clearinghouse” (Clearinghouse) means the electronic clearinghouse and subscription service established by the Department of Public Safety (DPS) to provide criminal history record information to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the criminal history record information requested must consent to the release of the information. *Gov’t Code 411.0845(a), (h)*

“Criminal history record information” (CHRI) means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions. *Gov’t Code 411.082(2)*

“National criminal history record information” (NCHRI) means criminal history record information obtained from DPS under Government Code Chapter 411, Subchapter F, and the Federal Bureau of Investigation (FBI) under Government Code 411.087. *Education Code 22.081(2)*

CERTIFIED PERSONS

The State Board for Educator Certification (SBEC) shall review the NCHRI of a person who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by the District. *Education Code 22.0831(c)*

NONCERTIFIED
EMPLOYEES

This section applies to a person who is not an applicant for or holder of a certificate from SBEC and who, on or after January 1, 2008, is offered employment by:

APPLICABILITY

1. The District; or
2. A shared services arrangement, if the employee’s or applicant’s duties are or will be performed on school property or at another location where students are regularly present.

[For noncertified employees of a district or shared services arrangement hired before January 1, 2008, see ALL OTHER EMPLOYEES, below.]

INFORMATION TO
DPS AND TEA

Before or immediately after employing or securing the services of a person subject to this section, the District shall send or ensure that the person sends to DPS information that DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

The District shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI of the person and notify the District if the person may not be hired or must be discharged under Education Code 22.085.

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EMPLOYMENT PENDING REVIEW	After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.
CRIMINAL HISTORY	<p>The District shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. The District may require the person to pay any fees related to obtaining the CHRI.</p> <p><i>Education Code 22.0833; 19 TAC 153.1109(d)</i></p>
SUBSTITUTE TEACHERS	This section applies to a person who is a substitute teacher for the District or a shared services arrangement.
APPLICABILITY	For purposes of the CHRI review requirements, a "substitute teacher" is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.
INFORMATION TO DPS AND TEA	<p>The District shall send or ensure that a person to whom this section applies sends to DPS information required for obtaining NCHRI, which may include fingerprints and photographs.</p> <p>The District shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI and certification records of the person and notify the District if the person:</p> <ol style="list-style-type: none">1. May not be hired or must be discharged as provided by Education Code 22.085; or2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.
EMPLOYMENT PENDING REVIEW	After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.
CRIMINAL HISTORY	<p>The District shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. The District may require the person to pay any fees related to obtaining the CHRI.</p> <p><i>Education Code 22.0836; 19 TAC 153.1101(5), .1111(d)</i></p>
STUDENT TEACHERS APPLICABILITY	This section applies to a person participating in an internship consisting of student teaching to receive a teaching certificate.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CRIMINAL HISTORY AND CREDIT REPORTS

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- CRIMINAL HISTORY A student teacher may not perform any student teaching until:
1. The student teacher has provided to the District a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
 2. The District has obtained from DPS all CHRI that relates to a student teacher. The District may also obtain CHRI relating to a student teacher from any other law enforcement agency, criminal justice agency, or private consumer reporting agency. The District may require a student teacher to pay any costs related to obtaining the CHRI.

Education Code 22.0835

COORDINATION OF EFFORTS TEA, SBEC, the District, and a shared services arrangement may coordinate as necessary to ensure that criminal history reviews authorized or required under Education Code Chapter 22, Subchapter C are not unnecessarily duplicated. *Education Code 22.0833(h)*

ALL OTHER EMPLOYEES The District shall obtain CHRI that relates to a person who is not subject to an NCHRI review under Education Code Chapter 21, Subchapter C and who is an employee of:

1. The District; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

The District may obtain the CHRI from:

1. DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency [see CONSUMER CREDIT REPORTS, below].

Education Code 22.083(a), (a-1), (c); Gov't Code 411.097

CONFIDENTIALITY OF RECORD CHRI that the District obtains from DPS, including any identification information that could reveal the identity of a person about whom CHRI is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

1. Is for the exclusive use of the District; and

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(LEGAL)

2. May be disclosed or used by the District only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

For purposes of these confidentiality provisions, "criminal history record" information does not refer to any specific document provided by DPS, but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

The District or an individual may not confirm the existence or non-existence of CHRI to any person who is not eligible to receive the information.

Gov't Code 411.084

CHRI obtained by the District, in the original form or any subsequent form, may not be released to any person except the individual who is the subject of the information, TEA, or SBEC, or by court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

An employee of the District may request from the District a copy of any CHRI related to that employee that the District has obtained from DPS. The District may charge a fee to provide the information, not to exceed the actual cost of copying the CHRI.

Gov't Code 411.097(d), (f)

DESTRUCTION OF
CHRI

The District shall destroy CHRI obtained from DPS on the earlier of:

1. The date the information is used for the authorized purpose; or
2. The first anniversary of the date the information was originally obtained.

Gov't Code 411.097(d)(3)

CONFIDENTIALITY OF
INFORMATION
OBTAINED FROM
APPLICANT OR
EMPLOYEE

The District may not release information collected about a person in order to obtain CHRI, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, except:

1. To comply with Government Code Chapter 22, Subchapter C (criminal records);
2. By court order; or
3. With the consent of the person who is the subject of the information.

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In addition, the information is not subject to disclosure under Government Code Chapter 522 (Public Information Act).

The District shall destroy the information not later than the first anniversary of the date the information is received.

Education Code 22.08391

SBEC NOTIFICATION

The Superintendent shall promptly notify SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued by SBEC has a reported criminal history.

“Reported criminal history” means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction.

Education Code 22.087; 19 TAC 249.14(d), .3(43) [See also DH]

Note: For criminal history record provisions regarding volunteers, see GKG. For provisions on employees of entities that contract with the District, see CJA.

DISCHARGE OF
CONVICTED
EMPLOYEES

The District shall discharge or refuse to hire an employee or applicant for employment if the District obtains information through a CHRI review that:

1. The employee or applicant has been convicted of:
 - 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

However, the District is not required to discharge or refuse to hire an employee or applicant if the person committed an offense under Title 5, Penal Code and:

1. The date of the offense is more than 30 years before:

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- a. June 15, 2007, in the case of a person employed by the District as of that date; or
 - b. The date the person's employment will begin, in the case of a person applying for employment with the District after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

CERTIFICATION TO SBEC Each school year, the Superintendent shall certify to the Commissioner that the District has complied with the above provisions.

SANCTIONS SBEC may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described above.

OPTIONAL TERMINATION The District may discharge an employee if the District obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to SBEC or to the District. An employee so discharged is considered to have been discharged for misconduct for the purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085 [See DF]

CONSUMER CREDIT REPORTS DEFINITIONS "Adverse action" includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

"Consumer report" includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person's eligibility for employment.

"Consumer reporting agency" is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a

OBTAINING REPORTS The District may not procure a consumer report for employment purposes unless:

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1. The District has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

ADVERSE ACTION

Before taking any adverse action based on the consumer report, the District shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2)

Note: The following provisions apply to a district that uses consumer reports.

ADDRESS
DISCREPANCIES

"Notice of address discrepancy" means a notice sent to a user by a consumer reporting agency that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

The District must develop and implement reasonable policies and procedures designed to enable the District, when it receives a notice of address discrepancy, to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report.

If the District regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which it received the notice of address discrepancy, the District must also develop and implement reasonable policies and procedures for furnishing an address for the consumer, which the District has reasonably confirmed is accurate, to the consumer reporting agency.

16 CFR 641.1

DISPOSAL OF
RECORDS

The District must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information.

"Dispose" includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

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1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 CFR 682.3

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB
(LEGAL)

SCHOOL BUS
DRIVERS

A person shall not drive a school bus, school activity bus, or multi-function school activity bus unless he or she is physically qualified to do so. Each school bus driver shall undergo and successfully complete an annual physical examination in accordance with the requirements of 49 CFR 391.41 and 391.43, which list those physical and mental conditions for which the medical examiner is directed to disqualify an applicant. A driver shall not operate a school bus, school activity bus, or multifunction school activity bus unless he or she has in his or her possession the original, or photographic copy, of the medical examiner's certificate stating that the driver is physically qualified to drive a school bus, school activity bus, or multifunction school activity bus. *Trans. Code 521.022; 37 TAC 14.12*

A person disqualified on the basis of the medical examination may request special consideration in accordance with 37 Administrative Code 14.13.

DEFINITIONS

The definitions related to individuals with disabilities and exceptions to those definitions included in policy DAA shall be used in applying and interpreting this policy and any (LOCAL) policy adopted in conjunction with this policy.

BLOODBORNE
PATHOGEN CONTROL

A district that employs employees who provide services in a public or private facility providing health care-related services, including a home health-care organization, or who otherwise have a risk of exposure to blood or other material potentially containing bloodborne pathogens in connection with exposure to sharps shall comply with the minimum standards set by the Texas Department of State Health Services (TDSHS). This includes a district that operates a public school health clinic.

'SHARPS' DEFINED

"Sharps" means an object used or encountered in a health-care setting that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident, including a needle device, a scalpel, a lancet, a piece of broken glass, a broken capillary tube, an exposed end of a dental wire, or a dental knife, drill, or bur.

MINIMUM
STANDARDS

The minimum standards in the TDSHS Bloodborne Pathogens Exposure Control Plan require the District to:

1. Develop, review annually, update as necessary, and document its actions regarding a comprehensive exposure control plan appropriate to the District and its particular facilities;
2. Provide, at District expense, personal protective equipment and Hepatitis B vaccinations to affected employees, and if an

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employee declines to be vaccinated, maintain a record of the employee's written refusal;

3. Provide to affected employees pre-service and annual refresher training as described in the TDSHS Exposure Control Plan;
4. Record all exposure incidents (e.g., "sticks" by needles or other "sharps") in a sharps injury log and report the sharps injury to TDSHS on a standardized form; and
5. Provide a post-exposure evaluation and follow up with an employee who has a sharps injury.

Health and Safety Code 81.301-.307; 25 TAC 96

COST OF HEPATITIS
TESTING AFTER
ACCIDENTAL
EXPOSURE

If certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport to the hospital is accidentally exposed to blood or other body fluids of a patient, the hospital to which the patient is transported shall take reasonable steps to test the patient for hepatitis B or hepatitis C. A district that employs the person, or for which the person works as a volunteer in connection with rendering the assistance, is responsible for paying the costs of the test. *Health and Safety Code 81.095(B)*

GENETIC
INFORMATION

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if the District uses language such as that at 29 CFR 1635.8(b)(1)(i)(B). *29 CFR 1635.8(b)(1)(i)(A)* [See DAB]

PRE-EMPLOYMENT
INQUIRIES AND
EMPLOYMENT
ENTRANCE
EXAMINATIONS

The District shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, the District is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions. *42 U.S.C. 12112(d)(2); 29 CFR 1630.14(a)*

The District may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

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The results of an employment entrance medical examination shall be used only to determine the applicant's ability to perform job-related functions.

42 U.S.C. 12112(d)(3); 29 CFR 1630.14(b)

CONFIDENTIALITY

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment. *29 CFR 1630.14(b)(c)*

EXAMINATION DURING
EMPLOYMENT

The District may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to perform job-related functions.

The Board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the Board's judgment and in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. Such a policy must reserve to the educator the right to present to the Board testimony or other information relevant to the educator's fitness to continue the performance of regular duties. [See also DEC]

The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions.

42 U.S.C. 12112(d)(3)-(4); 29 CFR 1630.14(c); Education Code 21.409(c)

Note: This policy summarizes the Family and Medical Leave Act (FMLA) and implementing regulations, including FMLA for an employee seeking leave because of a relative's military service. For provisions on leaves in general, see DEC. For provisions addressing leave for an employee's military service, see DECB.

This introductory page outlines the contents of this policy on the Family and Medical Leave Act. See the following sections for statutory provisions on:

SECTION I	General Provisions	pages 2–5
	1. Applicability to districts	
	2. Employee eligibility	
	3. Qualifying reasons for leave	
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SECTION II	Leave Entitlement and Use	pages 5–12
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	3. Special rules for instructional employees	
	4. Use of paid leave	
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	6. Reinstatement of employee	
SECTION III	Notices and Medical Certification	pages 12–18
	1. Notices to employee	
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	1. Preservation of records	
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SECTION I: GENERAL PROVISIONS

COVERED EMPLOYER All public elementary and secondary schools are “covered employers” under the FMLA, without regard to the number of employees employed. The term “employer” includes any person who acts directly or indirectly in the interest of the District to any of the District’s employees. *29 U.S.C. 2611(4), 2618(a); 29 CFR 825.104(a)*

ELIGIBLE EMPLOYEE “Eligible employee” means an employee who:

1. Has been employed by the District for at least 12 months. The 12 months need not be consecutive;
2. Has been employed by the District for at least 1,250 hours of service during the 12-months immediately preceding the commencement of leave; and
3. Is employed at a worksite where 50 or more employees are employed by the District within 75 miles of that worksite.

29 U.S.C. 2611(2); 29 CFR 825.110

[A district that has no eligible employees must comply with the requirements at GENERAL NOTICE, below.]

QUALIFYING REASONS FOR LEAVE The District shall grant leave to eligible employees:

1. For the birth of a son or daughter, and to care for the newborn child;
2. For placement with the employee of a son or daughter for adoption or foster care [For the definitions of “adoption” and “foster care,” see 29 CFR 825.122];
3. To care for the employee’s spouse, son or daughter, or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee’s job [For the definition of “serious health condition,” see 29 CFR 825.113];
5. Because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to active duty) [For the definition of “covered military member,” see 29 CFR 825.126(b). For the definition of “covered active duty,” see 29 U.S.C. 2611(14)]; and
6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the

spouse, son, daughter, parent, or next of kin of the service-member. [For the definitions of “covered servicemember” and “serious injury or illness,” see 29 U.S.C. 2611(15), (18)]

29 U.S.C. 2612(a); 29 CFR 825.112

For provisions regarding treatment for substance abuse, see 29 CFR 825.119.

QUALIFYING
EXIGENCY

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Additional activities provided that the District and employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

29 CFR 826.126

PREGNANCY OR
BIRTH

Both the mother and father are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. The husband is entitled to FMLA leave if needed to care for his pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition. [For the definition of “needed to care for,” see 29 CFR 825.124] *29 CFR 825.120*

DEFINITIONS
'NEXT OF KIN'

“Next of kin of a covered servicemember” (for purposes of military caregiver leave) means:

1. The blood relative specifically designated in writing by the covered servicemember as his or her nearest blood relative

for purposes of military caregiver leave under the FMLA. The designated individual shall be deemed to be the covered servicemember's only next of kin; or

2. When no such designation has been made, the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority:
 - a. Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions,
 - b. Brothers and sisters,
 - c. Grandparents,
 - d. Aunts and uncles, and
 - e. First cousins.

If there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously.

29 CFR 825.127(b)(3)

'PARENT'

"Parent" (for purposes of family, medical, and qualifying exigency leave) means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents "in law." *29 CFR 825.122(b)*

For the definition of "parent of a covered servicemember" for purposes of military caregiver leave, see *29 CFR 825.127(b)(2)*.

'SON OR
DAUGHTER'

"Son or daughter" (for purposes of family and medical leave) means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence. *29 CFR 825.122(c)*

For the definition of "son or daughter on active duty or call to active duty status" for purposes of qualifying exigency leave, see *29 CFR 825.126(b)(1)*.

For the definition of "son or daughter of a covered servicemember" for purposes of military caregiver leave, see *29 CFR 825.127(b)(1)*.

'SPOUSE' "Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized. *29 CFR 825.122(a)*

SECTION II: LEAVE ENTITLEMENT AND USE

AMOUNT OF LEAVE Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

A husband and wife who are employed by the same district may be limited to a combined total of 12 weeks of FMLA leave during any 12-month period if leave is taken for the birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

29 U.S.C. 2612(a), (f); 29 CFR 825.120(a)(3), .200, .201

DETERMINING THE 12-MONTH PERIOD Except with respect to military caregiver leave, the District may choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary" date;
3. The 12-month period measured forward from the date any employee's first FMLA leave begins; or
4. A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

29 CFR 825.200(b)

MILITARY CAREGIVER LEAVE In the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 26 workweeks of leave during a "single 12-month period." The "single 12-month period" is measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins, regardless of the method used by the District to determine the 12-month period for other FMLA leaves. During the "single 12-month period," an eligible employee's FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason. *29 CFR 825.200(f), (g)*

A husband and wife who are employed by the same district may be limited to a combined total of 26 weeks of FMLA leave during the "single 12-month period" if leave is taken as military caregiver

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leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. *29 CFR 825.127(d)*

SUMMER VACATION
AND OTHER
EXTENDED BREAKS

If the District's activity temporarily ceases and employees generally are not expected to report for work for one or more weeks (e.g., a school closing for two weeks for the Christmas/New Year holiday), those days do not count against the employee's FMLA leave entitlement. Similarly, the period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. *29 CFR 825.200(h), .601(a)*

INTERMITTENT OR
REDUCED LEAVE
SCHEDULE

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. "Intermittent leave" is FMLA leave taken in separate blocks of time due to a single qualifying reason. A "reduced leave schedule" is a leave schedule that reduces an employee's usual number of working hours per work-week, or hours per workday.

For leave taken because of the employee's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the District agrees.

29 U.S.C. 2612(b); 29 CFR 825.202

TRANSFER TO
ALTERNATIVE
POSITION

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the District may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. *29 U.S.C. 2612(b)(2); 29 CFR 825.204*

CALCULATING
LEAVE USE

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. The District must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that the District

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uses to account for use of other forms of leave, provided the increment is not greater than one hour. *29 CFR 825.205*

SPECIAL RULES FOR
INSTRUCTIONAL
EMPLOYEES

Special rules apply to certain employees of the District. These special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

“Instructional employees” are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

29 CFR 825.600

FAILURE TO
PROVIDE NOTICE
OF FORESEEABLE
LEAVE

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, the District may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, the District may require the employee to delay the taking of leave until the notice provision is met. *29 CFR 601(b)*

20 PERCENT RULE

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered service-member, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the District may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

“Periods of a particular duration” means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for “periods of a particular duration” in the

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case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

29 U.S.C. 2618(c); 29 CFR 825.601, .603

LEAVE AT THE END OF
A SEMESTER

As a rule, the District may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, the District may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of the FMLA.

If the District requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the District to the end of the semester is not counted as FMLA leave; however, the District shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

29 U.S.C. 2618(d); 29 CFR 825.603

MORE THAN FIVE
WEEKS BEFORE
END OF SEMESTER

The District may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

DURING LAST FIVE
WEEKS OF
SEMESTER

The District may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

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DURING LAST THREE WEEKS OF SEMESTER	<p>The District may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.</p> <p><i>29 CFR 825.602</i></p>
SUBSTITUTION OF PAID LEAVE	<p>Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, the District may require the employee to do so. The term "substitute" means that the paid leave provided by the District, and accrued pursuant to established policies of the District, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the District's normal leave policy. <i>29 U.S.C. 2612(d); 29 CFR 825.207(a)</i></p>
COMPENSATORY TIME	<p>If an employee requests and is permitted to use accrued compensatory time to receive pay during FMLA leave, or if the District requires such use, the compensatory time taken may be counted against the employee's FMLA leave entitlement. <i>29 CFR 825.207(f)</i></p>
FMLA AND WORKERS' COMPENSATION	<p>A serious health condition may result from injury to the employee "on or off" the job. If the District designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor the District may require the substitution of paid leave. However, the District and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.</p> <p>If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the District's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the District may require the use of accrued paid leave.</p> <p><i>29 CFR 825.207(d)</i></p>
MAINTENANCE OF HEALTH BENEFITS	<p>During any FMLA leave, the District must maintain the employee's coverage under any group health plan on the same conditions as</p>

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coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

29 U.S.C. 2614(c); 29 CFR 825.209

PAYMENT OF
PREMIUMS

During FMLA leave, the employee must continue to pay the employee's share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates. *29 CFR 825.210*

FAILURE TO PAY
PREMIUMS

Unless the District has an established policy providing a longer grace period, the District's obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, the District must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, the District must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

29 CFR 825.212

RECOVERY OF
BENEFIT COST

If an employee fails to return to work after FMLA leave has been exhausted or expires, a District may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. The District may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave. *29 CFR 825.213*

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RIGHT TO
REINSTATEMENT

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. *29 CFR 825.214(a), .216(a)*

MOONLIGHTING
DURING LEAVE

If the District has a uniformly applied policy governing outside or supplemental employment, the policy may continue to apply to an employee while on FMLA leave. A district that does not have such a policy may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained. *29 U.S.C. 2618(e); 29 CFR 825.216(e)*

REINSTATEMENT
OF SCHOOL
EMPLOYEES

The District shall make the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave on the basis of established Board policies and practices. The "established policies" must be in writing, must be made known to the employee before the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA. For example, an employee may not be restored to a position requiring additional licensure or certification. *29 CFR 825.604*

PAY INCREASES
AND BONUSES

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with the District's policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee

who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

29 CFR 825.215(c)

KEY EMPLOYEES

The District may deny job restoration to a key employee if such denial is necessary to prevent substantial and grievous economic injury to the operations of the District. *29 U.S.C. 2614(b); 29 CFR 825.217-.219*

SECTION III: NOTICES AND MEDICAL CERTIFICATION

EMPLOYER NOTICES
GENERAL NOTICE

Every covered employer must post on its premises a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints with the Department of Labor's Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Covered employers must post this general notice even if no employees are eligible for FMLA leave.

If the District has any eligible employees, it shall also:

1. Include the notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, if such written materials exist; or
2. Distribute a copy of the general notice to each new employee upon hiring.

Electronic posting is sufficient if it meets the other requirements of this section.

If the District's workforce is comprised of a significant portion of workers who are not literate in English, the District shall provide the general notice in a language in which the employees are literate.

The District may use Department of Labor (DOL) form WHD 1420 or may use another format so long as the information provided includes, at a minimum, all of the information contained in that notice.

29 CFR 825.300(a)

ELIGIBILITY NOTICE

When an employee requests FMLA leave, or when the District acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the District must notify the employee of the employee's eligibility to take FMLA leave. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.

The District must provide the eligibility notice within five business days, absent extenuating circumstances. Notification of eligibility

may be oral or in writing. The District may use DOL form WH-381 to provide such notification to employees. The District shall translate the notice in any situation in which it is required to translate the general notice.

29 CFR 825.300(b)

RIGHTS AND
RESPONSIBILITIES
NOTICE

Each time the District provides an eligibility notice to an employee, the District shall also provide a written rights and responsibilities notice. The rights and responsibilities notice must include the information required by the FMLA regulations at 29 CFR 825.300(c)(1).

The District may use DOL form WH-381 to provide such notification to employees. The District may adapt the prototype notice as appropriate to meet these notice requirements. The notice may be distributed electronically if it meets the other requirements of this section. The District shall translate the notice in any situation in which it is required to translate the general notice.

29 CFR 825.300(c)

DESIGNATION
NOTICE

When the District has enough information to determine whether leave is being taken for an FMLA-qualifying reason, the District must notify the employee whether the leave will be designated as FMLA leave. If the District determines that the leave will not be designated as FMLA-qualifying, the District must notify the employee of that determination. Absent extenuating circumstances, the District must provide the designation notice within five business days.

The District may use DOL form WH-382 to provide such notification to employees. If the leave is not designated as FMLA leave because it does not meet the requirements of the Act, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

The designation notice must include the information required by the FMLA regulations at 29 CFR 825.300(d)(1) (substitution of paid leave), (d)(3) (fitness for duty certification), and (d)(6) (amount of leave charged against FMLA entitlement). For further provisions on designation of leave, see 29 CFR 825.301.

29 CFR 825.300(d)

RETROACTIVE
DESIGNATION

The District may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if the District's failure to timely designate leave does not cause harm or injury to the employee. In addition, the District and an employee may agree that leave will be retroactively designated as FMLA leave. *29 CFR 825.301(d)*

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(LEGAL)

EMPLOYEE NOTICE An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, below. The employee does not need to expressly assert rights under the Act or even mention the FMLA. *29 CFR 825.301*

FORESEEABLE LEAVE An employee must provide at least 30 days' advance notice before FMLA leave is to begin if the need for leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment of the employee, a family member, or a covered servicemember. If 30 days' notice is not practicable, the employee must give notice as soon as practicable. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with the District and make a reasonable effort to schedule the treatment so as not to disrupt unduly the District's operations, subject to the approval of the health-care provider.

29 CFR 825.302

UNFORESEEABLE LEAVE When the approximate timing of leave is not foreseeable, an employee must provide notice to the District as soon as practicable under the facts and circumstances of the particular case. It generally should be practicable for the employee to provide notice of leave that is unforeseeable within the time prescribed by the District's usual and customary notice requirements applicable to such leave. *29 CFR 825.303*

COMPLIANCE WITH DISTRICT REQUIREMENTS The District may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied. *29 CFR 825.302(d)–.303(c)*

CERTIFICATION OF LEAVE The District may require that an employee's FMLA leave be supported by certification, as described below. The District must give notice of a requirement for certification each time certification is required. At the time the District requests certification, the District must advise the employee of the consequences of failure to provide adequate certification. *29 CFR 825.305(a)*

TIMING In most cases, the District should request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. The District may re-

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(LEGAL)

quest certification at a later date if the District later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to the District within 15 calendar days after the District's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. *29 CFR 825.305(b)*

INCOMPLETE OR
INSUFFICIENT
CERTIFICATION

The District shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The District must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is "incomplete" if one or more of the applicable entries have not been completed. A certification is "insufficient" if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to the District is not considered incomplete or insufficient, but constitutes a failure to provide certification.

29 CFR 825.305(c)

MEDICAL
CERTIFICATION OF
SERIOUS HEALTH
CONDITION

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, the District may require the employee to obtain medical certification from a health-care provider. The District may use DOL optional form WH-380-E when the employee needs leave due to the employee's own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. The District may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing the District with an authorization, release, or waiver allowing the District to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 CFR 825.125.

29 CFR 825.306

GENETIC
INFORMATION

A district subject to the Genetic Information Nondiscrimination Act (GINA) shall comply with the GINA rules with respect to a request for medical information. *29 CFR 1635.8(b)(1)(i)(A)* [See DAB]

AUTHENTICATION
AND CLARIFICATION

If an employee submits a complete and sufficient certification signed by the health-care provider, the District may not request additional information from the health-care provider. However, the

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(LEGAL)

District may contact the health-care provider for purposes of clarification and authentication of the certification after the District has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, the District must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

“Authentication” means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

“Clarification” means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. The District may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with the District by a HIPAA-covered health-care provider.

29 CFR 825.307(a)

SECOND AND THIRD
OPINIONS

If the District has reason to doubt the validity of a medical certification, the District may require the employee to obtain a second opinion at the District's expense. If the opinions of the employee's and the District's designated health-care providers differ, the District may require the employee to obtain certification from a third health-care provider, again at the District's expense. *29 CFR 825.307(b), (c)*

FOREIGN MEDICAL
CERTIFICATION

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the District shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide the District with a written translation of the certification upon request. *29 CFR 825.307(f)*

RECERTIFICATION

The District may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. The District must allow at least 15 calendar days for the employee to provide recertification.

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(LEGAL)

As part of the recertification for leave taken because of a serious health condition, the District may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

29 CFR 308

CERTIFICATION—
QUALIFYING
EXIGENCY LEAVE

The first time an employee requests leave because of a qualifying exigency, the District may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

The District may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). The District may use DOL optional form WH-384, or another form containing the same basic information, for this certification. The District may not require information beyond that specified in the regulations.

29 CFR 825.309

CERTIFICATION—
MILITARY
CAREGIVER LEAVE

When an employee takes military caregiver leave, the District may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, the District may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). The District may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

The District may use DOL optional form WH-385, or another form containing the same basic information, for this certification. The District may not require information beyond that specified in the regulations. The District must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("ITAs") issued to any family member to join an injured or ill servicemember at his or her bedside.

The District may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

29 CFR 825.310

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DECA
(LEGAL)

INTENT TO RETURN TO WORK The District may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The District's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation. *29 CFR 825.311*

FITNESS FOR DUTY CERTIFICATION As a condition of restoring an employee who took FMLA leave due to the employee's own serious health condition, the District may have a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The District may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. *29 CFR 825.312*

FAILURE TO PROVIDE CERTIFICATION If the employee fails to provide the District with a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, the District may deny the taking of FMLA leave. This provision applies in any case where the District requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient. *29 CFR 825.305*

For failure to provide timely certification of foreseeable leave, see 29 CFR 825.313(a). For failure to provide timely certification of unforeseeable leave, see 29 CFR 825.313(b). For failure to provide timely recertification, see 29 CFR 825.313(c). For failure to provide timely fitness-for-duty certification, see 29 CFR 825.313(d).

SECTION IV: MISCELLANEOUS PROVISIONS

RECORDS The District shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. The District shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the DOL upon request.

If the District is preserving records electronically, the District must comply with 29 CFR 825.500(b). A district that has eligible employees must maintain records with the data set forth at 29 CFR 825.500(c). A district that has no eligible employees must maintain just the data at 29 CFR 825.500(c)(1). For districts in a joint employment situation, see 29 CFR 825.500(e).

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members,

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(LEGAL)

created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements [see 29 CFR 1630.14(c)(1)], except as set forth in this section of the regulations.

29 CFR 825.500

PROHIBITION AGAINST
DISCRIMINATION AND
RETALIATION

The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. *29 U.S.C. 2615; 29 CFR 825.220*

TERMINATION OF EMPLOYMENT

DF
(LEGAL)

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).

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). *Education Code 26.008(b)*

DISCHARGE OF
CONVICTED
EMPLOYEES

The District shall discharge an employee if the District obtains information through a criminal history record information (CHRI) review that:

1. The employee has been convicted of:
 - 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

However, the District is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:

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, the Superintendent shall certify to the Commissioner that the 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

The 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 dis-

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close 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 STUDENTS

MANDATORY
TERMINATION

If the District receives notice that SBEC has revoked the certificate of a person based on conviction for a felony under Penal Code Title 5 or an offense requiring registration as a sex offender, and the victim of the offense is under 18 years of age, the District 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; and
2. If the person is employed under a probationary, continuing, or term contract:
 - a. Suspend the person without pay;
 - b. Provide the person with written notice that the person's contract is void [see NOTICE TO EMPLOYEE, below]; and
 - c. Terminate the employment of the person as soon as practicable.

Education Code 21.058(a), (c)

DISCRETIONARY
TERMINATION

If the District becomes aware that a person employed by the District under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to the mandatory termination provision above, the District may:

1. Suspend the person without pay;
2. Provide the person with written notice that the person's contract is void [see NOTICE TO EMPLOYEE, below]; and
3. Terminate the employment of the person as soon as practicable.

Education Code 21.058(c-1)

NOTICE TO
EMPLOYEE

A person's probationary, continuing, or term contract is void if the District provides written notice to the person, under the mandatory or discretionary termination provisions above, that the person's contract is void. *Education Code 21.058(c-2)*

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(LEGAL)

NO APPEAL

Action taken by the District under the mandatory or discretionary terminations provisions above is not subject to appeal under Education Code Chapter 21 and the notice and hearing requirements of Chapter 21 do not apply to the action. *Education Code 21.058(e)*

INVALID OR EXPIRED
CERTIFICATION

An employee's probationary, term, or continuing contract is void if the employee:

1. Does not hold a valid certificate or permit issued by SBEC;
2. Fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code Chapter 21, Subchapter B; or
3. Fails to comply with any requirement under Education Code Chapter 22, Subchapter C [criminal history review, see DBAA], if the failure results in suspension or revocation of the employee's certificate.

Education Code 21.0031(a)

A certificate or permit is not considered to have expired if:

1. The employee has completed the requirements for renewal of the certificate or permit;
2. The employee submitted the request for renewal before the expiration date; and
3. The date the certificate or permit would have expired is before the date SBEC takes action to approve the renewal of the certificate or permit.

Education Code 21.0031(f)

DISTRICT'S
OPTIONS

If the District has knowledge that an employee's contract is void under Education Code 21.0031(a), the 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 that does not require a contract under Education Code 21.002, at the employee's existing rate of pay or at a reduced rate.

The employee is not entitled to the minimum salary prescribed by Education Code 21.402.

Education Code 21.0031(b)

TERMINATION OF EMPLOYMENT

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(LEGAL)

EXCEPTION	<p>The District may not terminate or suspend an employee under 21.0031(b) because of the employee's lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:</p> <ol style="list-style-type: none">1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and2. Not later than the 10th day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC. <p><i>Education Code 21.0031(b-1)</i></p>
NO APPEAL OR CHAPTER 21 HEARING	<p>The District's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of that chapter do not apply to the decision. <i>Education Code 21.0031</i></p>
APPLICABILITY	<p>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></p>
REPORT TO SBEC OF EDUCATOR MISCONDUCT	<p>In addition to the reporting requirement under Family Code 261.101 [see FFG], the 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 a certificate holder's employment at the District was terminated based on a determination that the certificate holder:</p> <ol style="list-style-type: none">1. Sexually or physically abused or otherwise committed an unlawful act with a student or minor;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.;3. Illegally transferred, appropriated, or expended funds or other property of the District;4. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or permit for the purpose of promotion or additional compensation;5. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or

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6. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

The Superintendent may notify SBEC of any educator misconduct that the Superintendent believes in good faith may be subject to sanctions by SBEC.

[See DH(LEGAL) regarding contents of report to SBEC.]

Education Code 21.006; 19 TAC 249.14(d)

DEFINITIONS

'ABUSE'

"Abuse" includes 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.

19 TAC 249.3(1)

'SOLICITATION OF
A ROMANTIC
RELATIONSHIP'

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:

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DF
(LEGAL)

- 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 that the educator attempts to conceal the communications;
 - f. If the educator claims to be counseling a student, SBEC 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 authorities; and
 - g. Any other evidence tending to show the context of the communications between educator and student.
2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
 3. Making sexually demeaning comments to a student.
 4. Making comments about a student's potential sexual performance.
 5. Requesting details of a student's sexual history.
 6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.
 7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
 8. Inappropriate hugging, kissing, or excessive touching.
 9. Providing the student with drugs or alcohol.
 10. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
 11. Any other acts tending to show that the educator solicited a romantic relationship with the student.

19 TAC 249.3(51)

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 the Board or the 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 the Board President or the Board's designee at the post office address of the District is considered filed at the time of mailing.

Education Code 21.105(a), .160(a), .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 the 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), .160(b), .210(b)*

SANCTIONS FOR
ABANDONMENT OF
CONTRACT

On written complaint by the 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), .160(c), .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 the Board:

TERMINATION OF EMPLOYMENT
RESIGNATION

DFE
(LEGAL)

1. Submits a written complaint within 30 calendar days after the effective date of the educator's separation from employment from the District. Unless the District and the educator have a written agreement to the contrary, the effective date of separation from employment is the first day that, without District permission, the educator fails to appear for work under the contract.
2. Renders a finding that good cause did not exist under Education Code 21.105(c)(2) (probationary contract), 21.160(c)(2) (continuing contract), or 21.210(c)(2) (term contract). This finding constitutes prima facie evidence of the educator's lack of good cause but is not a conclusive determination.
3. Submits the following required attachments to the written complaint:
 - a. The educator's resignation letter, if any;
 - b. The agreement with the educator regarding the effective date of separation from employment, if any;
 - c. The educator's contract; and
 - d. Board meeting minutes indicating a finding of "no good cause." If the Board does not meet within 30 calendar days of the educator's separation from employment, the minutes may be submitted within 10 calendar days after the next Board meeting.

19 TAC 249.14(g)

NOTICE TO SBEC

In addition to the reporting requirement under Family Code 261.101 [see FFG], the 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, the Superintendent shall inform the educator in writing that a report will be filed which may result in sanctions against the employee's certificate.

The Superintendent shall notify the Board before filing a report of a resignation with SBEC.

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

TERMINATION OF EMPLOYMENT
RESIGNATION

DFE
(LEGAL)

INVESTIGATION

The Superintendent shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have abused or otherwise committed an unlawful act with a student or minor, despite the educator's resignation from District employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

EMPLOYEE STANDARDS OF CONDUCT

DH
(LEGAL)

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(b), (c)

REPORT TO SBEC OF EDUCATOR MISCONDUCT In addition to the reporting requirement under Family Code 261.101 [see FFG], the 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:

- CRIMINAL HISTORY 1. An applicant for or holder of a certificate issued by SBEC has a reported criminal history. "Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction;
- TERMINATION 2. A certificate holder's employment at the District was terminated based on a determination that the certificate holder engaged in misconduct listed at DF(LEGAL);
- RESIGNATION 3. A certificate holder resigned and reasonable evidence supported a recommendation by the Superintendent to terminate the certificate holder based on a determination that the certificate holder engaged in misconduct listed at DF(LEGAL) [see DFE]; or
- ASSESSMENT INSTRUMENT 4. A certificate holder engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.

Education Code 21.006, 22.087; 19 TAC 249.3(43), .14(d)

The Superintendent may notify SBEC of any educator misconduct that the Superintendent believes in good faith may be subject to sanctions by SBEC. *19 TAC 249.14(d)*

CONTENTS OF REPORT The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual cir-

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(LEGAL)

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. All available contact information for any alleged victim or victims; and
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report.

Education Code 21.006(c); 19 TAC 249.14(e)

The 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] *Education Code 21.006(h)*

NOTICE

The Superintendent shall notify the Board and the educator of the filing of a written report with SBEC. *Education Code 21.006(d)*

SANCTIONS FOR
FAILURE TO
REPORT

A superintendent who fails to timely make a required report is subject to sanctions by SBEC. *Education Code 21.006(f); 19 TAC 249.14(e)*

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(e)*

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

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

ENFORCEMENT

The Board shall ensure that District personnel enforce the policies on school property.

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

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DRUG AND ALCOHOL
ABUSE PROGRAM

The 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

EMPLOYEE STANDARDS OF CONDUCT

DH
(LOCAL)

Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. [See DH(EXHIBIT)]

Each District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

VIOLATIONS OF
STANDARDS OF
CONDUCT

Each employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DCD and DF series]

ELECTRONIC MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), Web logs (blogs), electronic forums (chat rooms), video-sharing Web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and Web-based applications.

USE WITH
STUDENTS

In accordance with administrative regulations, a certified or licensed employee, or any other employee designated in writing by the Superintendent or a campus principal, may use electronic media to communicate with currently enrolled students about matters within the scope of the employee's professional responsibilities. All other employees are prohibited from using electronic media to communicate directly with students who are currently enrolled in the District. The regulations shall address:

1. Exceptions for family and social relationships;
2. The circumstances under which an employee may use text messaging to communicate with students; and
3. Other matters deemed appropriate by the Superintendent or designee.

Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic media. [See CPC]

PERSONAL USE

An employee shall be held to the same professional standards in his or her public use of electronic media as for any other public conduct. If an employee's use of electronic media violates state or

EMPLOYEE STANDARDS OF CONDUCT

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(LOCAL)

federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY
REQUIREMENTS

Each employee shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

HARASSMENT OR
ABUSE

An employee shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees. [See DIA]
2. Students. [See FFH; see FFG regarding child abuse and neglect]

While acting in the course of employment, an employee shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

RELATIONSHIPS WITH
STUDENTS

An employee shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]

TOBACCO USE

An employee shall not use tobacco products on District premises, in District vehicles, or at school or school-related activities. [See also GKA]

ALCOHOL AND DRUGS

An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while at school or at school-related activities during or outside of usual working hours:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant or mood-changing, mind-altering, or behavior-altering drug.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

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(LOCAL)

EXCEPTIONS	An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee's personal use shall not be considered to have violated this policy.
NOTICE	<p>Each employee shall be given a copy of the District's notice regarding drug-free schools. [See DI(EXHIBIT)]</p> <p>A copy of this policy, a purpose of which is to eliminate drug abuse from the workplace, shall be provided to each employee at the beginning of each year or upon employment.</p>
ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS	<p>An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:</p> <ol style="list-style-type: none">1. Crimes involving school property or funds;2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or4. Crimes involving moral turpitude, which include:<ul style="list-style-type: none">• Dishonesty; fraud; deceit; theft; misrepresentation;• Deliberate violence;• Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;• Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;• Felony driving while intoxicated (DWI); or• Acts constituting abuse or neglect under the Texas Family Code.
DRESS AND GROOMING	An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by his or her supervisor and approved by the Superintendent.

EDUCATORS' CODE OF ETHICS

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 District, 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 Board policies, and other 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 District employees, 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.

EMPLOYEE STANDARDS OF CONDUCT

DH
(EXHIBIT)

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 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, gender, disability, 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 learning, physical health, mental health, or safety of the student or minor.

Standard 3.3. The educator shall not 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, gender, disability, national origin, religion, family status, or sexual orientation.

EMPLOYEE STANDARDS OF CONDUCT

DH
(EXHIBIT)

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 or minor.

Standard 3.7. The educator shall not furnish alcohol or illegal/unauthorized drugs to any person under 21 years of age unless the educator is a parent or guardian of that child or knowingly allow any 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, but not limited to, 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, but are not limited to:

- 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

SCHOOL YEAR

EB
(LEGAL)

SCHOOL START DATE The District may not begin instruction for students for a school year before the fourth Monday in August unless the District operates a year-round system (see below). The District may not receive a waiver of this requirement.

EXCEPTIONS A district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the District does not offer may instead start school on any date permitted under the law of the other state.

A district with a student enrollment of 190,000 or more may begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the District if:

1. The District at the beginning of the school year provides, financed with local funds, days of instruction for students at the campus or at each of the multiple campuses, in addition to the minimum number of days of instruction required under Education Code 25.081;
2. The campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the Board; and
3. A majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

Education Code 25.0811

LENGTH OF SCHOOL YEAR The District shall operate so that it provides for at least 180 days of instruction each school year.

EXCEPTIONS The Commissioner may approve the operation of schools for less than the number of instructional days specified above when disaster, flood, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of schools.

Education Code 25.081

OPTIONAL FLEXIBLE YEAR PROGRAM To enable the District to provide additional instructional days for an optional extended year program [see EHBC], the District may, with the approval of the Commissioner, provide a number of days of instruction during the regular school year that is not more than ten days fewer than 180 days. *Education Code 29.0821(b)(1)*

YEAR-ROUND SCHOOLS The District may operate its schools year-round on a single or a multi-track system. If it adopts a year-round system, it may modify:

1. The number of contract days of employees and the number of days of operation, including any time required for staff devel-

opment, planning and preparation, and continuing education,
otherwise required by law.

2. Testing dates, data reporting, and related matters.
3. The date of the first day of instruction of the school year under Education Code 25.0811 for a school that was operating year-round for the 2000–01 school year.
4. Students' eligibility to participate in extracurricular activities when their calendar track is not in session.

Education Code 25.084

INSTRUCTIONAL ARRANGEMENTS
JUVENILE RESIDENTIAL FACILITIES

EEM
(LEGAL)

FUNDING

If the District provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board, the District is entitled to count those students in the District's average daily attendance.

If a district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between:

1. The average Foundation School Program costs per student of the district providing education services; and
2. The sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

Education Code 37.0061

OPERATIONS
DEFINITIONS

A "pre-adjudication secure detention facility" is a secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and is used for the temporary placement of any juvenile or other individual who is accused of having committed an offense and is awaiting court action, an administrative hearing, or other transfer action.

A "post-adjudication secure correctional facility" is a secure facility administered by a governing board or the Texas Juvenile Justice Department that includes construction and fixtures designed to physically restrict the movements and activities of the residents and is intended for the treatment and rehabilitation of youth who have been adjudicated. A post-adjudication secure correctional facility does not include any non-secure residential program operating under the authority of a juvenile board as defined by Family Code 51.12(j).

A "resident" is a juvenile or other individual who has been admitted into a pre-adjudication secure detention facility or a post-adjudication secure correctional facility.

"Residential facility" means:

1. A facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour

INSTRUCTIONAL ARRANGEMENTS
JUVENILE RESIDENTIAL FACILITIES

EEM
(LEGAL)

custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and

2. Any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under item 1.

A "school district" is the educational service provider in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility. For the purposes of this section addressing OPERATIONS, the definition of school district includes open-enrollment charter school.

Education Code 5.001(8); 19 TAC 89.1801(a)

ENROLLMENT

PRE-
ADJUDICATION
SECURE
DETENTION
FACILITY

The school district providing the education services in a pre-adjudication secure detention facility shall ensure that a student is enrolled in its district or, by local agreement, in the student's locally assigned school district on the first school day after the student's arrival at the facility unless it is confirmed that the student will return to a different district within ten school days. The district that maintains a student's enrollment is responsible for ensuring that appropriate education services are provided to each of its students while in the facility.

POST-
ADJUDICATION
SECURE
CORRECTIONAL
FACILITY

The school district providing the education services in a post-adjudication secure correctional facility shall ensure that a student is enrolled in its district or, by local agreement, in the student's locally assigned district on the student's first school day in the facility as a court-committed juvenile.

ACADEMIC
RECORDS

The school district in the facility shall coordinate with the student's previous locally assigned campus to ensure that appropriate academic records are received within ten school days of the student's enrollment.

19 TAC 89.1801(b)

CLASS SIZE

The school district shall ensure that the classroom ratio does not exceed one certified educator to 24 students per class period.

19 TAC 89.1801(c)

PRE-ASSESSMENT

The school district shall ensure that a pre-assessment is administered to students in a post-adjudication secure correctional facility. The pre-assessment shall:

1. Be administered within ten school days from the student's first day of enrollment; and

INSTRUCTIONAL ARRANGEMENTS
JUVENILE RESIDENTIAL FACILITIES

EEM
(LEGAL)

2. At a minimum, evaluate the student's basic reading and mathematics skills in relation to the student's current grade level.

19 TAC 89.1801(d)

CURRICULUM

Each school district shall, at a minimum, provide students with the subjects and courses necessary to complete the Minimum High School Program, as specified in 19 Administrative Code 74.62. The school district shall ensure that the educational services of the students consist of curriculum that is aligned with the requirements described in Education Code 28.002 and the Texas Essential Knowledge and Skills (TEKS).

PRE-
ADJUDICATION

Each school district in a pre-adjudication secure detention facility shall ensure that a student is provided courses that afford an opportunity of continued progress toward the completion of the Minimum High School Program.

POST-
ADJUDICATION

Each school district in the post-adjudication secure correctional facility shall, at a minimum, provide a student curriculum that enables the student the opportunity to complete the requirements of the Minimum High School Program. The school district shall provide students, ages 15–18 and identified as appropriate candidates, the opportunity and resources to prepare for the five general educational development examinations.

19 TAC 89.1801(e)

AWARD OF CREDIT

The school district shall grant credits for coursework completed to ensure that high school credit is awarded to students for the successful completion of required courses while enrolled in educational services at the facility. *19 TAC 89.1801(f)*

LENGTH AND
NUMBER OF
SCHOOL DAYS

The school district shall, at a minimum, provide a seven-hour school day that consists of at least five and one-half hours of required secondary curriculum to students in the facility. For each school year, each school district must operate so that the facility provides for at least 180 days of instruction for students.

STUDENTS WITH
DISABILITIES

The school district shall ensure that students with disabilities are provided instructional days commensurate with those provided to students without disabilities in accordance with requirements contained in 19 Administrative Code 89.1075(d).

19 TAC 89.1801(g)

INSTRUCTIONAL RESOURCES
INSTRUCTIONAL MATERIALS

EFA
(LOCAL)

The District shall provide a wide range of instructional resources for students and faculty that present varying levels of difficulty, diversity of appeal, and a variety of points of view. Although trained professional staff are afforded the freedom to select instructional resources for their use in accordance with this policy and the state-mandated curriculum, the ultimate authority for determining and approving the curriculum and instructional program of the District lies with the Board.

OBJECTIVES

In this policy, "instructional resources" refers to textbooks, library acquisitions, supplemental materials for classroom use, and any other instructional materials, including electronic resources, used for formal or informal teaching and learning purposes. The primary objectives of instructional resources are to deliver, support, enrich, and assist in implementing the District's educational program. [See EFAA for the selection and adoption process of state-adopted instructional materials.]

The Board shall rely on District professional staff to select and acquire instructional resources that:

1. Enrich and support the curriculum, taking into consideration students' varied interests, abilities, learning styles, and maturity levels.
2. Stimulate growth in factual knowledge, enjoyment of reading, literary appreciation, aesthetic values, and societal standards.
3. Present various sides of controversial issues so that students have an opportunity to develop, under guidance, skills in critical analysis and in making informed judgments in their daily lives.
4. Represent many ethnic, religious, and cultural groups and their contributions to the national heritage and world community.
5. Provide a wide range of background information that will enable students to make intelligent judgments in their daily lives.

SELECTION CRITERIA

In the selection of instructional resources, especially library acquisitions and supplemental materials for classroom use, professional staff shall ensure that materials:

1. Support and are consistent with the general educational goals of the state and District and the aims and objectives of individual schools and specific courses consistent with the District and campus improvement plans.

INSTRUCTIONAL RESOURCES
INSTRUCTIONAL MATERIALS

EFA
(LOCAL)

2. Meet high standards in presentation, format, readability, content, accuracy, artistic or literary quality, and educational significance.
3. Are appropriate for the subject and for the age, ability level, learning styles, and social and emotional development of the students for whom they are selected.
4. Are designed to provide information that will motivate students to examine their own attitudes and behavior, to understand their rights, duties, and responsibilities as citizens, and to make informed judgments in their daily lives.

Recommendations for library acquisitions shall involve administrators, teachers, other District personnel, and community representatives, as appropriate. Gifts of instructional resources shall be evaluated according to these criteria and accepted or rejected accordingly.

Selection of materials is an ongoing process that includes the removal of resources no longer appropriate and the periodic replacement or repair of materials still of educational value.

CONTROVERSIAL
ISSUES

The selection of library acquisitions on controversial issues shall endeavor to maintain a balanced collection representing various views. Library materials shall be chosen to clarify historical and contemporary forces by presenting and analyzing intergroup tension and conflict objectively, placing emphasis on recognizing and understanding social and economic problems. [See also EMB regarding instruction about controversial issues and EHAA regarding human sexuality instruction.]

CHALLENGED
MATERIALS

A parent of a District student, any employee, or any District resident may formally challenge an instructional resource used in the District's educational program on the basis of appropriateness.

INFORMAL
RECONSIDERATION

The school receiving a complaint about the appropriateness of an instructional resource shall try to resolve the matter informally using the following procedure:

1. The principal or designee shall explain the school's selection process, the criteria for selection, and the qualifications of the professional staff who selected the questioned material.
2. The principal or designee shall explain the role the questioned material plays in the educational program, its intended educational usefulness, and any additional information regarding its use.

INSTRUCTIONAL RESOURCES
INSTRUCTIONAL MATERIALS

EFA
(LOCAL)

3. If appropriate, the principal or designee may offer a concerned parent other instructional material to be used by that parent's child in place of the challenged material.
4. If the complainant wishes to make a formal challenge, the principal or designee shall provide the complainant a copy of this policy and a Request for Reconsideration of Instructional Materials form [see EFA(EXHIBIT)].

FORMAL
RECONSIDERATION

All formal objections to instructional resources shall be made on the Request for Reconsideration of Instructional Materials form. The form shall be completed and signed by the complainant and submitted to the principal or designee. Upon receipt of the request, the principal shall appoint a reconsideration committee.

The reconsideration committee shall include at least one member of the instructional staff who either has experience teaching the challenged material or is familiar with the challenged material. Other members of the committee may include District-level staff, library staff, secondary-level students, parents, and others deemed appropriate by the principal.

All members of the committee shall review the challenged material in its entirety. As soon as reasonably possible, the committee shall meet and determine whether the challenged material conforms to the principles of selection set out in this policy. The committee shall then prepare a written report. Copies of the report shall be provided to the principal, the Superintendent or designee, and the complainant.

APPEAL

The complainant may appeal the decision of the reconsideration committee in accordance with appropriate complaint policies, starting with the appropriate administrator. [See DGBA, FNG, and GF] The appeal shall contain documentation of the informal reconsideration process, if any, the Request for Reconsideration of Instructional Materials form, the reconsideration committee's report, and dates of conferences with the principal or designee.

GUIDING PRINCIPLES

The following principles shall guide the Board and staff in responding to challenges of instructional resources:

1. A complainant may raise an objection to an instructional resource used in a school's educational program, despite the fact that the professional staff selecting the resources were qualified to make the selection, followed the proper procedure, and adhered to the objectives and criteria for instructional resources set out in this policy.
2. A parent's ability to exercise control over reading, listening, or viewing matter extends only to his or her own children.

INSTRUCTIONAL RESOURCES
INSTRUCTIONAL MATERIALS

EFA
(LOCAL)

3. When instructional resources are challenged, the principles of the freedom to read, listen, and view must be defended as well.
4. Access to challenged material shall not be restricted during the reconsideration process.

The major criterion for the final decision on challenged materials is the appropriateness of the material for its intended educational use. No challenged library material shall be removed solely because of the ideas expressed therein.

SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

EHBC
(LEGAL)

COMPENSATORY
EDUCATION
ALLOTMENT

The 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 the 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

The 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, the 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.

The 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

The District may not use more than 18 percent of its compensatory education allotment for DAEPs.

The Commissioner may waive this limitation upon an annual petition, by the District's Board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on DAEPs.

Education Code 42.152(c)(1)–(2)

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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 the 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 the 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 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 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 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;
3. 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;

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4. 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;
5. Is pregnant or is a parent;
6. Has been placed in a DAEP in accordance with Education Code 37.006 during the preceding or current school year;
7. Has been expelled during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. Is a student of limited English proficiency, as defined by Section 29.052;
11. 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;
12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the 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 the 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. *Education Code 29.081(g)*

COMPENSATORY,
INTENSIVE, AND
ACCELERATED
INSTRUCTION

The 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

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	<p>the students to perform at grade level at the conclusion of the next regular school term. <i>Education Code 29.081(a)</i></p>
ACCELERATED INSTRUCTION	<p>The District shall provide accelerated instruction to an enrolled student who has taken an end-of-course assessment instrument and has not performed satisfactorily or who is at risk of dropping out of school. <i>Education Code 29.081(b), 39.025(b-1)</i></p>
EFFECTIVENESS	<p>The 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></p>
DROPOUT RECOVERY EDUCATION PROGRAMS	<p>The 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 the District’s average daily attendance for funding purposes.</p> <p><i>Education Code 29.081(e)–(f)</i></p>
PUBLIC JUNIOR COLLEGE PARTNERSHIP PROGRAM	<p>The District may agree to partner with a public junior college to provide on the campus of the college a dropout recovery program for students to successfully complete and receive a diploma from a District high school in accordance with Education Code 29.401. [See GNC]</p>
COMMUNITIES IN SCHOOLS (CIS)	<p>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></p>
OPTIONAL EXTENDED-YEAR PROGRAM (OEYP)	<p>The 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; or

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2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year.

A student who does not demonstrate proficiency in a subject area as determined by the District is also eligible for services.

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.

POLICY	If the District provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.
PROGRAM CRITERIA	An OEYP must meet the requirements set forth at Education Code 29.082 and 19 Administrative Code 105.1001.
PROMOTION OF STUDENT	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).
TRANSPORTATION	<p>The 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.</p> <p><i>Education Code 29.082; 19 TAC 105.1001 [See EIE and FDC]</i></p>
OPTIONAL FLEXIBLE YEAR PROGRAM (OFYP)	<p>The 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> <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)	<p>Notwithstanding Education Code 25.081 (school year) or 25.082 (school day) [see EB and EC], the District may apply to the Commissioner to provide a flexible school day program (OFSDP) for students, in accordance with 19 Administrative Code 129.1027.</p> <p>A district that meets application requirements may:</p> <ol style="list-style-type: none">1. Provide flexibility in the number of hours each day a student attends;

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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 section 25.081 and the required length of school day under Education Code section 25.082.

STUDENT
ELIGIBILITY

The 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 OFSDP shall be based on the number of instructional days in the 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.

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ANNUAL PERFORMANCE REVIEW	Annually, the 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. <i>Education Code 29.0822; 19 TAC 129.1027</i>
TUTORIAL SERVICES	The District may provide tutorial services at District schools. If the 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. The District may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation. <i>Education Code 29.084</i>
BASIC SKILLS PROGRAMS	The 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, the 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. <i>Education Code 29.086</i>
AFTER-SCHOOL AND SUMMER INTENSIVE MATHEMATICS AND SCIENCE PROGRAMS	The 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: <ol style="list-style-type: none">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; or3. Other students as determined by the District. Before providing a program, the Board must adopt a policy for: <ol style="list-style-type: none">1. Determining student eligibility for participating in the program that:

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- 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

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

The 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

The 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.

The District shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

LIMITATION

The 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.

Education Code 28.006(f), (g), (g-1), (k)

SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

EHBC
(LEGAL)

INTENSIVE PROGRAM
OF INSTRUCTION
STATE
ASSESSMENTS

The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument.

The program shall be designed to:

1. Enable the student to:
 - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - b. Attain a standard of annual growth specified by the District and reported by the District to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

STUDENTS
RECEIVING
SPECIAL
EDUCATION
SERVICES

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:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

GRADUATION
REQUIREMENTS

The 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.

NO CAUSE OF
ACTION

The 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.

Education Code 28.0213

MAXIMUM ALLOWABLE
INDIRECT COST

The District may expend no more than the following percentages of the District's Foundation School Program (FSP) special allotments under Education Code Chapter 42, Subchapter C, for indirect costs related to the following programs:

1. No more than 48 percent for indirect costs related to:
 - a. Compensatory education,
 - b. Bilingual education and special language programs, and
 - c. Special education.

2. No more than 45 percent for indirect costs related to gifted and talented education programs.
3. No more than 42 percent for indirect costs related to career and technical education programs.

Beginning with the 2012–13 school year, the District may choose to use a greater indirect cost allotment under Education Code 42.151, .153, .154, and .156, to the extent the District receives less funding per weighted student in state and local maintenance and operations revenue than in the 2011–12 school year. The Commissioner shall develop a methodology for the District to make this determination and may require any information necessary to implement this rule.

19 TAC 105.11

SPECIAL PROGRAMS
HIGH SCHOOL EQUIVALENCY

EHBL
(LEGAL)

	<p>The purpose of a High School Equivalency Program (HSEP) approved by the Commissioner is to prepare eligible students to take the high school equivalency examination. <i>19 TAC 89.1401</i></p>
AUTHORIZATION FOR PROGRAM	<p>The District may apply for authorization to operate an HSEP. The Board must hold a public hearing concerning the proposed application before applying to operate an HSEP. <i>Education Code 29.087(b), (k)(1); 19 TAC 89.1405(a), .1407</i></p> <p>A cooperative of districts may apply for permission to operate a cooperative HSEP if it operates pursuant to a written agreement. The fiscal agent of a cooperative HSEP is responsible for complying with the requirements of 19 Administrative Code Chapter 89, Subchapter DD. <i>19 TAC 89.1405(b)</i></p> <p>A district authorized by the Commissioner on or before August 31, 2003, to operate an HSEP may continue to operate the program. <i>Education Code 29.087(b-1); 19 TAC 89.1417(b), (e)</i></p>
OPERATION OF PROGRAM	<p>A student enrolled in an HSEP must be offered, at a minimum, a seven-hour school day and a 180-day instructional year calendar. However, a student may attend the HSEP a maximum of 600 minutes, or ten hours of instruction per day. A student may be enrolled in only an HSEP or may be enrolled in an HSEP in combination with regular attendance and/or special program attendance during the school day. <i>Education Code 29.087(c); 19 TAC 89.1411(a), (d), .1417(d)</i></p> <p>Enrollment in an HSEP may not exceed by more than five percent the total number of students enrolled in a similar program operated by the District during the 2000–01 school year. <i>19 TAC 89.1417(c)</i></p>
ANNUAL REVIEW	<p>The Board must hold a public hearing annually to review the performance of the HSEP.</p> <p>HSEPs shall be required to submit annually one progress report as instructed by the General Educational Development Testing Service (GEDTS) to TEA.</p> <p><i>Education Code 29.087(k)(2); 19 TAC 89.1407, .1417(a)</i></p>
STUDENT ELIGIBILITY	<p>A student is eligible to participate in the HSEP if:</p>
COURT-ORDERED	<ol style="list-style-type: none">1. The student has been ordered by a court under Code of Criminal Procedure 45.054, or by the Texas Juvenile Justice Department, to:<ol style="list-style-type: none">a. Participate in a preparatory class for the high school equivalency examination; or

- STUDENT AT RISK
- b. Take the high school equivalency examination administered under Education Code 7.111; or
 2. The following conditions are satisfied:
 - a. The student is at least 16 years of age at the beginning of the school year or semester;
 - b. The student is a student at risk of dropping out of school [see EHBC];
 - c. The student and the student's parent or guardian agree in writing to the student's participation; and
 - d. At least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one-third of the credits required to graduate under the minimum graduation requirements of the District.

Education Code 29.087(d); 19 TAC 89.1403

STATE ASSESSMENT

A student enrolling in an HSEP must take:

1. Prior to entering the program, the following assessments, as applicable:
 - a. If the student first enters grade 9 prior to the 2011–12 school year, the student must take the grade 9 Texas Assessment of Knowledge and Skills (TAKS) assessment in reading and mathematics; or
 - b. If the student first enters grade 9 during or after the 2011–12 school year, the student must take the end-of-course (EOC) assessments for Algebra I and English I. Released grade 9 TAKS assessments may be used until the applicable EOC has been released. The District shall be responsible for scoring the released assessment.

If the student took a higher grade level assessment before enrollment, the student has met this requirement;

2. Each TAKS or EOC assessment instrument required to be administered during the student's enrollment in the HSEP; and
3. The assessments listed above before taking the high school equivalency examination.

A student entering an HSEP by order of the court or the Texas Juvenile Justice Department is exempt from these assessment requirements.

Education Code 29.087(f); 19 TAC 89.1409(a)–(b) [See EKB]

GED TESTING

The District must inform each student who has completed the program of the time and place at which the student may take the high school equivalency examination. A district wanting to serve as a General Education Development (GED) testing center must obtain authorization from TEA, pursuant to 19 Administrative Code 89.42(a).

The District must present to the GED testing center, on a form provided by the TEA, proof that a student has been administered the assessment instruments.

19 TAC 89.1409(c), (d)

EXTRACURRICULAR
PARTICIPATION

A student enrolled in an HSEP may not participate in a competition or activity sanctioned by the University Interscholastic League.

Education Code 29.087(g); 19 TAC 89.1415

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LEGAL)

ASSIGNMENTS

The Board or its designee may assign and transfer any student from one school facility or classroom to another facility or classroom within its jurisdiction. *Education Code 25.031*

The Board or its designee must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032*

MULTIPLE BIRTH
SIBLINGS

"Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.

"Parent" includes a person standing in parental relation.

PLACEMENT

The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing, not later than the fourteenth day after the first day of enrollment, that the school place the siblings in the same classroom or in separate classrooms.

A school shall provide the placement requested. However, the District is not required to place multiple birth siblings in separate classrooms if the request would require the District to add an additional class to the grade level of the siblings.

The school may recommend to a parent the appropriate classroom placement and may provide professional educational advice to assist the parent with the decision.

These provisions do not affect:

1. A right or obligation regarding the individual placement decisions of the admission, review, and dismissal (ARD) committee with respect to students receiving special education services [see EHBAB]; or
2. The right of a teacher to remove a student from a classroom under Chapter 37 [see FOA].

REASSIGNMENT BY
PRINCIPAL

At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

APPEAL

A parent may appeal the principal's classroom placement in the manner provided by District policy. During an appeal, the siblings shall remain in the classroom chosen by the parent. [See FNG]

Education Code 25.043

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LEGAL)

PLACEMENT OF
OLDER STUDENTS

If the District admits a person who is 21 years of age or older to complete the requirements for a high school diploma, and the person has not attended school in the three preceding school years, the District may not place the person with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another District-sanctioned school activity. This restriction does not prevent the person from attending a school-sponsored event that is open to the public as a member of the public. *Education Code 25.001(b-2)*

PETITIONS AND
OBJECTIONS

The parent or person standing in parental relation may by written petition either:

1. Request the assignment or transfer of the student to a designated school or to a school to be designated by the Board; or
2. File objections to the assignment of the student to the school to which the student has been assigned.

Education Code 25.033, 26.003(a)(1)

PROCEDURE

Upon receiving a written petition, the Board shall proceed as follows:

1. If no hearing is requested, act on the petition not later than the 30th day after the petition is submitted and notify the petitioner of its conclusion; or
2. If a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the petition is submitted.

If a hearing is requested, it shall be conducted by the Board in compliance with the following:

1. The petitioner may present evidence relevant to the student.
2. The Board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

BOARD'S DECISION

The decision of the Board, with or without a hearing, shall be final, unless the student, or the parent, guardian, or custodian of the student as next friend, files an exception to the decision as constituting a denial of any right of the student guaranteed under the U.S. Constitution.

If such an exception is filed, the Board may reconsider its decision. If the Board has not ruled on the exception before the 16th day after the date of the filing, the objection is considered overruled. If

the exception is overruled, an appeal of the Board's decision may be filed in the district court of the county in which the Board is located.

Education Code 25.034

STUDENTS WHO ARE
VICTIMS OF BULLYING

On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the Board or its designee shall transfer the victim to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the District other than the campus to which the victim was assigned at the time the bullying occurred.

STUDENTS WHO
ENGAGE IN BULLYING

The Board may transfer the student who engaged in bullying to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the District other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

The transfer of a student with a disability who receives special education services and who engaged in bullying may be made only by a duly constituted ARD committee under Education Code 37.004.

DEFINITION

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

VERIFICATION

The Board or designee shall verify that a student has been a victim of bullying before transferring the student. The Board may consider past student behavior when identifying a bully.

The determination by the Board or designee is final and may not be appealed. The procedures set forth at Education Code 25.034 [see PETITIONS AND OBJECTIONS, PROCEDURE, above] do not apply to a transfer under this provision.

The District is not required to provide transportation to a student who transfers to another campus under this provision.

Education Code 25.0342

Note: For bullying rising to the level of prohibited harassment, see FFH. For all other bullying, see FFI.

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LEGAL)

OTHERS IN SPECIAL
EDUCATION
STUDENT'S
HOUSEHOLD

If the District assigns a student to a District campus other than the campus the student would attend based on the student's residence, for purposes of receiving special education services, the District shall permit the student's parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the household of the student receiving special education services, subject to the conditions below.

A student residing in the same household as the transferred special education student is eligible for a transfer if:

1. The other student is entitled to attend school in the District [see FD];
2. The appropriate grade level for the other student is offered at the campus.

This provision does not apply if the student receiving special education services resides in a residential facility.

Education Code 25.034 [see PETITIONS AND OBJECTIONS, PROCEDURE, above] does not apply to a transfer under this provision.

TRANSPORTATION

The District is not required to provide transportation to a student who transfers to another campus under this provision. This provision does not affect any transportation services provided by the District in accordance with other law for students receiving special education services.

Education Code 25.0343

STUDENTS IN
UNACCEPTABLE
SCHOOLS

A student is eligible to attend another public school in the District in which the student resides if the student is assigned to attend a public school campus:

1. At which 50 percent or more of the students did not perform satisfactorily on the state-mandated assessment in any two of the three preceding years; or
2. That failed to satisfy any standard under Education Code 39.054(e) at any time in the preceding three years. [See AIA]

Education Code 29.202(a) [See FDAA]

STUDENTS IN
SCHOOLS IDENTIFIED
FOR IMPROVEMENT

If a school is identified for school improvement, pursuant to the No Child Left Behind Act, the District shall provide all students enrolled in the school with the option to transfer to another public school served by the District, which may include a public charter school, that has not been identified for school improvement, unless such

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

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(LEGAL)

an option is prohibited by state law. The District shall provide this option not later than the first day of the school year following such identification.

The District shall give priority to the lowest achieving children from low-income families. Students who use the option to transfer shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

The District shall permit a child who transferred to another school to remain in that school until the child has completed the highest grade in that school. The obligation of the District to provide, or to provide for, transportation for the child ends at the end of a school year if the District determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

No Child Left Behind Act of 2001, 20 U.S.C. 6316(b)(1)(E), (F), (b)(13)

Note: See also AID for identification for school improvement and FDE for the school safety transfer option in Title I programs.

CLASS CHANGES

A parent or person standing in parental relation is entitled to reasonable access to the school principal, or to a designated administrator with authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student. The decision of the Board regarding such a request is final and may not be appealed. *Education Code 26.002, .003(a)(2), (b)* [See FNG]

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LOCAL)

A student shall be assigned to a school in the attendance area in which he or she resides. The Superintendent may authorize the intradistrict transfer of a student, upon written request by the parent, with the understanding that transportation shall be provided by the parent. The Superintendent may assign any student from one school facility or classroom to another within the District. When the Board changes the attendance zones, a student shall attend the appropriate school as designated by that change.

A student in kindergarten—grade 5 who is attending a District school and moves to another school attendance area may continue to attend the school where he or she was initially enrolled for the remainder of the current school year. Transportation shall be the responsibility of the parent if the student is not attending his or her geographically designated campus.

CHILDREN OF
DISTRICT EMPLOYEES

A child of a District employee may attend the campus to which his or her parent is assigned, regardless of the designated attendance zone.

INTRADISTRICT
TRANSFERS —
ELEMENTARY

A transfer from one attendance zone to another may be granted by the Superintendent or designee at the beginning of a semester if a physical move of a student's family is planned within the school year. A transfer from one attendance zone to another may be granted if the school administration feels that such a transfer would enhance educational opportunities.

A student may be transferred administratively when it shall more evenly distribute class size among the schools involved.

BOARD RESPONSE TO
PARENT PETITION

Upon receipt of a written petition to transfer a child from one attendance zone to another, the following criteria shall be considered when determining the need to deny the petition:

1. Overcrowding at the sending and receiving schools.
2. Size of sending and receiving schools.
3. Dependability of parent transportation.
4. Permanence of request. The student must remain for the full school year.

Note: For the transfer of a student who is the victim of bullying or who engaged in bullying, see FDB(LEGAL). For the transfer of a student who attends a persistently dangerous school, becomes a victim of a violent criminal offense, or becomes a victim of sexual assault, see FDE.

RECORDS	<p>The District shall maintain records to reflect the average daily attendance (ADA), as required by the Commissioner. The Superintendent, principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. <i>19 TAC 129.21(a)</i></p> <p>Districts shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's <i>Student Attendance Accounting Handbook</i>. <i>19 TAC 129.1023-.1025</i></p> <p>The Superintendent is responsible for the safekeeping of attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or properly stored on the respective school campuses of the District. Regardless of where such records are filed or stored, they must be readily available for audit by TEA. <i>19 TAC 129.21(m)</i></p>
MINIMUM ENROLLMENT	<p>A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.</p>
FULL-DAY STUDENTS	<p>Students enrolled on a full-day basis may earn one full day of attendance each school day.</p>
HALF-DAY STUDENTS	<p>Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present.</p>
ALTERNATIVE ATTENDANCE ACCOUNTING PROGRAM	<p>Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program.</p>
ATTENDANCE FOR STATE FUNDING PURPOSES	<p>Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless the District has obtained permission from TEA for an alternate period to record absences, unless the Board adopts a policy for recording absences in an alternate period or hour, or unless the students for which attendance is being taken are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.</p> <p>The established period in which absences are recorded may not be changed during the school year.</p>

Students absent during the daily period selected by the District for taking attendance shall be counted absent for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

19 TAC 129.21(h)-(i)

A student in a disciplinary alternative education program shall be counted in computing the average daily attendance of students in the District for the student's time in actual attendance in the program. *Education Code 37.008(f)*

EXCEPTIONS

A student not actually on campus when attendance is taken may be considered in attendance for Foundation School Program purposes if:

BOARD-
APPROVED
ACTIVITIES

1. The student is participating in a Board-approved activity under the direction of a member of the District's professional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in TRS. [See FM]

MENTORSHIPS

2. The student is participating in a mentorship approved by District personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program outlined in 19 Administrative Code Chapter 74.

MEDICAID
STUDENTS

3. The student is Medicaid-eligible and participating in the Early and Periodic Screening, Diagnosis, and Treatment Program. Such students may be excused for up to one day at any time without loss of ADA.

RELIGIOUS HOLY
DAYS

4. The student is observing religious holy days, including days of travel to or from a site where the student will observe holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site. [See FEA]

COURT
APPEARANCE

5. The student is attending a required court appearance, including travel for that purpose. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site. [See FEA]

- | | |
|-----------------------------|--|
| CITIZENSHIP
PROCEEDINGS | 6. The student is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site. [See FEA] |
| ELECTION
CLERKS | 7. The student is taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site. [See FEA] |
| HEALTH-CARE
APPOINTMENTS | 8. The student is serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See FEA] |
| CAMPUS VISITS | 9. The student is temporarily absent as a result of a documented appointment with a health-care professional during regular school hours, if that student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy. [See FEA] |
| | 10. The student is visiting an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

a. The District may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and

b. The District adopts:

(1) A policy to determine when an absence will be excused for this purpose; and |

(2) A procedure to verify the student's visit at the institution of higher education. [See FEA]

DROPOUT
RECOVERY
EDUCATION
PROGRAM

11. The student is in attendance at a dropout recovery education program, including a program operated by a public junior college under Education Code 29.402. [See GNC]

TAPS AT
MILITARY
FUNERAL

12. The student is sounding "Taps" at a military honors funeral held in this state for a deceased veteran, provided that the student is enrolled in grade 6 or higher.

Education Code 25.087, 29.081(e); 19 TAC 129.21

DISASTERS

The Commissioner shall adjust the average daily attendance of the District all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the District experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The Commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

Education Code 42.0051

PARENTAL CONSENT
TO LEAVE CAMPUS

Before the District or a charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the District or charter school shall adopt a policy addressing parental consent for a student to leave campus and distribute the policy to staff and to all parents of students in the District or charter school.

19 TAC 129.21(d)

STUDENT WELFARE
CRISIS INTERVENTION

FFB
(LEGAL)

RECOMMENDED
PROGRAMS

The Texas Department of State Health Services (TDSHS), in coordination with TEA, shall provide and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting. The District may select from the list a program or programs appropriate for implementation in the District.

The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
2. Recognize students displaying early warning signs and a possible need for early mental health intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and
3. Intervene effectively with students described by items 1 or 2 above, by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health services, may be taken by a parent or guardian.

POLICY

The Board may adopt a policy concerning early mental health intervention and suicide prevention that:

1. Establishes a procedure for providing notice of a recommendation for early mental health intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;
2. Establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;
3. Establishes that the District may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the District for the purposes of identifying students in need of early mental health intervention or suicide prevention; and

4. Sets out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health intervention or suicide prevention.

The policy must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health intervention or suicide prevention.

The policy and any necessary procedures adopted must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

District policy and procedures are not intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. District policy and procedures are intended to notify a parent or guardian of a need for mental health intervention so that a parent or guardian may take appropriate action. School districts do not have the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

Health and Safety Code 161.325(d)–(f), (i)

DEPICTION OF
MINORS IN VISUAL
MATERIAL

The Texas School Safety Center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

1. The possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;
2. Other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:
 - a. Negative effects on relationships;
 - b. Loss of educational and employment opportunities; and
 - c. Possible removal, if applicable, from certain school programs or extracurricular activities;
3. The unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:
 - a. Search and replication capabilities; and
 - b. Potentially worldwide audience;
4. The prevention of, identification of, responses to, and reporting of incidents of bullying; and
5. The connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

The District shall annually provide or make available information on these programs to parents and students in a grade level the District considers appropriate. The District shall provide or make available the information by any means the District considers appropriate.

Education Code 37.218(b), (c)

Note: This policy addresses discrimination, harassment, and retaliation involving District students. For provisions regarding discrimination, harassment, and retaliation involving District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

STATEMENT OF
NONDISCRIMINATION

The District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, or any other basis prohibited by law. The District prohibits dating violence, as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

DISCRIMINATION

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, gender, national origin, disability, or on any other basis prohibited by law, that adversely affects the student.

PROHIBITED
HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, gender, national origin, disability, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Prohibited harassment includes dating violence as defined by this policy.

EXAMPLES

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

SEXUAL HARASSMENT
BY AN EMPLOYEE

Sexual harassment of a student by a District employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it:
 - a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
 - b. Creates an intimidating, threatening, hostile, or abusive educational environment.

Romantic or inappropriate social relationships between students and District employees are prohibited. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See DF]

BY OTHERS

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, communications, or contact.

Necessary or permissible physical contact such as assisting a child by taking the child's hand, comforting a child with a hug, or other physical contact not reasonably construed as sexual in nature is not sexual harassment.

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

GENDER-BASED
HARASSMENT

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

DATING VIOLENCE

Dating violence occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of dating violence against a student may include physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

student's household. Additional examples may include destroying property belonging to the student, threatening to commit suicide or homicide if the student ends the relationship, attempting to isolate the student from friends and family, stalking, threatening a student's spouse or current dating partner, or encouraging others to engage in these behaviors.

RETALIATION

The District prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation.

EXAMPLES

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

FALSE CLAIM

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action.

PROHIBITED
CONDUCT

In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

REPORTING
PROCEDURES

STUDENT REPORT

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, counselor, principal, other District employee, or the appropriate District official listed in this policy.

EMPLOYEE REPORT

Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate District official listed in this policy and take any other steps required by this policy.

DEFINITION OF
DISTRICT
OFFICIALS

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

TITLE IX
COORDINATOR

Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX coordinator. The District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

Name: Anitrea Goodwin
Position: Executive Director of Human Resources
Address: P.O. Box 1107, Orange, TX 77630
Telephone: (409) 882-5610

ADA/
SECTION 504
COORDINATOR

Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

Name: Dr. Brant Graham
Position: Director of Special Education
Address: P.O. Box 1107, Orange, TX 77630
Telephone: (409) 882-5407

SUPERINTENDENT

The Superintendent shall serve as coordinator for purposes of District compliance with all other antidiscrimination laws.

ALTERNATIVE
REPORTING
PROCEDURES

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

TIMELY REPORTING

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.

NOTICE TO PARENTS

The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult.

INVESTIGATION OF
THE REPORT

The District may request, but shall not require, a written report. If a report is made orally, the District official shall reduce the report to written form.

Upon receipt or notice of a report, the District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District official shall

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending. If not, the District official shall refer the complaint for consideration under FFI.

If an investigation is required in accordance with this policy, the District official shall also determine whether the allegations, if proven, would constitute bullying, as defined by FFI.

If appropriate, the District shall promptly take interim action calculated to address prohibited conduct or bullying during the course of an investigation.

The investigation may be conducted by the District official or a designee, such as the principal, or by a third party designated by the District, such as an attorney. When appropriate, the principal shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

CONCLUDING THE
INVESTIGATION

Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall include a determination of whether prohibited conduct or bullying occurred. The report shall be filed with the District official overseeing the investigation.

DISTRICT ACTION

PROHIBITED
CONDUCT

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct.

CORRECTIVE
ACTION

Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the school community, counseling to the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where harassment has occurred, and reaffirming the District's policy against discrimination and harassment.

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

BULLYING	If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate notice to parents and District action. The District official shall refer to FDB for transfer provisions.
IMPROPER CONDUCT	If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct.
CONFIDENTIALITY	To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.
APPEAL	A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.
RECORDS RETENTION	Retention of records shall be in accordance with FB(LOCAL) and CPC(LOCAL).
ACCESS TO POLICY AND PROCEDURES	Information regarding this policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's Web site, to the extent practicable, and readily available at each campus and the District's administrative offices.

STUDENT WELFARE
FREEDOM FROM BULLYING

FFI
(LEGAL)

DEFINITION

"Bullying" means engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the District and that:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

This conduct is considered bullying if it:

1. Exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and
2. Interferes with a student's education or substantially disrupts the operation of a school.

POLICY

The Board shall adopt a policy, including any necessary procedures, concerning bullying that:

1. Prohibits the bullying of a student;
2. Prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
3. Establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;
4. Establishes the actions a student should take to obtain assistance and intervention in response to bullying;
5. Sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
6. Establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
7. Prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and

STUDENT WELFARE
FREEDOM FROM BULLYING

FFI
(LEGAL)

8. Requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

The policy and any necessary procedures must be included annually in the student and employee handbooks and in the District improvement plan under Education Code 11.252. [See BQ]

INTERNET POSTING

The procedure for reporting bullying must be posted on the District's Internet Web site to the extent practicable.

Education Code 37.0832(a)–(e)

Note: This policy addresses bullying of District students. For provisions regarding discrimination and harassment involving District students, see FFH. Note that FFI shall be used in conjunction with FFH for certain prohibited conduct. For reporting requirements related to child abuse and neglect, see FFG.

BULLYING
PROHIBITED

The District prohibits bullying as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

DEFINITION

Bullying occurs when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the District and that:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

This conduct is considered bullying if it:

1. Exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and
2. Interferes with a student's education or substantially disrupts the operation of a school.

EXAMPLES

Bullying of a student may include hazing, threats, taunting, teasing, confinement, assault, demands for money, destruction of property, theft of valued possessions, name calling, rumor spreading, or ostracism.

RETALIATION

The District prohibits retaliation by a student or District employee against any person who in good faith makes a report of bullying, serves as a witness, or participates in an investigation.

EXAMPLES

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

STUDENT WELFARE
FREEDOM FROM BULLYING

FFI
(LOCAL)

FALSE CLAIM	A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding bullying shall be subject to appropriate disciplinary action.
TIMELY REPORTING	Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.
REPORTING PROCEDURES	To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to a teacher, counselor, principal, or other District employee.
STUDENT REPORT	
EMPLOYEE REPORT	Any District employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall immediately notify the principal or designee.
REPORT FORMAT	A report may be made orally or in writing. The principal or designee shall reduce any oral reports to written form.
PROHIBITED CONDUCT	The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of race, color, religion, gender, national origin, or disability. If so, the District shall proceed under policy FFH. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFH shall include a determination on each type of conduct.
INVESTIGATION OF REPORT	The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.
CONCLUDING THE INVESTIGATION	Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the initial report alleging bullying; however, the principal or designee shall take additional time if necessary to complete a thorough investigation. The principal or designee shall prepare a final, written report of the investigation. The report shall include a determination of whether bullying occurred, and if so, whether the victim used reasonable self-defense. A copy of the report shall be sent to the Superintendent or designee.
NOTICE TO PARENTS	If an incident of bullying is confirmed, the principal or designee shall promptly notify the parents of the victim and of the student who engaged in bullying.

STUDENT WELFARE
FREEDOM FROM BULLYING

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(LOCAL)

DISTRICT ACTION BULLYING	If the results of an investigation indicate that bullying occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the District's Student Code of Conduct and may take corrective action reasonably calculated to address the conduct.
DISCIPLINE	<p>A student who is a victim of bullying and who used reasonable self-defense in response to the bullying shall not be subject to disciplinary action.</p> <p>The discipline of a student with a disability is subject to applicable state and federal law in addition to the Student Code of Conduct.</p>
CORRECTIVE ACTION	Examples of corrective action may include a training program for the individuals involved in the complaint, a comprehensive education program for the school community, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where bullying has occurred, and reaffirming the District's policy against bullying.
TRANSFERS	The principal or designee shall refer to FDB for transfer provisions.
COUNSELING	The principal or designee shall notify the victim, the student who engaged in bullying, and any students who witnessed the bullying of available counseling options.
IMPROPER CONDUCT	If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take action in accordance with the Student Code of Conduct or any other appropriate corrective action.
CONFIDENTIALITY	To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.
APPEAL	A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level.
RECORDS RETENTION	Retention of records shall be in accordance with CPC(LOCAL).
ACCESS TO POLICY AND PROCEDURES	This policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's Web site, to the extent practicable, and shall be readily available at each campus and the District's administrative offices.

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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 records3. Immunization records4. Medical records5. Food allergy information6. Assessment instruments7. Academic achievement record8. Enrollment records	
SECTION II	Access, Disclosure, and Amendment	pages 5–17
	<ol style="list-style-type: none">1. Access to education records2. Information collection3. Subpoenaed and sex offender records4. Request procedure5. Destruction of requested records6. De-identified records, authenticating requestors' identities7. Transfer by third parties to other persons8. Record of access to student records9. Right to amend records10. Fees for copies11. Records of students with disabilities12. Annual notification of rights	
SECTION III	Directory Information	pages 17–20
	<ol style="list-style-type: none">1. Definition and disclosure of directory information2. Designation of directory information3. Annual notice, contents4. Student recruiting information, parental consent to release	
SECTION IV	Videotapes and Recordings	page 20
	<ol style="list-style-type: none">1. Parental consent2. Exceptions to consent	
SECTION V	Information from Law Enforcement	pages 21–23
	<ol style="list-style-type: none">1. Criminal records2. 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 the 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

STUDENT RECORDS

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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

The 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. The 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 the District. On request of a student's parent or guardian, the District shall provide a copy of the student's medical records to the parent or guardian. The 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 the 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]

FOOD ALLERGY INFORMATION

Information regarding a child's food allergy, regardless of how it is received by the school or District, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the District.

EXCEPTIONS

If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the District.

A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the District, including a notation that the child's student records indicate that a parent has notified the District of the child's possible food allergy.

Education Code 25.0022(d)-(f)

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ASSESSMENT
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by the 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)

The 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. The District 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)

The 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 the 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, 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.

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(LEGAL)

'AUTHORIZED
REPRESENTATIVE'

"Authorized representative" means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 CFR 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

'EDUCATION
PROGRAM'

"Education program" means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

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 the 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, .31(a)(8)*

The 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, .073

A parent is entitled to access to all written records of the 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*

STUDENT RECORDS

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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 the 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 the District for reasons determined in District policy.

A contractor, consultant, volunteer, or other party to whom the 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.

The 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

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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 the 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, the 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

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*

The 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. The 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 if:

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- a. 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
- b. 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.

The Superintendent or the Superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051 [see GRAC].

Education Code 37.084(a)

ORGANIZATIONS
CONDUCTING
STUDIES

6. Organizations conducting studies for, or on behalf of, the District 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 all personally identifiable information when the information is no longer needed for the purposes for which the study was con-

STUDENT RECORDS

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ducted and specifies the time period in which the information must be destroyed.

A district that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the District in accordance with the requirements of 34 CFR 99.33(b).

The 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 &
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, the 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 the 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 the 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*

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INFORMATION
COLLECTION

U.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, the 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. 1232h(c)(2).
20 U.S.C. 1232h(c)(1)–(4) [See EF]

SUBPOENAED
RECORDS

The District shall release student records to an entity or persons designated in a subpoena. The 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

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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

The 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. The District shall respond to reasonable requests for explanations and interpretations of the records. *34 CFR 99.10*

DESTRUCTION OF
RECORDS

The 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

The 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

The 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. The 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.

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AUTHENTICATING
REQUESTORS'
IDENTITIES

The 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, the 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)*

The 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)*

The 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; and
2. The District has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting 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. The 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.

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The 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 the 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 the 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 the 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 the 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-.21

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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 The 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. The 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. The 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 The 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 disclosed to anyone other than officials of agencies collecting or using this information. The District may not release information from these records without parental consent except as provided in FERPA. *34 CFR 300.622*

CONFIDENTIALITY The District shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in the District shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or

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instruction concerning the legal requirements involved in handling these records. The 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

The 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

The 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 deter-

mining who constitutes a school official and what constitutes a legitimate educational interest.

The District may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

The 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 (ID) number, unless:
 - a. The student ID number, user ID number, or other unique personal identifier used by a 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 (PIN), password, or other factor known or possessed only by the authorized user; or
 - b. The student ID number or other unique personal identifier that is displayed on a student ID badge 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 PIN, password, or other factor known or possessed only by the authorized user.

DISCLOSURE OF
DIRECTORY
INFORMATION

The 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.

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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 the 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 The 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 The 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.

34 CFR 99.3, .37

DESIGNATION OF DIRECTORY INFORMATION The 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 the 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 the District, remains otherwise confidential and may not be released under Government Code Chapter 552.

ANNUAL NOTICE The 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:

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.

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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 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 the 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 ENFORCEMENT

ORAL NOTICE OF
ARREST OR
REFERRAL

Upon receipt of oral notice from the head of a law enforcement agency or designee that the law enforcement agency has arrested a student or referred a student to the juvenile board for a specified offense [see GRAA], the Superintendent shall immediately 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, the Superintendent or designee shall send the information in the confidential notice to a District employee having direct supervisory responsibility over the student.

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, the Superintendent shall, within 24 hours of receiving the notice, or before the next school day, whichever is earlier, 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, or before the next school day, whichever is earlier, 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.

CONTENTS OF
NOTICE

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;
2. Weapons used in the commission of the offense or conduct;
or
3. Weapons possessed during the commission of the offense or conduct.

Code of Criminal Procedure 15.27(a)-(c), (k)

Information received by the District under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. The District shall destroy the information at

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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-.022

STUDENT EXPRESSION
DISTRIBUTION OF NONSCHOOL LITERATURE

FNAA
(LEGAL)

PROTECTED SPEECH	Activities such as distributing literature, displaying signs, petitioning for change, and disseminating information concerning issues of public concern are protected by the First Amendment. <i>Schenck v. Pro-Choice Network</i> , 519 U.S. 357 (1997) (recognizing leafletting and commenting on matters of public concern as protected speech); <i>Boos v. Barry</i> , 485 U.S. 312 (1988) (recognizing public issue signs as protected speech); <i>Meyer v. Grant</i> , 486 U.S. 414 (1988) (recognizing the solicitation of signatures for a petition drive as protected speech)
LIMITATIONS ON EXPRESSION	The District may prohibit expression by students if: <ol style="list-style-type: none">1. It materially and substantially interferes with school activities;2. It materially and substantially interferes with the rights of other students or teachers; or3. The District can demonstrate reasonable cause to believe that the expression would engender material and substantial interference.
NO VIEWPOINT DISCRIMINATION	The District shall not discriminate based on the viewpoint expressed in private, student-to-student, non-disruptive speech. <i>Morgan v. Swanson</i> , 659 F.3d 359 (5th Cir. 2011) (recognizing private, non-disruptive, student-to-student speech expressing a religious viewpoint as protected speech)
PRIOR REVIEW	The District may subject student expression to prior screening under clear and reasonable regulations.
TIME, PLACE, AND MANNER LIMITATIONS	The District may limit student expression in manner, place, or time by means of reasonable, viewpoint-neutral regulations. <i>Shanley v. Northeast Indep. Sch. Dist.</i> , 462 F.2d 960 (5th Cir. 1972); <i>Canady v. Bossier Parish Sch. Bd.</i> , 240 F.3d 437 (5th Cir. 2001) [See also CPAB for use of the District's mail system]

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STUDENT CODE OF
CONDUCT

The Board shall adopt a Student Code of Conduct for the District, with the advice of its District-level committee. The Student Code of Conduct must:

1. Specify the circumstances, consistent with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, or disciplinary alternative education program (DAEP).
2. Specify the conditions that authorize or require a principal or other appropriate administrator to transfer a student to DAEP.
3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].
4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
 - a. Self-defense;
 - b. Intent or lack of intent at the time the student engaged in the conduct;
 - c. A student's disciplinary history; or
 - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), the District is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that District employees enforce those prohibitions.

"Bullying" has the meaning provided by Education Code 37.0832. [See FFI]

"Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another stu-

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dent, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

"Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

8. Provide, as appropriate for students at each grade level, methods, including options, for:
 - a. Managing students in the classroom and on school grounds;
 - b. Disciplining students; and
 - c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making of hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

CHANGES IN SCOC Once the Student Code of Conduct is promulgated, any change or amendment shall be approved by the Board.

POSTING The Student Code of Conduct shall be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

Education Code 37.001

NOTICE TO PARENTS Each school year, the District shall provide parents with notice of and information regarding the Student Code of Conduct. *Education Code 37.001(d)*

NONCUSTODIAL PARENT A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, the District provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. The District may not unreasonably deny the request. Notwithstanding this re-

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	<p>quirement, the District shall comply with any applicable court order of which the District has knowledge. <i>Education Code 37.0091(a)</i></p>
COPIES TO STAFF	<p>The District shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. <i>Education Code 37.018</i></p>
NO UNSUPERVISED SETTING	<p>Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. <i>Education Code 37.008(h)</i></p>
CONTINUATION OF DISCIPLINARY ACTION	<p>If the District takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.</p> <p>“Disciplinary action” means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.</p> <p>“District or school” includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.</p> <p><i>Education Code 37.022</i></p>
OPPORTUNITY TO COMPLETE COURSES	<p>If a student is placed in in-school suspension or other alternative setting other than a DAEP, the District shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. The District may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. <i>Education Code 37.021</i> [For DAEP notice requirements, see FOCA]</p>
SECLUSION	<p>A District employee or volunteer or an independent contractor of the District may not place a student in seclusion. <i>Education Code 37.0021(c)</i></p> <p>“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:</p> <ol style="list-style-type: none">1. Is designed solely to seclude a person; and2. Contains less than 50 square feet of space. <p><i>Education Code 37.0021(b)(2)</i></p>

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(LEGAL)

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by the District; or
2. Provides, as a school resource officer, a regular police presence on the District campus under a memorandum of understanding between the District and a local law enforcement agency.

Education Code 37.0021(h)

EXCEPTIONS

This prohibition on seclusion does not apply to:

1. A peace officer performing law enforcement duties; or
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of the District.

LAW
ENFORCEMENT
DUTIES

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g)

RESTRAINT REPORTS

The District shall report electronically to TEA, in accordance with standards provided by Commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties [see LAW ENFORCEMENT DUTIES, above] on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by Commissioner rule for reporting the use of restraint involving students with disabilities [see FOF]. *Education Code 37.0021(i)*

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. *Education Code 37.0021(b)(1)*

CORPORAL
PUNISHMENT

If the Board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a District educator may use corporal punishment to discipline a student unless the student’s parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. *Education Code 37.0011(b)*

PARENT
STATEMENT

To prohibit the use of corporal punishment as a method of student discipline, each school year a student’s parent or guardian or other person having lawful control over the student must provide a sepa-

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rate written, signed statement to the Board in the manner established by the Board. The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the Board at any time during the school year by submitting a written, signed revocation to the Board in the manner established by the Board. *Education Code 37.0011(c)-(d)*

DEFINITION

"Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. *Education Code 37.0011(a)*

USE OF FORCE TO
MAINTAIN DISCIPLINE

The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

VIDEOTAPES AND
RECORDINGS

A District employee may, without consent of a child's parent, make a videotape or recording of the child if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)* [See FNG]

REPORTS

The District shall annually report to the Commissioner:

DISCIPLINARY
ALTERNATIVE
EDUCATION
PROGRAMS

1. For each placement in a DAEP:
 - a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 - b. Information indicating whether the placement was based on:
 - (1) Conduct violating the Student Code of Conduct;
 - (2) Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];
 - (3) Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or

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- (4) Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);
 - c. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and
 - d. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.
- EXPULSIONS
- 2. For each expulsion:
 - a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 - b. Information indicating whether the expulsion was based on:
 - (1) Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or
 - (2) Conduct for which expulsion is permitted;
 - c. The number of full or partial days the student was expelled;
 - d. Information indicating whether:
 - (1) The student was placed in a juvenile justice alternative education program;
 - (2) The student was placed in a DAEP; or
 - (3) The student was not placed in a juvenile justice or other DAEP; and
 - e. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Education Code 37.020

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(EXHIBIT)

The following are felony offenses listed in Title 5 of the Penal Code, Offenses Against the Person.

Section 19.02: Murder

Section 19.03: Capital Murder

Section 19.04: Manslaughter

Section 19.05: Criminally Negligent Homicide

Section 20.02: Unlawful Restraint (if [1] the person restrained was younger than 17 years of age, [2] the actor recklessly exposes the victim to a substantial risk of serious bodily injury, [3] he actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty, or [4] the actor while in custody restrains any other person)

Section 20.03: Kidnapping

Section 20.04: Aggravated Kidnapping

Section 20.05: Unlawful Transport

Section 20A.02: Smuggling of Persons

Section 21.02: Continuous Sexual Abuse of Young Child or Children

Section 21.11: Indecency with a Child

Section 21.12: Improper Relationship between Educator and Student

Section 21.15: Improper Photography or Visual Recording

Section 22.01: Assault (if the actor intentionally, knowingly, or recklessly causes bodily injury to [1] a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; [2] a person the actor knows is a security officer [see Occupations Code 1702.002, 1702.221] while the person is performing a duty as a security officer; [3] a person the actor knows is emergency services personnel while the person is providing emergency services; [4] a person who contracts with the government to perform a service at a correctional facility [see Penal Code 1.07(a)(14)] or a secure correctional or detention facility for juveniles [see Family Code 51.102(13), (14)]; and [5] under certain circumstances, a family member)

Section 22.011: Sexual Assault

Section 22.02: Aggravated Assault

Section 22.021: Aggravated Sexual Assault

Section 22.04: Injury to a Child, Elderly Individual, or Disabled Individual

Section 22.041: Abandoning or Endangering a Child

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(EXHIBIT)

Section 22.05: Deadly Conduct (if the person knowingly discharges a firearm at or in the direction of one or more individuals or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied)

Section 22.07: Terroristic Threat (if the actor threatens to commit any offense involving violence to any person or property with intent to: [1] prevent or interrupt the occupation or use of a building, room, place, or conveyance if the prevention or interruption causes pecuniary loss to the owner of \$1,500 or more; [2] cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; [3] place the public or a substantial group of the public in fear of serious bodily injury; or [4] influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision)

Section 22.08: Aiding Suicide (if the conduct causes suicide or attempted suicide that results in serious bodily injury)

Section 22.09: Tampering with Consumer Product

Section 22.11: Harassment by Persons in Certain Correctional Facilities or of Public Servant

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

STUDENTS YOUNGER
THAN TEN

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

OVERAGE STUDENTS

A person who is 21 years of age or older and is admitted by the District for the purpose of completing the requirements for a diploma is not eligible for placement in a juvenile justice alternative education program (JJAEP) if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the District shall revoke the student's admission. *Education Code 25.001(b-1)*

MANDATORY
EXPULSION

SCHOOL RELATED

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Uses, possesses, or exhibits a firearm, an illegal knife, a club, or a prohibited weapon, as those terms are defined in the Penal Code, or any knife prohibited by local policy [see FNCG];
2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or
3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

Education Code 37.007(a)

EXCEPTION

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored

STUDENT DISCIPLINE
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shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

RETALIATION

The District shall expel a student who engages in conduct that contains the elements of any offense listed above against any District employee or volunteer in retaliation for or as a result of the person's employment or association with the District, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(d)*

FEDERAL FIREARM
PROVISION

In accordance with the Gun-Free Schools Act, the District shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any District school. This restriction shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property. The Superintendent may modify the term of expulsion for a student or assess another comparable penalty that results in the student's exclusion from the regular school program, on a case-by-case basis. The District or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age. The District or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP. *20 U.S.C. 7151; Education Code 37.007(e)* [See also GRA]

For the purposes of this provision, "firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than

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one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921

DISCRETIONARY
EXPULSION

THREATS

A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

SCHOOL- RELATED
CONDUCT

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

ALCOHOL OR
DRUGS

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
 - a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
 - b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
 - c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

VOLATILE
CHEMICALS

2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.

ASSAULT ON AN
EMPLOYEE OR
VOLUNTEER

3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a District employee, or a volunteer as defined by Education Code 22.053. [See FOC(EXHIBIT)]

DEADLY
CONDUCT

4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)

CONDUCT WITHIN
300 FEET OF
SCHOOL

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see MANDATORY EXPULSION — SCHOOL RELATED, above]; or

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(LEGAL)

2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see FEDERAL FIREARM PROVISION, above].

Education Code 37.007(b)(3)

RETALIATION
AGAINST SCHOOL
EMPLOYEE OR
VOLUNTEER

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with the District, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(d)*

CONDUCT AGAINST
ANOTHER STUDENT

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)(4)*

CRIMINAL MISCHIEF

The District may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, the District shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

BREACH OF
COMPUTER
SECURITY

A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:

1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of the District; and
2. The student knowingly alters, damages, or deletes District property or information; or commits a breach of any other computer, computer network, or computer system.

Education Code 37.007(b)(5)

SERIOUS
MISBEHAVIOR IN
DAEP

A student placed in a DAEP who engages in documented serious misbehavior while on the DAEP campus despite documented behavioral interventions may be removed from class and expelled.

"Serious misbehavior" means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;

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2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or
4. Conduct that constitutes the offense of:
 - a. Public lewdness under Penal Code 21.07;
 - b. Indecent exposure under Penal Code 21.08;
 - c. Criminal mischief under Penal Code 28.03;
 - d. Personal hazing under Penal Code 37.152; or
 - e. Harassment, under Penal Code 42.07(a)(1), of a student or district employee.

If the student is expelled, the Board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).

Education Code 37.007(c), .010(b)

PROPERTY OR
ACTIVITIES OF
ANOTHER DISTRICT

The District may expel a student who attends school in the District if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on District property or while attending a District-sponsored or District-related activity; and
2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

Education Code 37.007(i)

EXPULSION
PROCEEDINGS
DUE PROCESS

Before a student may be expelled, the Board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

NOTICE

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or

STUDENT DISCIPLINE
EXPULSION

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	her and an oral or written report on the facts to which each witness testifies.
HEARING	<p>The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.</p> <p>[See also <i>Brewer v. Austin Indep. Sch. Dist.</i>, 779 F.2d 260 (5th Cir. 1985); <i>Keough v. Tate County Bd. of Educ.</i>, 748 F.2d 1077 (5th Cir. 1984); <i>McClain v. Lafayette County Sch. Bd. of Educ.</i>, 673 F.2d 106 (5th Cir. 1982); <i>Tasby v. Estes</i>, 643 F.2d 1103 (5th Cir. 1981); <i>Boykins v. Fairfield Bd. of Educ.</i>, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); <i>Dixon v. Alabama State Bd. of Educ.</i>, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]</p>
REPRESENTATIVE	At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the District. If the District makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the District may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.
TERM OF EXPULSION	If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.
EXPULSION BEYOND ONE YEAR	<p>The period of expulsion may not exceed one year unless the District determines that:</p> <ol style="list-style-type: none">1. The student is a threat to the safety of other students or to District employees; or2. Extended placement is in the best interest of the student. <p><i>Education Code 37.009(h)</i></p>
NOTICE OF EXPULSION ORDER TO PARENT OR GUARDIAN	<p>The Board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion.</p> <p><i>Education Code 37.009(g)-(h)</i></p>
TO COURT	Not later than the second business day after the date an expulsion hearing is held, the Board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

STUDENT DISCIPLINE
EXPULSION

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Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in the District's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and addresses of any witnesses; and the child's present whereabouts; and
2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

Education Code 37.010(a); Family Code 52.04(a), .041(a)–(b)

TO JUVENILE
BOARD

In a county that operates a JJAEP [see FODA], no student shall be expelled without written notification by the Board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following the Board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending the District's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. *Family Code 52.041*

TO STAFF

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], the District shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.007(g)

COMPLETION OF
PROCEEDING UPON
WITHDRAWAL

If a student withdraws from the District before an order for expulsion is entered, the principal or Board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the District during the same or subsequent school year, the District may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or Board fails to enter an order after the student withdraws, the next district

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in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

ADDITIONAL
PROCEEDINGS

If, during the term of expulsion, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or Board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

APPEALS

A decision by the Board's designee to expel a student may be appealed to the Board. If the hearing is not before the Board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*

RESTRICTIONS ON
COURT ORDERS

A court may not order an expelled student to attend a regular classroom, a regular campus, or the District DAEP as a condition of probation.

EXCEPTION

A court may order a student to attend a regular classroom, a regular campus, or the District DAEP if the District has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the District's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

Education Code 37.010(c)

DISTRICT
RESPONSIBILITY FOR
EXPELLED STUDENT

In a county that operates a JJAEP, the District is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

STUDENTS NOT
ELIGIBLE FOR
EXISTING JJAEP

CONTRACTING
FOR SERVICES

The District may provide the program or the District may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

Education Code 37.011(l)

CERTAIN DISTRICTS

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The

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EXPULSION

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(LEGAL)

District is entitled to count the student in the District's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

1. The District's DAEP.
2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education, an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

An educational placement other than the District's DAEP is subject to the educational and certification requirements applicable to an open-enrollment charter school under Education Code Chapter 12, Subchapter D.

Education Code 37.011(a-3)–(a-5)

RETURN TO CLASS

EARLY /
PERMISSIVE

On the recommendation of the placement review committee, or on its own initiative, the District may readmit an expelled student while the student is completing any court disposition requirements.

REQUIRED

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, the District may not refuse to admit the student if the student meets the requirements for admission. [See FD] The District may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

EXPULSION FROM
ANOTHER DISTRICT

If a student has been expelled from another school district, the expelling district shall provide to the district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

OUT-OF-STATE
EXPULSION

The District may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and

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EXPULSION

FOD
(LEGAL)

2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

Education Code 37.010(g)

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.010(g-1)

Note: See FOF for provisions concerning expulsion of students with disabilities.

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 G: COMMUNITY AND GOVERNMENTAL RELATIONS

GA	ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES
GB	PUBLIC INFORMATION PROGRAM
GBA	Information Access
GBAA	Requests for Information
GBB	School Communications Program
GBBA	News Media Relations
GC	PUBLIC NOTICES
GE	RELATIONS WITH PARENT ORGANIZATIONS
GF	PUBLIC COMPLAINTS
GK	COMMUNITY RELATIONS
GKA	Conduct on School Premises
GKB	Advertising and Fund Raising in the Schools
GKC	Visitors to the Schools
GKD	Nonschool Use of School Facilities
GKDA	Distribution of Nonschool Literature
GKE	Business, Civic, and Youth Groups
GKF	Cultural Institutions
GKG	School Volunteer Program
GN	RELATIONS WITH EDUCATIONAL ENTITIES
GNA	Other Schools and Districts
GNB	Regional Education Service Centers
GNC	Colleges and Universities
GND	State Education Agency
GNE	Education Accreditation Agencies
GR	RELATIONS WITH GOVERNMENTAL ENTITIES
GRA	State and Local Governmental Authorities
GRAA	Law Enforcement Agencies
GRAC	Juvenile Service Providers
GRB	Interlocal Cooperation Contracts
GRC	Emergency Management

PUBLIC NOTICES

GC
(LEGAL)

To the extent a law requiring or authorizing the publication of a notice in a newspaper by the District or its representative does not specify the manner of publication, including the number of times that the notice is required to be published and the period during which the notice is required to be published, the District shall follow Government Code Chapter 2051, Subchapter C. *Gov't Code 2051.042*

DEFINITIONS

“Governmental representative” includes an officer, employee, or agent of the District.

“Notice” means any matter, including a proclamation or advertisement, required or authorized by law to be published in a newspaper by the District or representative.

Gov't Code 2051.041

TIME OF PUBLICATION

A notice must be published in a newspaper issued at least one day before the occurrence of the event to which the notice refers. *Gov't Code 2051.050*

Unless notice is posted on the door of the county courthouse under Government Code 2051.048(d), a notice shall be published in at least one issue of a newspaper. *Gov't Code 2051.043*

SELECTION OF
NEWSPAPER

A district or representative required to publish a notice in a newspaper shall, in accordance with Government Code Chapter 2051, Subchapter C, select one or more newspapers to publish the notice. *Gov't Code 2051.049*

Except as provided at Government Code 2051.0441, the newspaper in which a notice is published must:

1. Devote not less than 25 percent of its total column lineage to general interest items;
2. Be published at least once each week;
3. Be entered as second-class postal matter in the county where published; and
4. Have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice. A weekly newspaper has been published regularly and continuously if the newspaper omits not more than two issues in the 12-month period.

Gov't Code 2051.044

PUBLIC NOTICES

GC
(LEGAL)

SELECTION OF
NEWSPAPER IN
CERTAIN COUNTIES

If a notice is to be published in: (a) a county with a population of at least 30,000 and not more than 36,000, that borders the Red River; or (b) a county that does not have a newspaper published in the county that meets the requirements at Government Code 2051.044, the newspaper in which the notice is published must:

1. Devote not less than 20 percent of its total column lineage to general interest items;
2. Be published at least once each week;
3. Be entered as a periodical postal matter in the county where published or have a mailed or delivered circulation of at least 51 percent of the residences in the county where published; and
4. Have been published regularly and continuously for at least 12 months before publication of the notice. A weekly newspaper has been published regularly and continuously if the newspaper omits not more than two issues in the 12-month period.

Gov't Code 2051.0441

RATE FOR
PUBLICATION

A notice shall be published in a newspaper that is published in the District and that will publish the notice at or below the legal rate. The legal rate for publication of a notice in a newspaper is the newspaper's lowest published rate for classified advertising.

If no newspaper published in the District will publish the notice at or below the legal rate, the District shall publish the notice in a newspaper that is published in the county in which the District is located and will charge the legal rate or a lower rate.

If no newspaper published in the county in which the District is located will publish the notice at or below the legal rate, the District shall post the notice at the door of the county courthouse of the county in which the District is located.

Gov't Code 2051.045, .048

RELATIONS WITH EDUCATIONAL ENTITIES
COLLEGES AND UNIVERSITIES

GNC
(LEGAL)

FACILITIES

DUAL USAGE
EDUCATIONAL
COMPLEX

The District may enter into a cooperative agreement with a community college district regarding a dual usage educational complex, provided the District is located in whole or in part in the service area of the college district. The college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the parties under the terms of the cooperative agreement. *Education Code 130.0103*

INSTRUCTIONAL OR
ATHLETIC FACILITY

The Board may contract with an institution of higher education located wholly or partially within the District's boundaries for the use of any stadium and other athletic facilities owned by or under the control of the institution of higher education.

The District and an institution of higher education located wholly or partially in the boundaries of the county in which the District is located may contract for the District to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education.

Education Code 45.109 [See CX]

COLLEGE
COURSES IN
DISTRICT
FACILITIES

If the District is located in a county contiguous to, but not part of, a community college district, the Board may enter into a contract with the community college district for the community college to hold college courses in the District's facilities. The contract shall be approved by Board resolution. Either party may terminate the contract by giving the other party at least one year's written notice. *Education Code 130.006*

DISTRICT COURSES
ON HIGHER
EDUCATION
CAMPUS

The Board may operate a school or program or hold a class on the campus of an institution of higher education in this state if the Board obtains written consent from the president or other chief executive officer of the institution, regardless of whether the institution is located within the boundaries of the District. *Education Code 11.166*

INSTRUCTIONAL
PARTNERSHIPS WITH
COMMUNITY COLLEGE
DISTRICTS

Types of instructional partnerships between the District and a community college district include:

1. Award of High School Credit (see HIGH SCHOOL CREDIT-ONLY COURSES, below).
2. Award of Dual Course Credit (see DUAL CREDIT COURSES, below).
3. Tech-Prep Programs.

RELATIONS WITH EDUCATIONAL ENTITIES
COLLEGES AND UNIVERSITIES

GNC
(LEGAL)

4. Remedial or Developmental Instruction (see REMEDIAL PROGRAMS, below).

19 TAC 9.143

AGREEMENT

For any educational partnership between the District and a community college district, an agreement must be approved by the board or designee of both the District and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcribing of credit.
8. Funding provisions.

19 TAC 9.144

HIGH SCHOOL
CREDIT-ONLY
COURSES

The District may contract with a community college district for the college district to provide coursework necessary for students to complete high school. The District and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125*

DUAL CREDIT
COURSES

The District may enter into an agreement with a public college to form a dual credit partnership. Dual credit means the process by which a high school student enrolls in a college course and receives simultaneous academic credit for the course from both the college and high school. *19 TAC Ch. 4, Subch. D* [See EHDD(LEGAL)]

REMEDIAL
PROGRAMS

The Board may contract with the board of the community college district in which the District is located for the college district to provide remedial programs for students enrolled in the District's secondary schools in preparation for graduation from secondary school and entrance into college. *Education Code 130.090; 19 TAC 9.146*

DROPOUT RECOVERY
PROGRAM

Beginning September 1, 2012, the District may enter into an articulation agreement to partner with the public junior college district in which the District is located to provide on the campus of the college a dropout recovery program for students to successfully com-

RELATIONS WITH EDUCATIONAL ENTITIES
COLLEGES AND UNIVERSITIES

GNC
(LEGAL)

plete and receive a diploma from a high school of the District.
Education Code 29.402(a)

The program must meet the requirements at Education Code 29.402(c) and 29.081(e), (f).

APPLICABILITY

These dropout recovery provisions apply only to a school district with a dropout rate that is higher than 15 percent based on four-year high school completion rates and that is in a junior college district:

1. Located in a county with a population of 750,000 or more; and
2. With less than 65 percent of the population 25 years and older having graduated from high school, according to the most recent American Community Survey five-year estimates compiled by the United States Census Bureau.

These applicability requirements expire September 1, 2013.

Education Code 29.401

STUDENT
ELIGIBILITY

A person is eligible to enroll in the dropout recovery program if the person:

1. Is under 26 years of age;
2. Must complete not more than three course credits to complete the curriculum requirements for the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program, as appropriate, for high school graduation; or
3. Has failed to perform satisfactorily on an end-of-course assessment instrument under Education Code 39.023(c), or an assessment instrument under Education Code 39.023(c) as that section existed before 2007. [See EKB]

Education Code 29.402(b)

FUNDING

The District shall pay the college district a negotiated amount for each student from the District enrolled in the dropout recovery program. The negotiated amount shall not exceed the total average per student funding amount in the District during the preceding school year for maintenance and operations, including state and local funding, but excluding money from the available school fund.
Education Code 29.403(a)

A student who is enrolled in a dropout recovery program is included in determining the average daily attendance of the District.
Education Code 29.403(b)

RELATIONS WITH EDUCATIONAL ENTITIES
COLLEGES AND UNIVERSITIES

GNC
(LEGAL)

PLAN TO INCREASE
HIGHER EDUCATION
ENROLLMENT

An affected district, as described below, shall enter into an agreement with the public institution of higher education in this state in closest geographic proximity to the District to develop a plan to increase the percentage of the District's graduating seniors who enroll in an institution of higher education for the academic year following graduation. The plan must address the elements at Education Code 29.904(d). *Education Code 29.904(c), (d)*

AFFECTED
DISTRICT

An affected district is one with one or more high schools that:

1. During the preceding five years, have had an average of at least 26 students in the high school graduating class; and
2. For any two consecutive years during the preceding five years, have been among the lowest ten percent of high schools in this state in the percentage of students graduating and enrolling for the following academic year in an institution.

Education Code 29.904(a)

TIMELINE

Unless the District is already operating under a plan to increase enrollment, not later than May 1 of each year TEA shall notify the District if it is an affected district. The District must enter into an agreement to develop a plan to increase enrollment by August 1 of the year in which it receives notice from TEA. *Education Code 29.904(b), (c)*

The District shall file the plan with the Commissioner of Education and the Commissioner of Higher Education. The District must implement the plan at the beginning of the school year following the year during which the District receives notice from TEA that it is an affected district. The District may revise the plan as necessary in response to achieving or failing to achieve goals under the plan. *Education Code 29.904(e)-(g)*