



UNITED INDEPENDENT SCHOOL DISTRICT INFORMATIONAL ITEM

TOPIC: Review of LEGAL Policies in TASB Update 102

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APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: June 15, 2015

Review of LEGAL Policies in TASB Update 102.

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LEGAL POLICIES – TASB UPDATE 102

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District: United ISD

A25 (INDEX) CROSS-INDEX

The cross-index, shared by all localized policy manuals in districts throughout Texas, the *TASB Policy Reference Manual*, and the *TASB Regulations Resource Manual*, has been updated to reflect new terminology and topic relationships established by changes in law or regulation that have arisen since this document was last updated in 2013.

Please bear in mind that the cross-index is "generic" and presents a structure that serves all these manuals; your policy manual may not address some of the topics shown and may not include some of the policies indicated. This cross-index is also a key element used in searching Policy on-line.

AIB (LEGAL) ACCOUNTABILITY
PERFORMANCE REPORTING

New commissioner rules, effective June 25, 2014, provide guidance on the process for evaluating community and student engagement and the LOCAL PERFORMANCE AND COMPLIANCE REPORTING. The rules specify that this evaluation requirement does not apply to budgeted, DAEP, or JJAEP campuses or to facilities operated by the Texas Juvenile Justice Department. The rules also clarify that a district:

- Must post the results of the performance and compliance evaluation on its website;

- May assign a rating of Not Applicable for a community and student engagement program or performance category if the district determines that the program or category is not applicable to the district or campus but may not assign a rating of Not Applicable for the overall performance rating for a campus or the district or for the compliance indicator;

- Must require the local committee to determine the criteria for the overall performance rating for each campus and the district; and

- Must require the local committee to determine the criteria for the reporting and policy compliance evaluation.

We have added provisions from the No Child Left Behind Act that were previously postponed through state waivers. These provisions require districts receiving Title I funding to prepare and disseminate an annual FEDERAL REPORT CARD. The report card must include data about campuses and the district and must be disseminated to parents.

BBG (LEGAL) BOARD MEMBERS
COMPENSATION AND EXPENSES

A Note has been added to this legally referenced policy to reference TEA guidance on board member expense reimbursement and income tax issues in the Financial Accountability System Resource Guide.

CCA (LEGAL) LOCAL REVENUE SOURCES
BOND ISSUES

TASB Policy Service engaged an outside law firm with expertise in the area of bond issues to provide legal review of this legally referenced policy to ensure that the policy addresses all relevant legal material. As a result of that review, we have reordered several provisions within the policy, adjusted provisions to better reflect statutory language, and made a number of other revisions, including:

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Clarifying at BONDS AND BOND TAXES, on page 1, that bonds may be issued only if approved in a bond election;

Adding detail regarding the ELECTION ORDER and NOTICE OF ELECTION;

Referencing the 50 CENT TEST FOR NEW DEBT, for which the district must demonstrate compliance to the attorney general before issuing bonds;

At GUARANTEE OF BONDS BY THE PERMANENT SCHOOL FUND, adding the procedures to re-apply if the district does not receive approval for the guarantee;

Adding existing Administrative Code provisions that prohibit a district from representing bonds as being guaranteed or approved for credit enhancement before approval by the commissioner; and

Adding references at FEDERAL SECURITIES LAW to the requirement for a district to prepare an official disclosure statement prior to publically offering bonds and outlining the district's liability under the antifraud provisions.

A Note at the end of the policy provides some best practice guidance on preparing the official statement based on SEC materials.

CDA (LEGAL) OTHER REVENUES INVESTMENTS

TASB Policy Service engaged an outside law firm with expertise in the area of investments to provide legal review of this legally referenced policy to ensure that the policy meets legal requirements and industry best practices. As a result of that review, we have made several revisions to the policy.

We have clarified that the required QUARTERLY REPORTS cover investment transactions for the preceding reporting period. See page 4.

At AUTHORIZED INVESTMENTS, we added existing statutory text explaining that the board may specify that any of the statutorily authorized investments are not suitable for the district and have deleted the definition of corporate bond in favor of the statutory citation.

D (LEGAL) PERSONNEL

Update 102 includes a reorganization of the DEA series of policies addressing compensation to focus the series on the primary component—the board-adopted compensation plan. As a result, DEA, the overarching policy in the series, has been renamed Compensation Plan, with subtitled policies on Incentives and Stipends at DEAA and Wage and Hour Laws at DEAB.

DEA (LEGAL) COMPENSATION AND BENEFITS COMPENSATION PLAN

As part of the reorganization of the DEA series, the subtitle of this policy has been changed to Compensation Plan.

The legally referenced text addressing various salary and compensation issues, previously at DEAB, has been moved unaltered to this code.

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DEAA (LEGAL) COMPENSATION PLAN
 INCENTIVES AND STIPENDS

As part of the reorganization of the DEA series, the title of this policy has been changed to Compensation Plan, with the subtitle remaining Incentives and Stipends.

DEAB (LEGAL) COMPENSATION PLAN
 WAGE AND HOUR LAWS

As part of the reorganization of the DEA series, the title of this policy has been changed to Compensation Plan, and the subtitle has been changed to Wage and Hour Laws.

The legally referenced text on wage and hour laws, previously at DEA, has been moved unaltered to this code.

Some NONEXEMPT employees paid on a salary basis are scheduled to work less than a 40-hour work week. For example, it is common for some salaried employees to work 37.5 hours per week. However, as the revised policy text clarifies, the salary is intended to cover any time worked "up to and including" 40 hours in a week without obligating the district to pay the employee additional compensation if the employee works 40 hours or less that week. If an employee works more than 40 hours in a week, FLSA over-time provisions will apply.

At COMPENSATORY TIME, ACCRUAL, the current policy text states that nonexempt employees may not accrue compensatory time over the number of hours stated in policy. If an employee exceeds that number of hours, the district will require the employee to use the compensatory time.

The policy requires an employee to USE any compensatory time within the duty year in which it is earned. Contact your policy consultant for a policy adjustment if this does not match your district's practice.

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DEE (LEGAL) COMPENSATION AND BENEFITS
EXPENSE REIMBURSEMENT

This legally referenced policy has been amended to:

Delete expired Administrative Code provisions on CLASSROOM SUPPLY REIMBURSEMENT;

Move to the beginning of the policy the general provision permitting a district employee engaged in official business to participate in the comptroller's contract for TRAVEL SERVICES; and

Add a Note at the beginning of the policy to point to TEA resources on expense reimbursement and income tax issues in the Financial Accountability System Resource Guide.

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

We have added existing provisions from federal Department of Transportation (DOT) rules to this legally referenced policy addressing drug and alcohol testing. For employees subject to federal DOT drug and alcohol testing requirements, the rules explain that the district has the option of permitting an employee to return to work after a failed drug or alcohol test. If the district permits the employee to return to work, the district must ensure that the employee is evaluated by a substance abuse professional (SAP), complies with the SAP's recommendations, and passes a return-to-duty test. The district's decision is reflected in DHE(LOCAL), see below.

EHBA (LEGAL) SPECIAL PROGRAMS
SPECIAL EDUCATION

Changes to this legally referenced policy are prompted by revised State Board of Education rules on special education services effective January 1, 2015.

The rules provide that INSTRUCTIONAL ARRANGEMENTS AND SETTINGS must include the items listed in the rules. In addition, item 9, vocational adjustment class/program, was clarified to encompass services to a student who is placed on a paid or unpaid job. Districts can also deliver special education and related services to a student through OTHER PROGRAM OPTIONS, such as contracts with other districts and TEA-approved programs.

A definition of EXTENDED SCHOOL YEAR SERVICES was added on page 3. Citations have also been updated.

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EHBAA (LEGAL) SPECIAL EDUCATION IDENTIFICATION, EVALUATION, AND ELIGIBILITY

Amended commissioner rules on special education services, effective January 1, 2015, resulted in reorganization and several other changes to this legally referenced policy:

To correspond with SB 816 from the 83rd Legislative Session, the rules require a written response from the district within 15 school days of a written PARENTAL REQUEST for a full individual and initial evaluation. See REQUESTS AND REFERRALS FOR EVALUATION beginning on page 1.

At TIME FRAME FOR COMPLETION OF WRITTEN REPORT, beginning on page 3, the rules define when a student is considered absent and define "school day" for purposes of complying with relevant time lines.

New provisions at TRANSFER STUDENTS beginning on page 4 address the time line for completing an evaluation that was in progress in a previous district when a student enrolls in a new district and require the new district to coordinate with the previous district to complete the evaluation by the deadlines established in law, with certain exceptions.

As reflected on page 5 at DETERMINATION OF INITIAL ELIGIBILITY, the ARD committee must make decisions about initial eligibility, the IEP, and placement within 30 calendar days of the completed initial evaluation report or, if the 30th day falls during the summer, by the first day of the following school year unless the evaluation indicates that services are needed during the summer. Special deadlines for the ARD committee to meet apply when a report is provided to a parent by June 30.

Wording was adjusted throughout the policy to align with the rules.

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

Based on changes to the commissioner rules on special education services, effective January 1, 2015, wording and citations have been adjusted throughout this legally referenced policy to align with the rules.

Beginning on page 1, the rules clarify that the ARD COMMITTEE MEMBERS must include a representative of any participating agency likely to be responsible for providing transition services (item 11). As a result of these changes, a more detailed provision on membership for transition meetings has been deleted from the policy.

The amended rules include procedures and deadlines to provide special education services to TRANSFER STUDENTS from within the state and from other states. The previous district must furnish the new district with the student's records within ten working days of receiving the request. See TRANSFER OF RECORDS.

If the ARD committee determines that the student is in need of extended school year services, the INDIVIDUALIZED EDUCATION PROGRAM (IEP) must include the goals and objectives that will be addressed in those services. See item 10.

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Revisions at COLLABORATIVE PROCESS provide more detail about the TEN-DAY RECESS of the ARD committee when a parent is not in agreement with all required elements of the IEP. If agreement is not reached after the recess, the parent who disagrees must be offered an opportunity to provide a written statement of disagreement.

Districts must ensure appropriate TEACHER ACCESS TO IEPs for teachers with specific responsibilities and ensure that these teachers can request assistance regarding IEP implementation.

EHBAD (LEGAL) SPECIAL EDUCATION
TRANSITION SERVICES

Based on amended commissioner rules addressing special education services, effective January 1, 2015, we have replaced the text from federal law at INDIVIDUAL TRANSITION PLANNING with the more comprehensive provisions from state rules.

Citations within the text at GRADUATION have been adjusted to refer to updated graduation options.

EHBAE (LEGAL) SPECIAL EDUCATION
PROCEDURAL REQUIREMENTS

A revision at PRIOR NOTICE AND CONSENT on page 3 requires a district to provide notice of at least five school days before the district proposes to initiate or change or refuses to initiate or change an IEP or the provision of free appropriate public education (FAPE). A parent can agree to a shorter time frame. The text is similar to a previous provision that was deleted as part of the amended commissioner rules on special education services, effective January 1, 2015.

New provisions outlining the possible options for resolving disputes between a parent and the district have been added at DISPUTE RESOLUTION on page 5.

Wording and citations have been adjusted throughout the policy to align with the rules.

EHBC (LEGAL) SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

This legally referenced policy addressing compensatory services has been revised by adding existing statutory text. The new text clarifies that a district may use compensatory education funds to provide an accelerated reading instruction program or a program for treatment of students with dyslexia to (1) students who otherwise meet the state definition of at risk of dropping out of school or (2) students who meet local eligibility criteria for at risk of dropping out of school. See page 1 at USE.

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EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION

A new commissioner rule effective December 28, 2014, addressing COMMUNITY-BASED FINE ARTS PROGRAMS resulted in revisions beginning on page 9. The rules outline the requirements for earning credit through participation in these programs and, for on-campus programs, require the district to obtain criminal history record information on instructors. The district's decision as to whether to award state graduation credit in fine arts to a student for participation in a community-based fine arts program is included in EIF(LOCAL), which is not included in Update 102.

Amended commissioner rules on special education services, effective January 1, 2015, resulted in the changes to this legally referenced policy at Section VI, GRADUATION OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES.

Beginning on page 15, new DEFINITIONS explain that MODIFIED CURRICULUM AND CONTENT refers to any reduction of the amount or complexity of the TEKS but that substitutions that are specifically authorized in rule or statute must not be considered modified curriculum or modified content. EMPLOYABILITY AND SELF-HELP SKILLS are skills directly related to the preparation of students for employment, including general skills needed.

Students graduating under these provisions must be given a SUMMARY OF ACADEMIC ACHIEVEMENT AND EVALUATION as described in the policy.

Students entering grade 9 in or after the 2014–15 school year have two options to satisfy graduation requirements. The first option requires the student to:

- Demonstrate mastery of state standards (or district standards if greater);

- Meet credit requirements under the foundation program applicable to students in general education; and

- Have satisfactory performance on state assessments, unless the ARD committee determines satisfactory performance is not necessary for graduation.

The second option requires a student to complete the above requirements except that one or more of the courses required under the foundation program contains modified curriculum. In addition, the student must complete his or her IEP and meet one of the following conditions:

- Obtain full-time employment in addition to mastering sufficient self-help skills to enable the student to maintain employment;

- Demonstrate mastery of employability and self-help skills;

- Have access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program; or

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No longer meet age eligibility requirements.

An endorsement can be earned if the student completes the foundation program and the additional math, science, and elective courses with or without modified curriculum, completes courses for the endorsement without any modified curriculum, and performs satisfactorily on all state assessments.

For a course to count for both foundation credit and endorsement credit, the course content cannot be modified.

For students entering grade 9 before the 2014–15 school year, the graduation requirements were changed to incorporate the previous graduation option of aging out into the list of conditions that a student must satisfy if the student is graduating by completing his or her IEP. Students who entered grade 9 before the 2014–15 school year can switch to the foundation program if they meet certain requirements.

EJ (LEGAL) ACADEMIC GUIDANCE PROGRAM

This legally referenced policy has been updated to include the requirements from HB 5, 83rd Legislative Session, for the school counselor to provide information to the student and the student's parent during each year that the student is enrolled in high school. The information must include the advantages of earning an endorsement and a performance acknowledgment and completing the distinguished level of achievement.

For resources to satisfy this requirement, see <http://tea.texas.gov/communications/brochures.aspx>.

EL (LEGAL) CHARTER CAMPUS OR PROGRAM

Additional detail from existing statutory provisions has been added to this legally referenced policy on charter programs:

At VOLUNTARY ENROLLMENT, text clarifies that a student's parent or guardian may choose to enroll the student in a campus or program charter.

Provisions on page 2 explain that a school board may grant a DISTRICT CHARTER one or more campuses serving not more than 15 percent of the district's student enrollment for the preceding school year, as long as the percentage limit does not prevent a district from granting a charter to at least one feeder pattern of schools. The board may also grant a district charter to a campus that has received the lowest performance rating under Subchapter C of Chapter 39.

The school board is required to enter into a PERFORMANCE CONTRACT with the principal of a campus or program charter and specify the authority given to the principal to achieve the academic goals. If such goals are not substantially met, as determined by the board, the charter will expire after ten years.

A school board may designate a campus or program charter as a NEIGHBORHOOD SCHOOL. In this case, certain funding provisions apply.

FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

We have revised this legally referenced policy on compulsory attendance to delete an outdated Administrative Code provision and to update citations.

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FEB (LEGAL) ATTENDANCE
ATTENDANCE ACCOUNTING

Prompted by amendments to State Board of Education rules, effective December 31, 2014, we have adjusted language to match the rules throughout this legally referenced policy and updated citations. At RECORDS, new text requires the district to maintain attendance records as required by the commissioner.

FOF (LEGAL) STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

Due to amended commissioner rules on special education services, effective January 1, 2015, a new Administrative Code provision has been added to page 1 requiring disciplinary actions for students with disabilities to be determined in accordance with certain federal and state laws. See STUDENTS RECEIVING SPECIAL EDUCATION SERVICES.

The amended rules also clarified that Education Code 37.0021, regarding use of confinement, seclusion, restraint, and time-out, does not apply to juvenile probation, detention, or corrections personnel. See EXCEPTIONS on page 7.