

# Localized Policy Manual

## *Update 81*

Coppell ISD

Localized Update 81 represents the first of two post-legislative updates and encompasses changes in law from the 80<sup>th</sup> Legislative Session that have an immediate effect on the governance and management of the district. Update 82 will be issued this winter and will address any remaining legislative changes from that session.

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 81 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. Unless otherwise indicated, all bills referenced in the Explanatory Notes are from the 80<sup>th</sup> Legislative Session. 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 81*** 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 81 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/analyst, Amy Kadlecsek, at 800-580-7529 or 512-467-0222.

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## Regarding board action on Update 81 . . .

- Board action on Localized Update 81 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 81, affecting (LOCAL) policies (see attached list).” Using the Instruction Sheet as a guide, create and attach to the posting a list of the (LOCAL) policy codes added, revised, or deleted **and the titles/subtitles of those policies**. BoardBook compilers should use “Policy Update 81, 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.
- An appropriate motion for board action on Localized Update 81 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 81 [with the following changes:]”*
- The board’s action on Localized Update 81 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 [https://www.tasb.org/docs-mytab/gov\\_svcs/policy\\_svc/adminguide/policy\\_admin\\_guide.pdf.cfm](https://www.tasb.org/docs-mytab/gov_svcs/policy_svc/adminguide/policy_admin_guide.pdf.cfm).

## Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant/analyst 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 81 so that your district’s Localized Policy Manual as it appears on TASB’s Web server can be updated. *Policy On Line* staff may be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618, using the tan form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (<http://www.tasb.org/policy/pol/private/polfdbk.html>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 81 policy changes should be inspected and revised as needed. If the district routinely submits (REGULATIONS) to Policy Service for processing or desires that the updated (REGULATION) be included in the district’s *Policy On Line* manual, please submit these changes to your policy consultant/analyst at your earliest convenience.

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**PLEASE NOTE:** This Localized Update packet and the Update 81 **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.

# Instruction Sheet

## TASB Localized Policy Manual Update 81

District      Coppell ISD

<b>Code</b>	<b>Action To Be Taken</b>	<b>Note</b>
A      (LEGAL)	Replace table of contents	Revised table of contents
AE      (LEGAL)	ADD policy	See explanatory note
BAA      (LEGAL)	Replace policy	Revised policy
BBA      (LEGAL)	Replace policy	Revised policy
BBB      (LEGAL)	Replace policy	Revised policy
BBD      (LEGAL)	Replace policy	Revised policy
BBFA      (LEGAL)	Replace policy	Revised policy
BDAE      (LEGAL)	Replace policy	Revised policy
BDAE      (LOCAL)	Replace policy	Revised policy
BE      (LEGAL)	Replace policy	Revised policy
BJA      (LEGAL)	Replace policy	Revised policy
BQ      (LEGAL)	Replace policy	Revised policy
C      (LEGAL)	Replace table of contents	Revised table of contents
CFA      (LEGAL)	Replace policy	Revised policy
CH      (LEGAL)	Replace policy	Revised policy
CHE      (LEGAL)	Replace policy	Revised policy
CKD      (LEGAL)	ADD policy	See explanatory note
CMD      (LEGAL)	Replace policy	Revised policy
CNA      (LEGAL)	Replace policy	Revised policy
D      (LEGAL)	Replace table of contents	Revised table of contents
DBA      (LEGAL)	Replace policy	Revised policy
DBAA      (LEGAL)	ADD policy	See explanatory note
DBD      (LEGAL)	Replace policy	Revised policy
DBE      (LEGAL)	Replace policy	Revised policy
DC      (LEGAL)	Replace policy	Revised policy
DC      (LOCAL)	Replace policy	Revised policy
DEA      (LEGAL)	Replace policy	Revised policy
DF      (LEGAL)	Replace policy	Revised policy
DG      (LEGAL)	Replace policy	Revised policy
DGBA      (LEGAL)	Replace policy	Revised policy
DGBA      (LOCAL)	Replace policy	Revised policy
DMA      (LEGAL)	Replace policy	Revised policy

# Instruction Sheet

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EB	(LEGAL)	Replace policy	Revised policy
EHAB	(LEGAL)	Replace policy	Revised policy
EHBG	(LEGAL)	Replace policy	Revised policy
EHBK	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy
EJ	(LEGAL)	Replace policy	Revised policy
EK	(LEGAL)	Replace policy	Revised policy
EKC	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents
FD	(LEGAL)	Replace policy	Revised policy
FD	(LOCAL)	Replace policy	Revised policy
FDB	(LEGAL)	Replace policy	Revised policy
FDD	(LEGAL)	Replace policy	Revised policy
FEA	(LEGAL)	Replace policy	Revised policy
FEA	(LOCAL)	Replace policy	Revised policy
FEB	(LEGAL)	Replace policy	Revised policy
FEC	(LEGAL)	Replace policy	Revised policy
FEC	(LOCAL)	Replace policy	Revised policy
FFAB	(LEGAL)	Replace policy	Revised policy
FFH	(LEGAL)	Replace policy	Revised policy
FFH	(LOCAL)	Replace policy	Revised policy
FL	(LEGAL)	Replace policy	Revised policy
FNA	(LEGAL)	Replace policy	Revised policy
FNAB	(LEGAL)	Replace policy	Revised policy
FOC	(LEGAL)	Replace policy	Revised policy
FODA	(LEGAL)	Replace policy	Revised policy
FOE	(LEGAL)	Replace policy	Revised policy
GBA	(LEGAL)	Replace policy	Revised policy
GBAA	(LEGAL)	Replace policy	Revised policy
GKC	(LEGAL)	Replace policy	Revised policy
GKC	(LOCAL)	Replace policy	Revised policy
GKG	(LEGAL)	Replace policy	Revised policy
GKG	(LOCAL)	DELETE policy	See explanatory note

# Explanatory Notes

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A (LEGAL) BASIC DISTRICT FOUNDATIONS

We have revised the A section table of contents to reflect that policy code AE—previously titled “Educational Philosophy/Mission Statement”—has been retitled “Educational Philosophy.”

AE (LEGAL) EDUCATIONAL PHILOSOPHY

HB 2563, effective September 1, 2007, (all bills referenced in these explanatory notes are from the 80<sup>th</sup> Legislative Session unless otherwise indicated) added a requirement that the board adopt a vision statement and comprehensive goals for the district and superintendent. TASB Leadership Team Services offers resources to help your district develop a vision statement; go to <http://www.tasb.org/services/lts/resources> and select “Vision and Goals” from the More Options box. After the board adopts an appropriate vision statement and comprehensive goals for the district, please contact your policy consultant/analyst so that they may be included in your district’s manual.

BAA (LEGAL) BOARD LEGAL STATUS  
POWERS AND DUTIES

HB 2563, effective September 1, 2007, lists several board duties, many of which were either in existing statutes or were implied by existing statutes. As a result of HB 2563, the following mandatory board duties have been included in this policy:

- Monitor progress toward the district’s comprehensive goals;
- Establish performance goals on academic and fiscal performance indicators;
- Adopt a tax rate each fiscal year;
- Monitor district finances;
- Require annual financial audits and publish an end-of-year financial report;
- Ensure that the superintendent implements and monitors plans, procedures, and programs in the major areas of district operations;
- Ensure that the superintendent addresses district performance;
- Conduct elections;
- Make employee termination and nonrenewal decisions;
- Establish relationships with outside entities; and
- Establish grievance procedures.

In addition, the board may levy, assess, and collect ad valorem taxes; enter into contracts; and delegate contractual authority to the superintendent as appropriate.

The bill also adds items on which the board and superintendent must collaborate, such as student achievement, community support, educational leadership, policies and goals tied to the district’s vision statement and long-range educational plan, professional development, and evaluation of board and superintendent leadership, governance, and teamwork. These provisions have also been added at BJA(LEGAL). [See the explanatory note for that policy.]

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### BBA (LEGAL) BOARD MEMBERS ELIGIBILITY/QUALIFICATIONS

Provisions from HB 417, effective September 1, 2007, have been added regarding board member candidate ELIGIBILITY. The candidate eligibility provisions already barred individuals determined by a court to be mentally incompetent. Now the mental incapacity provisions distinguish between total and partial mental incapacity and address a court's restoration of a person's mental capacity. HB 417 made corresponding changes to the definition of "qualified voter" in this policy.

### BBB (LEGAL) BOARD MEMBERS ELECTIONS

Changes arising from the 80<sup>th</sup> Legislative Session are as follows:

- Added at TERMS is a provision from SB 670, effective April 25, 2007, that allows the board to adopt a resolution changing the length of its trustee terms. Any such resolution must be adopted by December 31, 2007, and any changes will apply to elections that occur after January 1, 2008. This provision allows a district to fully comply with the joint election obligations added by HB 1 in the 79<sup>th</sup> Legislature, third called session, and further explained in Attorney General Opinion GA-535 (April 4, 2007).

If your district revises its trustee terms, please contact your policy consultant/analyst so that we may change your BBB(LOCAL) policy accordingly.

- A new provision from SB 493, effective September 1, 2007, has been added allowing a district to create the position of JOINT ELECTIONS ADMINISTRATOR.
- HB 2926, effective September 1, 2007, prompted the removal from BALLOT, ELECTION OFFICIALS, AND POLLING PLACES of a provision applicable only to Houston ISD and surrounding districts regarding the use of county polling places for November elections.
- A new provision, USE OF CERTAIN DEVICES AT POLLING PLACES PROHIBITED, contains a prohibition regarding the use of certain wireless communication devices and recording devices within 100 feet of a voting station. This material is from HB 1921, effective September 1, 2007.
- At VOTERS WITH DISABILITIES, HB 556, effective June 15, 2007, adds details regarding when a district is required to meet the requirements for disabled voter accessibility.
- SB 397, effective June 15, 2007, requires revision of text at OATH OF OFFICE to allow a judge, retired judge, or clerk of a municipal court to administer the oath.

### BBD (LEGAL) BOARD MEMBERS TRAINING AND ORIENTATION

As reflected at REQUIRED TRAINING, HB 2563, effective September 1, 2007, directs the board, at the last regular meeting of the calendar year, to include in the minutes whether each trustee has completed any training required to be completed as of the meeting date. This is in addition to an existing provision at ANNUAL COMPLIANCE ANNOUNCEMENT requiring the board to announce and record the completion of board member training at the meeting at which the call for elections is normally scheduled.

## Explanatory Notes

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#### BBFA      (LEGAL)      ETHICS CONFLICT OF INTEREST DISCLOSURES

HB 1491, effective May 25, 2007, made several changes to Chapter 176 of the Local Government Code, prompting revisions to this policy as follows:

- At CONFLICTS DISCLOSURE STATEMENT:
  - Local government officers must file conflict disclosure statements (“statement”) regarding an applicable vendor if the vendor enters into a contract with a district or a district is “considering entering into a contract” with the vendor. Previously, the filing of a statement was triggered if the district was “considering doing business” with a vendor, a much broader standard.
  - Also beneficial is the change to the amount of taxable income that triggers the filing of a statement. Previously, any amount of taxable income was considered; now only income exceeding \$2,500 is considered.
  - HB 1491 also clarifies that political contributions do not trigger the filing of a statement, nor do gifts given by family members.
- At VIOLATIONS, a local government officer does not commit a Class C misdemeanor for failing to file a statement if the officer files the statement within seven business days after the district notifies the officer of the alleged violation. Previously, it was not clear which entity would give notice to the officer.
- At DEFINITIONS:
  - A “LOCAL GOVERNMENT OFFICER” now includes an employee of the district to whom the district has extended the filing requirements of Chapter 176.
  - The term “FAMILY MEMBER” excludes certain individuals when a marriage ends in death or divorce and a child of the marriage is still living.
  - A district may designate someone other than the superintendent to be the “RECORDS ADMINISTRATOR.”
  - New text from HB 1491 defines the term “INVESTMENT INCOME.”
- At INTERNET POSTING REQUIREMENT, HB 1491 clarifies that only required statements and questionnaires must be posted.

The Texas Ethics Commission must release revised conflict of interest statement and questionnaire forms to comply with these changes by October 1, 2007. [See the explanatory note at CHE(LEGAL) for changes to vendor conflict disclosure questionnaires.]

#### BDAE      (LEGAL)      OFFICERS AND OFFICIALS DUTIES AND REQUIREMENTS OF DEPOSITORY

As reflected at METHOD, HB 2411, effective June 15, 2007, gives districts the option of using a request for proposal process, in addition to the competitive bidding process, to select a depository. The bill also amended provisions related to TIE BIDS AND PROPOSALS. At DUTIES, text has been added from the bill allowing a district and its depository to agree to extend the contract for two additional terms. Formerly, the statute only provided for an extension by agreement for one term.

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### BDAE (LOCAL) OFFICERS AND OFFICIALS DUTIES AND REQUIREMENTS OF DEPOSITORY

As indicated in the explanatory note for BDAE(LEGAL), above, districts now have the option of using a request for proposal process, in addition to the competitive bidding process, to select a depository. A new local provision allows the board to delegate to the superintendent the authority to determine the method of SELECTING A DEPOSITORY. This provision is similar to one already in CH(LOCAL), last issued at Update 79, allowing superintendents to choose the method of purchasing for goods or services.

### BE (LEGAL) BOARD MEETINGS

Changes arising from the 80<sup>th</sup> Legislative Session are as follows:

- In a new first paragraph, a statement from HB 2563, effective September 1, 2007, has been added specifying that a board may act only by majority vote of the members present at a meeting at which a quorum of the board is present and voting.
- At SOCIAL FUNCTION OR CONVENTION: SB 1306, effective May 22, 2007, adds to the definition of “meeting” exceptions for ceremonial events and press conferences. If formal action is not taken and discussion of public business at these events is only incidental, the events do not need to comply with the Open Meetings Act.
- At SUPERINTENDENT PARTICIPATION: HB 2563 also requires the board to give the superintendent an opportunity at a meeting to present a recommendation to the board on any item that is voted on by the board at that meeting.
- At BOARD MEMBER ATTENDANCE and AVAILABILITY, on page 2: HB 2563 requires the minutes to reflect each member’s attendance and adds information about accessibility of the minutes.
- At EMERGENCY MEETING OR EMERGENCY ADDITION TO AGENDA, on page 4: SB 1499, effective June 15, 2007, adds a reason for which a board may hold an emergency meeting when immediate board action is required. The sudden relocation of a large number of residents from a declared disaster area to the district’s jurisdiction is considered a reasonably unforeseeable situation. The notice of the meeting must be given to the news media at least one hour before the meeting.
- At SPECIAL NOTICE TO NEWS MEDIA, on page 5: SB 592, effective June 15, 2007, removes outdated provisions allowing notice to the media by telegraph and now permits notice by facsimile transmission or electronic mail.
- At DISASTER: SB 61, effective June 15, 2007, allows less than a quorum of the board to act where a disaster has been declared and a majority of board members are unable to be present because of the disaster.

### BJA (LEGAL) SUPERINTENDENT QUALIFICATIONS AND DUTIES

Several legislative changes from HB 2563, effective September 1, 2007, are incorporated into this policy. The bill lists numerous DUTIES for the superintendent, as follows:

- Assuming administrative responsibility and leadership for the “organization” of the district’s education programs, services, and facilities;
- Overseeing compliance with the standards for school facilities;



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- Implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of district operations;
- Administering the budget;
- Providing leadership for the improvement of student performance, if necessary;
- Consulting with the district-level decision-making committee;
- Ensuring adoption and enforcement of a student code of conduct and other disciplinary rules and procedures;
- Submitting reports required by law;
- Providing joint leadership with the board; and
- Ensuring implementation of board policies.

The bill also adds items on which the board and superintendent must collaborate, such as student achievement, community support, educational leadership, policies and goals tied to the district's vision statement and long-range educational plan, professional development, and evaluation of board and superintendent leadership, governance, and teamwork. These provisions have also been added at BAA(LEGAL). [See the explanatory note for that policy.]

#### BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

HB 121, effective May 18, 2007, requires a district to adopt and implement a dating violence policy. Because the policy must be included in the district improvement plan, details of the legal requirements for the policy are placed here, at item 10 under DISTRICT IMPROVEMENT PLAN. The Texas Teen Dating Violence Awareness and Prevention Initiative, formed by the Texas Governor's Commission for Women and the Texas Education Agency, has developed materials to guide districts in creating the dating violence program to be included in the district improvement plan. These materials may be accessed at <http://www.governor.state.tx.us/divisions/women/work/violence/toolkit>.

Local policy text prohibiting dating violence has been added at FFH(LOCAL).

#### C (LEGAL) BUSINESS AND SUPPORT SERVICES

We have revised the C section table of contents to include the new code CKD, Emergency Medical Equipment and Procedures.

#### CFA (LEGAL) ACCOUNTING FINANCIAL REPORTS AND STATEMENTS

HB 2365, effective August 27, 2007, adds Chapter 2264 to the Texas Government Code. Primarily focusing on accounting principles for post-employment benefits extended to retired employees, Chapter 2264 also contains requirements for accounting and reporting financial activities, as reflected at ACCOUNTING SYSTEM.

At PUBLICATION is a change prompted by HB 978, effective May 8, 2007. A district must publish its annual financial statement not later than the 150<sup>th</sup> day after the end of the fiscal year, an extension of the previous 120-day deadline. The 150-day deadline is consistent with a district's requirement to file its annual audit report with TEA not later than the 150<sup>th</sup> day after the end of the fiscal year.

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### CH (LEGAL) PURCHASING AND ACQUISITION

Legislative changes affecting this policy are as follows:

- Text regarding catalog purchases, which HB 2918 removed as a permissible purchasing method, has been deleted from the list at PURCHASES VALUED AT OR ABOVE \$25,000. This bill is effective September 1, 2007.
- HB 273 requires a district to consider certain items, listed at FACTORS, in awarding a contract entered into after June 16, 2007, the effective date of the bill. Prior to HB 273, consideration of these items was permissive.
- At PROFESSIONAL SERVICES, provisions have been added from HB 1886 prohibiting the use of an interlocal contract after September 1, 2007, to purchase engineering or architectural services.
- At COMPUTERS, the reference to the Texas Building and Procurement Commission (BPC) has been changed to the Department of Information Resources, in accordance with HB 3560, effective September 1, 2007. HB 3560 also transfers several duties from the BPC to the comptroller, requiring conforming changes at several locations in the policy.
- On page 5, a new section, AUTOMATED INFORMATION SYSTEM, has been added, specifying permissible methods to purchase such systems after September 1, 2007, in accordance with HB 2918.
- SB 7, effective June 15, 2007, adds requirements regarding the purchase and lease of AUTOMATED EXTERNAL DEFIBRILLATORS.
- For certain contracts valued at or above \$25,000, a district must document management fees in a report to be included in the minutes of a board meeting. This material, from HB 273, has been added at MANAGEMENT FEE REPORT on page 10.
- At ENERGY OR WATER CONSERVATION MEASURES is new language requiring boards to establish goals to reduce electricity consumption beginning September 1, 2007, in accordance with SB 12.
- Extensive provisions from SB 9 have been added at CRIMINAL HISTORY, beginning on page 11. This material details criminal history record information checks for employees of entities that contract with a school district. [See the explanatory note for DBAA(LEGAL) for more information on SB 9.]

### CHE (LEGAL) PURCHASING AND ACQUISITION VENDOR RELATIONS

HB 1491, effective May 25, 2007, clarifies that a vendor must file a conflicts disclosure questionnaire only for certain business relationships, not mere affiliations. The section DEFINITION OF BUSINESS RELATIONSHIP has been added to help determine when vendors must file.

The Texas Ethics Commission must release revised conflict of interest statement and questionnaire forms to comply with these changes by October 1, 2007. [See the explanatory note at BBFA(LEGAL) for changes to local government officer conflict disclosure statements.]

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### CKD (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT EMERGENCY MEDICAL EQUIPMENT AND PROCEDURES

This new policy has been created to house material from SB 7 on automated external defibrillators (AEDs). Beginning with the 2007–08 school year, districts must make AEDs available at certain athletic competitions and practices. Districts must also make available to employees and volunteers instruction on CPR and AEDs [see policy DMA] and require certification of some employees [see DBA].

[See the explanatory note at CH(LEGAL) for purchase or lease provisions regarding AEDs.]

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

New provisions at SUPPLEMENTAL TEXTBOOKS reflect material from HB 188, effective June 16, 2007. Districts may use textbook credits to purchase supplemental textbooks or may order a supplemental textbook in combination with a non-conforming textbook if together the textbooks cover each TEKS for the course.

At TEXTBOOK CREDIT, also from HB 188, are provisions explaining under what circumstances a district is entitled to a textbook credit.

In addition, a provision regarding employee payment for textbooks that are lost, stolen, or misplaced has been moved to the more appropriate code DG(LEGAL). [See the explanatory note at DG(LEGAL) for more information.]

### CNA (LEGAL) TRANSPORTATION MANAGEMENT STUDENT TRANSPORTATION

Changes enacted during the 80<sup>th</sup> Legislative Session affect this policy as follows:

- At AUTHORITY: HB 273, effective June 16, 2007, permits a district to establish a transportation system outside the district through an interlocal contract.
- At BUS OPERATION: HB 3190, effective September 1, 2007, prohibits a person from operating a bus if the door is open or the passenger load is too great.
- At DESIGNATION OF CHILD-CARE FACILITY OR GRANDPARENT'S RESIDENCE: SB 1713, effective June 16, 2007, amends the provision permitting a district to allow a parent to designate a child-care facility or grandparent's residence as the student's bus stop. Districts are now required to allow the designation as long as the designated location is on an approved route.
- At STUDENT SAFETY: HB 3190 requires bus drivers to prohibit passengers from standing in the bus or sitting in inappropriate locations.
- At SCHOOL BUS EMERGENCY EVACUATION TRAINING: HB 3190 also adds a new requirement for districts to conduct school bus evacuation training for students and teachers at least twice each year. The district must certify compliance to the Texas Department of Public Safety.

### D (LEGAL) PERSONNEL

We have revised the D section table of contents to include the new code DBAA, addressing Criminal History and Credit Reports.

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### DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CREDENTIALS AND RECORDS

SB 158, effective September 1, 2007, requires educational diagnosticians who begin employment with a school district on or after September 1, 2008, to hold an appropriate certificate or permit issued by SBEC. An educational diagnostician employed by a district before September 1, 2008, may continue working for that district without obtaining a certificate or permit. Districts should note that SBEC rules already required educational diagnosticians to be certified. The new provision may be found at PROFESSIONAL PERSONNEL.

SB 7, effective June 15, 2007, includes employee certification requirements for cardiopulmonary resuscitation (CPR), first aid, and the use of automated external defibrillators (AEDs), as reflected at CPR AND FIRST AID CERTIFICATION and AED CERTIFICATION on page 6. The bill requires all nurses, coaches, PE teachers, marching band directors, cheerleading sponsors, and other employees specified by the commissioner to be certified in the use of AEDs. Head coaches, marching band directors, and the chief sponsors of extracurricular activities are required to be certified in first aid and CPR. [See the explanatory note at DMA(LEGAL) for more information.]

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

This new policy was developed to gather together in a single code text regarding criminal history records for employees. Much of this information comes from SB 9, which requires a review of the criminal history information on school district employees.

The DEFINITIONS section provides information on the Criminal History Clearinghouse, established by SB 9, which is an electronic clearinghouse and subscription service to be created by the Texas Department of Public Safety (DPS) to house national criminal history record information (NCHRI). The DEFINITIONS section also highlights the difference between criminal history record information (CHRI) and NCHRI.

As indicated at CERTIFIED PERSONS, SBEC will review the NCHRI of certified employees.

At NONCERTIFIED PERSONS and SUBSTITUTE TEACHERS, provisions were added to reflect a school district's obligation to obtain information from the DPS Clearinghouse on these district employees and employees of shared service arrangements. In addition, the text specifies that TEA will notify the district if an individual may not be hired or must be discharged because of criminal history record information.

As indicated at STUDENT TEACHERS, these individuals may not perform duties until they provide the district a driver's license or other form of identification and the district has obtained CHRI from DPS.

Also included are the district's obligations for obtaining CHRI for ALL OTHER EMPLOYEES not subject to a NCHRI review.

Extensive provisions at DISCHARGE OF CONVICTED EMPLOYEES address when a district must discharge an employee or refuse to hire an applicant with a criminal record.

SB 9 allows the district to charge certain individuals for the fees related to obtaining their criminal history record information. Noncertified employees, substitutes, and student teachers may all be charged. If your district wishes to charge these individuals, you should establish procedures in administrative regulations.

[See the explanatory note at GKG(LEGAL) regarding criminal history checks of volunteers. See the explanatory note at CH(LEGAL) regarding criminal history checks of individuals employed by an entity that contracts with the district.]

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For more information on criminal history checks, see the Frequently Asked Questions by Legal Services at <http://www.tasb.org/services/legal/faqs/personnel.aspx>.

Provisions from the federal Fair Credit Reporting Act were also added to this policy, beginning at CONSUMER CREDIT REPORTS. These provisions address limitations on a district's ability to obtain consumer credit reports for employment purposes, identify when a district may take adverse action against an applicant or employee based on a report, and include record disposal requirements added by the Fair and Accurate Credit Transactions Act.

#### DBD            (LEGAL)            EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CONFLICT OF INTEREST

Text at CONFLICT DISCLOSURE STATEMENT has been amended based on HB 1491, effective May 25, 2007. A district may extend the requirement to file a conflict disclosure statement to any employee who has the authority to approve contracts. These employees must be identified in policy. Disciplinary action may be taken against such an employee for failing to file the statement only if the employee knowingly fails to file. A definition of "contract" has also been added.

[See the explanatory note at BBFA(LEGAL) for more information on HB 1491.]

At PERSONAL SERVICES PERFORMED BY SUPERINTENDENT, on page 5, are new restrictions from HB 189, effective May 15, 2007, regarding financial benefits received by a superintendent for personal services. Any financial benefits must be approved by the board.

#### DBE            (LEGAL)            EMPLOYMENT REQUIREMENTS AND RESTRICTIONS NEPOTISM

HB 2563, effective September 1, 2007, modifies the nepotism prohibitions at SUPERINTENDENT. Where the board has delegated hiring authority to the superintendent, the superintendent is subject to the nepotism laws with respect to the delegated hiring authority, and the board members remain subject to the nepotism prohibition for all employees.

#### DC            (LEGAL)            EMPLOYMENT PRACTICES

As required by HB 2563, effective September 1, 2007, the district's employment policy must now provide for the board to employ and evaluate the superintendent.

HB 2563 also requires the employment policy to allow employees to present grievances to the board. Moreover, SB 135 provides that district policy may not restrict employee access to board members regarding communication about a matter relating to the operation of the district outside of the grievance or appeal process. These provisions, outlined at EMPLOYEE GRIEVANCES, are repeated at DGBA(LEGAL) because of their implications regarding the grievance process. New text has also been added to DGBA(LOCAL) regarding this issue.

Reflected at SUPERINTENDENT RECOMMENDATION and pursuant to HB 2563, the board's acceptance or rejection of a superintendent's recommendation regarding the selection of district personnel must now be recorded in the minutes.

Criminal history record provisions previously found at this policy were moved, as modified by legislative changes, to DBAA(LEGAL), the new code addressing criminal history records for employees.

# Explanatory Notes

## TASB Localized Policy Manual Update 81

### DC (LOCAL) EMPLOYMENT PRACTICES

As indicated in the explanatory note at DBAA(LEGAL), SB 9, effective June 15, 2007, lays out extensive mandatory provisions on criminal history record information (CHRI). The new law supersedes the previous statute that gave districts an option regarding CHR checks for job applicants and employees, which needed to be addressed in board policy. Since CHR checks are now mandatory, we have deleted that section from the enclosed text.

### DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

At TRS SURCHARGE FOR REHIRED RETIREES, the exception language was expanded by HB 1846. Previously, districts were required to pay the TRS surcharge for all rehired retirees except for those that the district had reported as retirees in January 2005. For district contributions required to be made on or after September 1, 2007, the district does not need to pay the TRS surcharge if the employee retired before September 1, 2005, which was the effective date of the original legislation on the TRS surcharge.

Expired text regarding educator compensation for the 2006–07 school year has been deleted.

### DF (LEGAL) TERMINATION OF CONTRACT

Repeated at this policy are provisions from DBAA(LEGAL) regarding a district's mandatory obligation to terminate an employee when the district learns that the employee has been convicted of a Title 5 felony or offense requiring registration as a sex offender and the victim was a minor or a student. There is an exception from termination for offenses more than 30 years old. SBEC may sanction an educator who fails to follow these termination requirements, and the superintendent must annually certify to SBEC the district's compliance with these provisions. Still in place, however, are provisions permitting the district to terminate an employee convicted of a felony or of a misdemeanor involving moral turpitude.

At REPORT TO SBEC, is reflected the addition, required by SB 1031, of a third circumstance for which the superintendent must notify SBEC: if the educator engages in conduct that violates assessment instrument security procedures developed by TEA. TEA is slated to adopt these procedures next year.

### DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

At IMMUNITY FROM INDIVIDUAL LIABILITY: NO WAIVER, provisions from SB 370, effective May 17, 2007, specify that a district may not require an employee to waive the employee's professional immunity or require an employee who acts in good faith to pay for or replace the property of a student or other person (including the district) that the employee possessed in the course and scope of employment.

Language regarding employee payment for textbooks or instructional technology stolen, misplaced, or not returned by a student was removed from CMD(LEGAL) and placed at this policy at TEXTBOOKS AND TECHNOLOGICAL EQUIPMENT, on page 6. SB 370 modified the existing provision to replace the term "instructional technology" with the statutorily defined term "technological equipment" and to include electronic textbooks. The statute still addresses items that are stolen, misplaced, or not returned but no longer requires that "a student" be the individual who stole, misplaced, or did not return the item. The district may choose, by written agreement, to allow an employee to assume financial responsibility for such items provided the agreement complies with the law as specified in the policy. A district that is considering this option should consult its local attorney.

## Explanatory Notes

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#### DGBA (LEGAL) PERSONNEL-MANAGEMENT RELATIONS EMPLOYEE COMPLAINTS/GRIEVANCES

Provisions regarding the district's EMPLOYMENT POLICY added to DC(LEGAL) at this update are repeated here because of their implications regarding the district's grievance process. In accordance with HB 2563, the employment policy must allow employees to present grievances to the board. Moreover, SB 135, effective April 23, 2007, provides that district policy may not restrict employee access to board members regarding communication about a matter relating to the operation of the district outside of the grievance process.

An additional provision regarding the district's GRIEVANCE POLICY was added pursuant to HB 1622, effective September 1, 2007. The district's policy must allow an employee who has a grievance against his or her supervisor to complain to another supervisor if the grievance alleges unlawful harassment or "the violation of the law in the workplace."

New text has also been added to DGBA(LOCAL) regarding these issues.

A duplicative provision regarding disruption of board meetings has been deleted. This provision remains at BED(LEGAL).

#### DGBA (LOCAL) PERSONNEL-MANAGEMENT RELATIONS EMPLOYEE COMPLAINTS/GRIEVANCES

Text at DIRECT COMMUNICATION WITH BOARD MEMBERS reflects a new statutory provision prohibiting a district from restricting employee communications with board members outside of the grievance or appeal process.

At OTHER REVIEW PROCESSES, we have specified that those forms of harassment to be processed in accordance with policy DIA (Freedom from Harassment) include harassment by a supervisor. As provided by DIA(LOCAL), an employee who is a victim of harassment by a supervisor should never be required to report that conduct to the supervisor engaging in the harassment.

At COMPLAINTS AGAINST SUPERVISORS, a similar provision applies if an employee has a complaint about a supervisor's violation of the law. Employees must be allowed to report the conduct to someone other than the employee's direct supervisor. We have therefore added a provision allowing an employee with a complaint about his or her supervisor's violation of the law to file a Level Two grievance with the superintendent. If the allegation is against the superintendent, the employee may complain directly to the board, beginning at Level Three.

The district's provision that LEVEL TWO conferences be audiotaped has been retained, unaltered.

#### DMA (LEGAL) PROFESSIONAL DEVELOPMENT REQUIRED STAFF DEVELOPMENT

SB 7, effective June 15, 2007, requires certain employees and students to have instruction regarding AUTOMATED EXTERNAL DEFIBRILLATORS (AEDs) and requires districts to make available to all employees instruction regarding cardiopulmonary resuscitation (CPR) and the use of AEDs. [See the explanatory note at DBA(LEGAL) for employee certification requirements in first aid, CPR, and the use of AEDs.]

## Explanatory Notes

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At STEROIDS is added a provision from SB 8, effective June 15, 2007, requiring athletic coaches for UIL activities at or above the seventh grade level to complete training on the health effects of steroids beginning with the 2007–08 school year. This provision is one segment of the broader program for random steroid testing of students who participate in UIL athletics; for more information, visit <http://www.uil.utexas.edu/>.

#### EB (LEGAL) SCHOOL YEAR

HB 2171, effective June 15, 2007, permits a district that does not offer all grade levels and whose students at those grade levels generally attend school in another state to start school as permitted by Texas law or as permitted by the law of the other state.

#### EHAB (LEGAL) BASIC INSTRUCTIONAL PROGRAM REQUIRED INSTRUCTION (ELEMENTARY)

SB 530 revised the DAILY PHYSICAL ACTIVITY requirements for elementary students, specified as students in kindergarten through grade 5. (The provision previously included sixth grade students.) SB 530 also overrules State Board of Education rules limiting the physical activity requirements for kindergarten to full-day programs. Elementary students still must participate in 30 minutes of daily physical activity, but a district may now use the alternative schedule of 135 total minutes of physical activity during a school week only if the district determines that requiring the daily physical activity is impractical due to scheduling concerns or other factors. These changes are effective for the 2007–08 school year.

Changes to the daily physical activity requirements for middle school students, also found in SB 530, are not effective until the 2008–09 school year and therefore will be included in a later update.

#### EHBG (LEGAL) SPECIAL PROGRAMS PREKINDERGARTEN

As reflected at ELIGIBILITY, SB 758 adds to the list of children eligible for prekindergarten a child who is or has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing relating to the child's removal from the custody of a parent, custodian, guardian, or other caretaker.

#### EHBK (LEGAL) SPECIAL PROGRAMS OTHER INSTRUCTIONAL INITIATIVES

This policy was reorganized to group recognition activities into two categories—those that the district must observe and those that are optional for the district to observe. Within each category, activities are listed in order of the months during which the activities are observed. Added to the list of activities that the district must observe are several already found in statute: Father of Texas Day, Sam Rayburn Day, State of Texas Anniversary Remembrance Day, Texas History Month, and Public School Paraprofessional Day. From HB 2237, a new activity the district must observe, “Education: Go Get It” Week, was also added. The purpose of this week is for districts to provide secondary students with information about higher education.

Two optional recognition activities were added by the legislature: Lung Cancer Awareness Month, added by HB 1449, effective September 1, 2007, and Child Safety Month, added by HB 1045, effective June 15, 2007.



## Explanatory Notes

### TASB Localized Policy Manual Update 81

A provision on the Hate Crimes Law Program was deleted, since the requirement to develop such a program belongs to TEA rather than school districts.

The previously optional provision on CPR INSTRUCTION for students has been made mandatory by SB 7, effective with the 2008–09 school year.

#### EHDD (LEGAL) EXTENDED INSTRUCTIONAL PROGRAMS COLLEGE COURSE WORK/DUAL CREDIT

Beginning with the 2007–08 school year, SB 282 requires districts to provide NOTICE TO PARENTS of high school students about the availability of college credit programs and the contact information for any entity in the district that offers such a program. The district may post this notice on its Web site.

At COLLEGE CREDIT PROGRAM, HB 3485 revises provisions on college credit programs to list the types of courses by which students may earn 12 credit hours of college in high school. Credit may be earned through international baccalaureate, advanced placement, dual credit, or articulated postsecondary courses. HB 3485 became effective June 15, 2007.

#### EJ (LEGAL) ACADEMIC GUIDANCE PROGRAM

Similar to the parental notice provision added to EHDD(LEGAL) and reflected here at HIGHER EDUCATION COUNSELING, SB 282 also requires districts to notify students of the availability of college credit programs in the district, such as advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs. These notices are required beginning with the 2007–08 school year.

#### EK (LEGAL) TESTING PROGRAMS

At LOCAL ACHIEVEMENT TESTING, provisions from SB 1031 have been added limiting a district's ability to administer local assessments in subject areas for which a state assessment is administered to ten percent or less of the instructional days in any school year. Exceptions are allowed for administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, and state assessments.

Extensive provisions were added by SB 1031 regarding college preparation assessments, which are administered at state cost with a corresponding reduction in state funds to the district. Districts must now administer a preliminary college preparation assessment instrument to eighth and tenth grade students for diagnostic purposes. In eleventh or twelfth grade, high school students may take a college preparation assessment instrument of their choice.

At HOME-SCHOOLED STUDENTS, provisions from HB 1844 require districts to allow home-schooled students to take the PSAT/NMSQT or an advanced placement test offered by the district. These students may be charged the same fee, if any, that the district charges its enrolled students to take the tests. A district must provide notice of testing opportunities on its Web site or in a newspaper.

All of these provisions are effective beginning with the 2007–08 school year.

# Explanatory Notes

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### EKC (LEGAL) TESTING PROGRAM READING ASSESSMENT

At ADOPTION OF READING INSTRUMENTS, text was added to reflect provisions from HB 2237, which requires a district to administer a reading assessment to seventh grade students who did not demonstrate proficiency on the sixth grade reading assessment. HB 2237 was effective June 15, 2007.

As indicated at REPORTS, beginning with the 2008–09 school year, HB 1871 requires a superintendent to report to TEA through the school readiness certification system students' raw scores on the reading instruments. TEA will use the data to determine the effectiveness of prekindergarten programs.

### F (LEGAL) STUDENTS

We have revised the F section table of contents to reflect the updated subtitles for codes FDB (Intradistrict Transfers **and Classroom Assignments**) and FOE (Emergency **and Alternative** Placement).

### FD (LEGAL) ADMISSIONS

At GENERAL ELIGIBILITY is a new provision from HB 1137, effective with the 2007–08 school year, allowing a district to admit students who are at least 21 and under 26, and who meet residency requirements, for the purpose of completing the requirements of a high school diploma.

Students ages 21–25 have been added to the list at FOUNDATION SCHOOL PROGRAM, on page 8, to reflect the fact that a district will receive funding for such students if they are admitted. And with the addition of the complete list of students for whom the district receives funding, text at KINDERGARTEN is no longer necessary and has been deleted.

A slight rewording at SCREENING, on page 8, reflects language from SB 415, which converted the acanthosis nigricans screening program, applicable to districts in designated high risk areas, to a broader risk assessment screening for Type 2 diabetes.

[See the explanatory notes at FDB(LEGAL) and FOC(LEGAL) for additional information on students ages 21–25.]

### FD (LOCAL) ADMISSIONS

Because local policy must reflect the district's choice, provided by HB 1137, on the admission of students ages 21–25, we have added text prohibiting the admission of these students at PERSONS AGE 21 AND OVER. If your district wishes to admit these students for the purpose of completing the requirements for a high school diploma, please contact your policy consultant/analyst for appropriate text.

### FDB (LEGAL) ADMISSIONS INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

The subtitle of this policy has been changed to clarify that the content addresses changes in classroom assignments as well as intradistrict campus-to-campus transfers.

## Explanatory Notes

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Material from HB 314 was added at MULTIPLE BIRTH SIBLINGS. Beginning with the 2007–08 school year, a parent of multiple birth siblings who are assigned to the same grade level and school may request that the school place the students in the same classroom or in different classrooms. Unless the request would require the district to add a class to the grade level, the district shall grant the request. After the first grading period, the principal may reassign the siblings if the original placement is disruptive. A parent may appeal the reassignment; however, the siblings will remain in the classroom chosen by the parent during the appeal.

A new provision at PLACEMENT OF OLDER STUDENTS reflects material from HB 1137, effective with the 2007–08 school year. If a district chooses to admit a student age 21–25 to allow the student an opportunity to complete the requirements for a high school diploma and the student has not attended school in the preceding three years, the district may place the student only in certain settings. The older students may not be placed with a student who is 18 or under in the classroom, in a cafeteria, or at another district-sanctioned school activity. [See the explanatory note at FD(LEGAL).]

FDD            (LEGAL)            ADMISSIONS  
SCHOOL SAFETY TRANSFERS

To the term “assailant” at SEXUAL ASSAULT TRANSFER is added a reference to continuous sexual abuse of a young child or children, a new offense added by SB 8.

FEA            (LEGAL)            ATTENDANCE  
COMPULSORY ATTENDANCE

At STUDENTS 18 AND OVER appears language from HB 566 permitting districts to extend non-attendance laws to students 18 and over who voluntarily attend school. Even if the district chooses to apply the non-attendance rules to these students, the non-attendance provisions do not apply to these students’ parents. This provision is effective beginning with the 2007–08 school year.

At RELIGIOUS, COURT-RELATED, AND MEDICAL ABSENCES appears material from HB 2455. Effective with the 2007–08 school year, a district must excuse a student from attending school if the student is attending a required court appearance. As with the other mandatory excused absences for holy days and health care appointments, students absent because of a required court appearance must be allowed a reasonable amount of time to make up missed work. A provision regarding the counting of these students for Foundation School Program purposes, also from HB 2455, was added at FEB(LEGAL).

In addition, a district may excuse certain students who are absent to play “Taps” at a military honors funeral. This provision comes from HB 1187, effective for the 2007–08 school year.

FEA            (LOCAL)            ATTENDANCE  
COMPULSORY ATTENDANCE

At STUDENTS AGE 18 AND OVER, we have added text applying compulsory attendance laws to students who voluntarily attend school after the student’s eighteenth birthday. If your district does not wish to apply compulsory attendance laws to these students, please contact your policy consultant/analyst.

## Explanatory Notes

### TASB Localized Policy Manual Update 81

#### FEB (LEGAL) ATTENDANCE ATTENDANCE ACCOUNTING

From HB 2455 comes material allowing a student who is not actually on campus when attendance is taken to be considered in attendance for Foundation School Program purposes if the student is attending a required COURT APPEARANCE. This provision is effective with the 2007–08 school year.

A provision regarding excused absences for required court appearances, also from HB 2455, was added to FEA(LEGAL).

#### FEC (LEGAL) ATTENDANCE ATTENDANCE FOR CREDIT

New provisions from HB 1137 allow a student who attends at least 75 percent but less than 90 percent of the days a class is offered to obtain credit if the student completes a plan approved by the school's principal that addresses the instructional requirements of the class, as indicated at PRINCIPAL'S PLAN.

A preexisting provision was added at ADDITIONAL DUTIES requiring additional pay for work done by certified employees outside of the instructional day on attendance committee duties.

Several provisions throughout this policy were reworded for clarity.

#### FEC (LOCAL) ATTENDANCE ATTENDANCE FOR CREDIT

At METHODS FOR REGAINING CREDIT, we have added text allowing a student who attends at least 75 percent but less than 90 percent of the days a class is offered to obtain credit if the student completes a plan approved by the school's principal that addresses the instructional requirements of the class. If the student fails to complete the plan approved by the principal or if the student has less than 75 percent attendance, the student may still petition the attendance committee for credit. If your district will not offer the option of a student obtaining credit through completion of a principal's plan, please contact your policy consultant/analyst.

At DAYS OF ATTENDANCE, the revision clarifies that a student who is absent for the purpose of attending a required court appearance will now be considered in attendance when determining whether he or she has met the 90 percent attendance requirement for credit. [See FEA(LEGAL).]

At IMPOSING CONDITIONS FOR AWARDED CREDIT, the district's locally developed provision of "other requirements specified by the committee" has been retained, unaltered.

#### FFAB (LEGAL) WELLNESS AND HEALTH SERVICES IMMUNIZATIONS

A new section titled IMMUNIZATION AWARENESS PROGRAM reflects text from HB 1059, also known as the Emily Lastinger Act. A district with a Web site shall post in English and Spanish a list of required and recommended immunizations, known health clinics in the district that offer the influenza vaccine, and a link to the Web site of the Texas Department of State Health Services with information on immunization exemptions. This bill is effective beginning with the 2007–08 school year.

## Explanatory Notes

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#### FFH            (LEGAL)            STUDENT WELFARE FREEDOM FROM HARASSMENT

As reflected in the first paragraph, HB 121, effective May 18, 2007, requires a district to adopt and implement a dating violence policy. Because the policy must be included in the district improvement plan, details of the legal requirements for the policy are found at BQ(LEGAL). Local policy text is added at FFH(LOCAL).

[See the explanatory note at BQ(LEGAL).]

#### FFH            (LOCAL)            STUDENT WELFARE FREEDOM FROM HARASSMENT

In response to the HB 121 requirement that school districts address dating violence, we have added that term to the list of prohibited activities at this policy and, at DATING VIOLENCE on page 2, have included the definition from HB 121, as well as several examples. Although all dating violence is prohibited, it will only trigger the procedures detailed in this policy if it rises to a certain level of severity.

[See the explanatory note at BQ(LEGAL).]

We have retained, unaltered, the district's locally developed text in the first paragraph and at COUNSELING as part of the district's agreement with the Office of Civil Rights.

#### FL            (LEGAL)            STUDENT RECORDS

At SCREENING RECORDS, on page 2, the text has been revised to reflect SB 415, which converted the acanthosis nigricans screening program, applicable to districts in designated high risk areas, to a broader risk assessment screening for type 2 diabetes.

Text at INFORMATION FROM LAW ENFORCEMENT, beginning on page 12, is modified by two legislative bills:

HB 2532, effective June 15, 2007, clarifies that the superintendent or designee may share with a district employee confidential information contained in the notice from law enforcement that a student has been arrested or referred to the juvenile board. This bill also requires the prosecuting attorney to notify the district of a student's registered sex offender status, in addition to conviction or adjudication. After the prosecuting attorney notifies the district of this information, the superintendent or designee must inform the relevant employees "within 24 hours." Previously the superintendent had to give such notice "promptly." As a result of these changes, several margin notes have been added under this section for clarity.

As reflected at NOTICE OF TRANSFER OR REENROLLMENT, SB 230, effective June 16, 2007, modifies the employee notice requirements when a student transfers or reenrolls. The superintendent of the district to which the student transfers or returns shall, within 24 hours of receiving notice, notify relevant employees.

# Explanatory Notes

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### FNA (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES STUDENT EXPRESSION

A provision at FREEDOM OF SPEECH is added based on the recent U.S. Supreme Court case, *Morse v. Frederick*, which clarified that because of the special characteristics of the school environment and the governmental interest in stopping student drug abuse, a district may restrict student expression that it reasonably regards as promoting illegal drug use.

HB 3678, also known as the Religious Viewpoints Antidiscrimination Act, contains extensive provisions on student expression, which are added at EXPRESSION OF RELIGIOUS VIEWPOINTS. This bill, effective with the 2007–08 school year, addresses four general areas of student expression: freedom of religious expression, student speakers, religious expression in class assignments, and freedom of association. The law requires a district:

- To treat a student's expression of a religious viewpoint on an otherwise permissible subject in the same manner as nonreligious speech,
- To adopt a policy establishing a limited public forum for student speakers at all school events at which a student is to publicly speak,
- To evaluate class assignments containing religious content by ordinary academic standards; and
- To allow students to organize religious groups and meetings to the same extent that students are permitted to organize noncurricular student activities and groups.

Included in the bill is a "model" policy. According to the language of the bill, districts that adopt the model or a policy that is "substantially identical" will be considered in compliance with the new law. In July, TASB Policy and Legal Services provided materials to all districts regarding the required local policy so that districts could have a policy in place by the start of the school year. If your district has not yet adopted a policy, please log in to myTASB and view the *Student Expression: Urgent Starting Points*.

[See the explanatory notes at FNAB(LEGAL) for text on student religious groups and activities, as found in HB 3678.]

### FNAB (LEGAL) STUDENT EXPRESSION USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

HB 3678, also known as the Religious Viewpoints Antidiscrimination Act, contains provisions on student freedom of association. Included at RELIGIOUS GROUPS AND ACTIVITIES is material from HB 3678 requiring a district to allow students to organize religious groups and meetings to the same extent that students are permitted to organize noncurricular student activities and groups.

[See the explanatory note at FNA(LEGAL) for text on other student expression requirements, as found in HB 3678.]

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

Modified by HB 2532, text regarding a district's PERMISSIVE REMOVAL of a student to a DAEP based on the student's commission of a Title 5 felony has been moved to FOE(LEGAL). [See the explanatory note at FOE(LEGAL) for more information.]

## Explanatory Notes

### TASB Localized Policy Manual Update 81

From HB 1137 and effective with the 2007–08 school year, a new provision at OLDER STUDENTS, on page 3, addresses discipline of students between 21 and 26 who the district admits for the purpose of completing high school graduation requirements. An older student is not eligible for placement in DAEP. Instead, a district must withdraw an older student if the student engages in conduct for which removal to DAEP is required or authorized.

#### FODA      (LEGAL)      EXPULSION JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

New language at TITLE 5 FELONY PLACEMENTS, on page 3, reflects provisions from HB 2532, effective beginning with the 2007–08 school year. HB 2532 permits a district to expel a student for Title 5 felony conduct and place the student in an “alternative setting,” which includes either DAEP or JJAEP placement. If the district chooses placement in a JJAEP, the district must reimburse the JJAEP for the actual cost of the student’s enrollment.

[See the explanatory note at FOE(LEGAL) for more information on these HB 2532 provisions.]

#### FOE      (LEGAL)      STUDENT DISCIPLINE EMERGENCY AND ALTERNATIVE PLACEMENT

Legislative changes affecting this policy are as follows:

- HB 2532, effective beginning with the 2007–08 school year, revises disciplinary provisions applicable to students who engage in TITLE 5 FELONY conduct. Previously, a district could choose to place these students in a DAEP. Now, a district may expel the student and place the student in an “alternative setting,” which includes either DAEP or JJAEP placement. This provision applies if the student has been arrested, charged, referred to a juvenile court, received deferred prosecution or adjudication, received probation, or been found by a court or jury to have engaged in, or been convicted of, conduct defined as a felony offense and the board or designee makes certain determinations, as listed at item 2 on page 1. The student is subject to the placement until the student graduates, the charges are dismissed or reduced, or the student completes the placement, even if the student transfers to another district in the state. These students are entitled to periodic reviews of their status.
- At REGISTERED SEX OFFENDERS is new language also required by HB 2532. When a district receives notice that a student is a registered sex offender, the district must remove the student from the regular classroom and determine an appropriate placement—either DAEP, JJAEP, or the regular classroom, depending on whether the student is under court supervision. A REVIEW COMMITTEE must reconsider the student’s placement at the end of the first semester of placement and make a recommendation to the board or designee regarding continued placement or return to the regular classroom. The board or designee may reject the committee’s RECOMMENDATION only if it makes certain determinations as listed on pages 4 and 5. Parental appeals are limited to the factual question of whether the student is required to register as a sex offender.

A provision regarding payment to the JJAEP for students placed there has been added to FODA(LEGAL). [See the explanatory note at FODA(LEGAL) for more information.]

#### GBA      (LEGAL)      PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

Several bills from the 80<sup>th</sup> Legislative Session address release of information under the Public Information Act (PIA):

## Explanatory Notes

### TASB Localized Policy Manual Update 81

- At EDUCATOR CERTIFICATION EXAM, SB 9, effective June 15, 2007, makes confidential the results of an educator certification examination.
- At VICTIM OF ABUSE OR IMPROPER RELATIONSHIP, HB 3659, effective September 1, 2007, adds an exception to release for the name of a student involved in an improper relationship with an educator.
- At PARTICIPANT IN ADDRESS CONFIDENTIALITY PROGRAM, SB 74, effective June 15, 2007, adds an exception to release for the addresses of participants in the Attorney General's Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking.
- At VICTIMS OF CERTAIN CRIMES are provisions revised by HB 1042 allowing district employees who are crime victims to elect whether to allow public access to information held by the district that might identify the victim. HB 1042 is effective September 1, 2007.
- At INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE, SB 9 adds an exception for release of an audit working paper, including any audit relating to the criminal history background check of an employee.
- At SOCIAL SECURITY NUMBERS, HB 2061 clarifies that Social Security numbers are not confidential; however, a district may redact them from any information the district releases to the public. HB 2061 was effective March 28, 2007.

#### GBAA      (LEGAL)      INFORMATION ACCESS REQUESTS FOR INFORMATION

Legislative changes affecting this policy are as follows:

- A new paragraph at TIME FOR RESPONSE contains material from HB 1497, effective September 1, 2007. If a district sends an individual who has made a request under the Public Information Act (PIA) a written demand to clarify the request, the requestor must respond by the 61<sup>st</sup> day or the request is considered withdrawn.
- At DEPOSIT OR BOND, SB 175 clarifies that a requestor who is required to post a bond or make a deposit must do so before the tenth business day after the date the deposit or bond is required. This bill became effective on June 15, 2007.
- A new section on page 13, LARGE OR FREQUENT REQUESTS, contains material from HB 2564, effective June 15, 2007. Meant to address the concerns of governmental entities that receive frequent requests for large amounts of information from the public, the new law allows districts to charge certain requestors if personnel time spent responding to requests exceeds a specified amount of time established by the district, which may not be less than 36 hours. With each request, the district must send the requestor a written statement with the amount of personnel time spent on the request. If the time spent exceeds the hourly limit, the district must send a written estimate of the cost to the requestor. The Attorney General will establish a fee schedule. The requestor must commit to paying the fee or the request is considered withdrawn. The district may not apply these provisions to certain requestors, listed at EXCEPTION.

If your district wishes to establish an hourly limit at which the district will begin charging requestors for time spent on PIA requests, please contact your policy consultant/analyst.

Additionally, text at DESTRUCTION OF RECORDS has been deleted, as this material was moved to CPC(LEGAL) at Update 80.



## Explanatory Notes

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GKC            (LEGAL)            COMMUNITY RELATIONS  
VISITORS TO THE SCHOOLS

SB 9, effective June 15, 2007, provides that a district may require visitors to show identification and, for security purposes, may establish a database to store such information. Further, the district may access the Texas Department of Public Safety database or other databases to determine whether the visitor is a registered sex offender. Provisions were added at this legal policy to address these issues; local policy is required to determine how the administration will handle visitors identified as sex offenders.

[See the explanatory notes for CH(LEGAL), DBAA(LEGAL), and GKG(LEGAL) for information on the other provisions of SB 9.]

GKC            (LOCAL)            COMMUNITY RELATIONS  
VISITORS TO THE SCHOOLS

SB 9 requires districts to have a policy addressing administrator response when a visitor is identified as a sex offender. Therefore, we have added text at REGISTERED SEX OFFENDERS ON DISTRICT PREMISES requiring the superintendent, working with campus administrators, to develop procedures.

We have streamlined the existing text and have included teachers in decisions regarding visits to classrooms during instructional time, as would be practical.

GKG            (LEGAL)            COMMUNITY RELATIONS  
SCHOOL VOLUNTEER PROGRAM

As reflected at CRIMINAL HISTORY RECORD, SB 9, effective June 15, 2007, provides that, with certain exceptions noted below, a district must obtain for each volunteer criminal history information from the Texas Department of Public Safety and may obtain the information from another entity.

A district may, but is not required to, obtain criminal history information on a volunteer if the person is a parent, guardian, or grandparent; will be accompanied by a school employee while on campus; or is volunteering for a single event.

The district must also require all volunteers to provide identification and may require volunteers to pay the costs of obtaining the criminal history information. If your district wishes to charge volunteers for the cost of obtaining this information, you should establish procedures in administrative regulations.

[See the explanatory notes at CH(LEGAL), DBAA(LEGAL), and GKG(LEGAL) for information on the other provisions of SB 9.]

GKG            (LOCAL)            COMMUNITY RELATIONS  
SCHOOL VOLUNTEER PROGRAM

The information in this local policy at PURPOSE, QUALIFICATIONS, and AUTHORITY is better addressed in administrative regulations; therefore, we recommend deletion of this policy. [See the **TASB Regulations Resource Manual** at this code.] The extensive provisions on criminal history record information in SB 9 make text at CRIMINAL HISTORY RECORD CHECK unnecessary in local policy.



**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 A: BASIC DISTRICT FOUNDATIONS

AA	DISTRICT LEGAL STATUS
AB	DISTRICT NAME
AC	GEOGRAPHIC BOUNDARIES
AE	EDUCATIONAL PHILOSOPHY
AF	GOALS AND OBJECTIVES
AFA	Campus Plans and Objectives
AG	HOME-RULE DISTRICTS
AH	OPEN-ENROLLMENT CHARTER SCHOOLS



EDUCATIONAL PHILOSOPHY

AE  
(LEGAL)

VISION STATEMENT  
AND GOALS

The Board shall adopt a vision statement and comprehensive goals for the District and the Superintendent. *Education Code 11.1511(b)(2)*



BOARD LEGAL STATUS  
POWERS AND DUTIES

BAA  
(LEGAL)

All powers and duties not specifically delegated by statute to TEA or the State Board are reserved for the Board. *Education Code 11.151(b)*

The Board shall:

- |                                      |  |
|--------------------------------------|--|
| GOVERNANCE                           | 1. Govern and oversee the management of the public schools of the District. <i>Education Code 11.151(b)</i>  |
| COMPREHENSIVE GOALS                  | 2. Monitor progress toward the District's comprehensive goals. <i>Education Code 11.1511(b)(2)</i> [See AE]  |
| PERFORMANCE GOALS                    | 3. Establish performance goals for the District concerning:<br>a. The academic and fiscal performance indicators under Subchapters C and I, Chapter 39, respectively; and<br>b. Any performance indicators adopted by the District.<br><i>Education Code 11.1511(b)(3)</i>     |
| PLANNING AND DECISION-MAKING PROCESS | 4. Adopt a policy to establish a District- and campus-level planning and decision-making process. <i>Education Code 11.1511(b)(5), 11.251(b)</i> [See BQ series]   |
| TAX RATE                             | 5. Adopt a tax rate each fiscal year as required by Tax Code 26.05. <i>Education Code 11.1511(b)(8)</i>  |
| ANNUAL BUDGET                        | 6. Adopt and file a budget for the succeeding fiscal year. <i>Education Code 11.1511(b)(7), 44.004, 44.005</i> [See CE]  |
| FINANCIAL PROCEDURES                 | 7. Monitor District finances to ensure that the Superintendent is properly maintaining the District's financial procedures and records. <i>Education Code 11.1511(b)(9)</i>  |
| ANNUAL AUDIT                         | 8. Have District fiscal accounts audited annually at District expense by a certified or public accountant holding a permit from the Texas State Board of Public Accountancy following the close of each fiscal year. <i>Education Code 11.1511(b)(10), 44.008(a)</i> [See CFC] |
| FINANCIAL REPORT                     | 9. Publish an end-of-year financial report for distribution to the community. <i>Education Code 11.1511(b)(11)</i>   |
| INTERNAL AUDITOR                     | 10. Select the internal auditor if the District employs an internal auditor. The internal auditor shall report directly to the Board. <i>Education Code 11.170</i>   |
| SUPERINTENDENT                       | 11. Ensure that the Superintendent implements and monitors plans, procedures, programs, and systems to achieve appropriate, clearly defined, and desired results in the major areas of District operations. <i>Education Code 11.051(a)</i>                                    |

BOARD LEGAL STATUS  
POWERS AND DUTIES

BAA  
(LEGAL)

12. Ensure that the Superintendent:
  - a. Is accountable for achieving performance results;
  - b. Recognizes performance accomplishments; and
  - c. Takes action as necessary to meet performance goals.

*Education Code 11.1511(b)(4)*
- ANNUAL SUPERINTENDENT APPRAISAL 13. Appraise the Superintendent annually using either the Commissioner's recommended appraisal process or a process and criteria developed by the District. *Education Code 21.354(c)* [See BJCD]
- PERFORMANCE REPORT 14. Publish an annual report describing the District's educational performance including campus performance objectives and the progress of each campus toward those objectives. *Education Code 11.1511(b)(6), 39.053(a)* [See BQ series, BR]
- DEPOSITORY 15. Select a depository for District funds. *Education Code, Ch. 45, Subch. G* [See BDAE]
- ELECTIONS 16. Conduct elections as required by law. *Education Code 11.1511(b)(12)*  
17. Canvass election results as required by law. *Election Code 67.003* [See BBB]
- PROPERTY ACQUISITION 18. Acquire and hold real and personal property in the name of the District. *Education Code 11.151(a); Local Gov't Code 271.004* [See CHG]
- TITLE TO PROPERTY 19. Hold all rights and titles to the school property of the District, whether real or personal. *Education Code 11.151(c)* [See CI]
- PERSONNEL 20. Adopt a policy providing for the employment and duties of District personnel. *Education Code 11.1513* [See BJ series, DC series, DEA]
- RESTRICTIONS ON WRITTEN REPORTS 21. Limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. *Education Code 11.164(a)* [See DLB]
- PAPERWORK REVIEW 22. Review paperwork requirements imposed on classroom teachers and transfer to existing noninstructional staff a reporting task that can reasonably be accomplished by that staff. *Education Code 11.164(b)* [See also DLB]
- TERMINATION OF EMPLOYMENT 23. Make decisions relating to terminating the employment of District employees employed under a contract to which Education Code Chapter 21 applies, including terminating or not re-



BOARD LEGAL STATUS  
POWERS AND DUTIES

BAA  
(LEGAL)

newing an employment contract to which that chapter applies.  
*Education Code 11.1511(b)(14)*

RELATIONSHIPS WITH  
OUTSIDE ENTITIES

24. Seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community.  
*Education Code 11.1511(b)(1)*

GRIEVANCES

25. By rule, adopt a process through which District personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the District administrators and the Board regarding a complaint. *Education Code 11.1511(b)(13)*

The Board may:

RULES AND BYLAWS

1. Adopt rules and bylaws. *Education Code 11.151(d)* [See BF]

TAX COLLECTION

2. Issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Education Code 45.001 and 45.003.
3. Levy, assess, and collect an annual ad valorem tax for maintenance and operation of the District as authorized under Education Code 45.002 and 45.003.

*Education Code 11.1511(c)* [See CCA, CCG]

TAX OFFICIALS

4. Employ and compensate a tax assessor or collector, as the Board considers appropriate. *Education Code 11.1511(c), 45.231(a); Tax Code 6.22* [See BDAF]

CONTRACTS

5. Enter into contracts as authorized under the Education Code or other law and delegate contractual authority to the Superintendent as appropriate. *Education Code 11.1511(c)*

BEQUESTS

6. Receive bequests and donations or other moneys or funds coming legally into its hands in the name of the District. *Education Code 11.151(a)* [See CDC]

EMINENT DOMAIN

7. Exercise the right of eminent domain to acquire property.  
*Education Code 11.155*

LEASE OF PERSONAL  
PROPERTY

8. Execute, perform, and make payments under contracts, which may include leases, leases with option(s) to purchase, or installment purchases, with any person for the use, acquisition, or purchases of any personal property, or the financing thereof. The contracts shall be on terms and conditions that are deemed appropriate by the Board in accordance with state law. *Local Gov't Code 271.005*

BOARD LEGAL STATUS  
POWERS AND DUTIES

BAA  
(LEGAL)

- |   |     |   |
|---|-----|---|
| SALE OF PROPERTY                            | 9.  | Authorize the sale of any property, other than minerals, held in trust for free school purposes. <i>Education Code 11.154(a)</i> [See CDB]  |
| MINERAL RIGHTS                              | 10. | Sell minerals in land belonging to the District. <i>Education Code 11.153(a)</i> [See CDB]  |
| REAL ESTATE<br>BROKER                       | 11. | Employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property. <i>Education Code 11.154(c)</i>   |
| ATTORNEY GENERAL                            | 12. | Request the assistance of the attorney general on any legal matter. The District must pay any costs associated with the assistance. <i>Education Code 11.151(e)</i>   |
| LAWSUITS                                    | 13. | Sue and be sued in the name of the District. <i>Education Code 11.151(a)</i>  |
| COLLABORATION<br>WITH THE<br>SUPERINTENDENT |     | <p>The Board and the Superintendent shall work together to:</p> <ol style="list-style-type: none"><li>1. Advocate for the high achievement of all District students;</li><li>2. Create and support connections with community organizations to provide community-wide support for the high achievement of all District students;</li><li>3. Provide educational leadership for the District, including leadership in developing the District vision statement and long-range educational plan;</li><li>4. Establish Districtwide policies and annual goals that are tied directly to the District's vision statement and long-range educational plan;</li><li>5. Support the professional development of principals, teachers, and other staff; and</li><li>6. Periodically evaluate Board and Superintendent leadership, governance, and teamwork.</li></ol> <p><i>Education Code 11.1512(b)</i></p> |

BOARD MEMBERS  
ELIGIBILITY/QUALIFICATIONS

BBA  
(LEGAL)

ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, the office of school board Trustee, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - a. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
  - b. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction.
4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities. *Atty. Gen. Op. LO 96-114 (1996)*
5. Be a resident of Texas and the District for the period of time described at CANDIDATE'S RESIDENCY TERM, below. *Tex. Const. Art. XVI, Sec. 14*

*Election Code 1.020, 141.001(a); Brown v. Patterson, 609 S.W.2d 287 (Tex. Civ. App.—Dallas 1980, no writ)*

QUALIFIED VOTER

A person may not be elected Trustee of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - a. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or

BOARD MEMBERS  
ELIGIBILITY/QUALIFICATIONS

BBA  
(LEGAL)

- b. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction;
- 4. Has not been finally convicted of a felony or, if so convicted:
  - a. Has fully discharged his or her sentence, including any term of incarceration, parole, or supervision;
  - b. Has completed a period of probation ordered by any court; or
  - c. Has been pardoned or otherwise released from the resulting disability to vote;
- 5. Is a resident of this state; and
- 6. Is a registered voter.

*Election Code 1.020, 11.002*

OFFICIAL OATHS	After each election or appointment, the elected or appointed Board member shall file the official oath with the Board President. <i>Education Code 11.061(a)</i>
COMPENSATION	Trustees serve without compensation. <i>Education Code 11.061(d)</i>
CANDIDATE'S RESIDENCY TERM PREFILED CANDIDACY	An individual seeking election to the office of Trustee by having his or her name placed on the ballot must have been a resident of the state for 12 months, and a resident of the District for six months, prior to the last date on which the candidate could file to be listed on the ballot.
WRITE-IN CANDIDACY	An individual seeking election to the office of Trustee by write-in vote must have been a resident of the state for 12 months, and a resident of the District for six months, prior to the day of the election.
APPOINTMENT TO OFFICE	An individual appointed to the office of Trustee must have been a resident of the state for 12 months, and a resident of the District for six months, prior to the day on which the appointment is made.  <i>Election Code 141.001(a)(5)</i>
'RESIDENCE' DEFINED	"Residence" shall mean domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. <i>Election Code 1.015</i>

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

NUMBER AND TERM	The Board consists of seven Trustees serving terms of three years, with elections held annually. The terms of one-third of the Trustees, or as near to one-third as possible, expire each year. <i>Education Code 11.051(b), 11.059</i>
TERMS	<p>Board policy shall state the schedule on which specific terms expire. [See BBB(LOCAL)]</p> <p>Not later than December 31, 2007, the Board may adopt a resolution changing the length of the terms of its trustees. The resolution must provide for a term of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for Trustees that occurs after January 1, 2008, and a Trustee who serves on that date shall serve the remainder of that term.</p> <p><i>Education Code 11.059</i></p>
METHOD OF ELECTION	Election of Trustees is by position or place in accordance with Texas law. The decision to elect Trustees by this method shall not be rescinded. <i>Education Code 11.058</i>
POSITION OR PLACE	
NOTICE TO VOTER REGISTRAR	<p>A district that changes its boundaries or the boundaries of districts used to elect members to the board shall not later than the 30th day after the date the change is adopted:</p> <ol style="list-style-type: none"><li>1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and</li><li>2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.</li></ol>
FILING INFORMATION	A declaration of write-in candidacy must be filed no later than 5:00 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 67th day before election day. An application of a candidate for a place on the ballot must be filed not later than 5:00 p.m. of the 62nd day before the day of the election, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 70th day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline. The application shall include all statutorily required information, including a statement that the candidate is aware of the nepotism law. <i>Educa-</i>

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

*tion Code 11.055(a), (c), 11.056(b), (e); Election Code 31.0021, 141.031, 144.005*

LOYALTY OATH

Before a candidate can have his or her name placed on the ballot, the candidate must execute and have notarized the loyalty oath. *Election Code 141.031; The Socialist Workers Party v. Martin, 345 F.Supp. 1132 (S.D. Tex. 1972), aff'd 483 F.2d 554 (5th Cir. 1973)*

NEPOTISM

A candidate shall not take affirmative action to influence a District employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE(EXHIBIT)] However, this prohibition does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees. *Gov't Code 573.042*

GENERAL ELECTION  
DATE

Election of Trustees of the District shall be on the May uniform election date. *Election Code 41.001*

JOINT ELECTIONS  
REQUIRED

A District Trustee election shall be held on the same date as:

1. The election for the members of the governing body of a municipality located in the District; or
2. The general election for state and county officers.

Elections held on the same date as the election for the members of the governing body of a municipality located in the District or the same date as the general election for state and county officers shall be held as a joint election under Election Code Chapter 271.

The voters of a joint election under this section shall be served by common polling places consistent with Election Code 271.003(b).

The Board shall adjust the terms of office of its members to conform to the new election date if the election date is changed to comply with Education Code 11.0581.

*Education Code 11.0581*

JOINT ELECTIONS  
ADMINISTRATOR

The District may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. *Election Code 31.152*

NOTICE

A call for an election shall be made not later than the 62nd day before election day, except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. Notice of the election shall be published at least once, not earlier

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

than the 30th day or later than the tenth day before election day, in a newspaper published within a district's boundaries or in a newspaper of general circulation in a district if none is published within the district's boundaries. *Election Code 3.005, 4.003(a)(1)*

The notice shall state the nature and date of the election, the location of each polling place, and the hours the polls will be open. A board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication and shall preserve that copy for at least 22 months after election day. *Election Code 4.004, 4.005, 66.058(a)*

The Board shall also 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. *Election Code 4.008*

POSTING

In addition to the notice described above, the District shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of the Board. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the Board after the last posting is made. *Election Code 4.003(b), 4.005*

BALLOT, ELECTION  
OFFICIALS, AND  
POLLING PLACES

The ballot shall be printed in the form required by law. The Board shall appoint election judges, set the maximum number of election clerks, and designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handicapped. *Election Code 32.005(a), 32.033(a), 43.004, 43.034, 52.061-.064, 52.069, 52.093-.094; Education Code 11.058(g)*

If a district holds an election on the November uniform election date, the district shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district. *Election Code 42.002(a)(5), 42.0621, 43.004(b)*

POSTING SIGNS AT  
POLLING PLACES  
PROHIBITED

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located. *Election Code 62.013(b)*

USE OF CERTAIN  
DEVICES AT POLLING  
PLACES PROHIBITED

A person may not use a wireless communication device or any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

EXCEPTION	<p>The prohibition does not apply to:</p> <ol style="list-style-type: none"><li>1. An election officer in conducting the officer's official duties; or</li><li>2. The use of election equipment necessary for the conduct of the election.</li></ol> <p><i>Election Code 61.013</i></p>
NOTICE OF VOTING RIGHTS HOTLINE	<p>A notice of voter's rights, in the form prescribed by the secretary of state and including information required by the secretary of state, shall be publicized as provided by the secretary of state. The notice shall, in part, inform voters of the telephone number and purpose of the secretary of state's toll-free hotline for reporting existing or potential abuse of voting rights. <i>Election Code 31.0055, 62.0115</i></p>
BILINGUAL MATERIALS	<p>The District shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:</p> <ol style="list-style-type: none"><li>1. More than five percent of the citizens of voting age of the District are members of a single language minority and are limited-English proficient, or more than 10,000 of the citizens of voting age of the District are members of a single-language minority and are limited-English proficient; and</li><li>2. The illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, illiteracy defined as the failure to complete the fifth primary grade.</li></ol> <p>The term "limited-English proficient" means unable to speak or understand English adequately enough to participate in the electoral process.</p> <p>The term "language minorities" or "language minority group" means people who are American Indian, Asian American, Alaskan natives, or of Spanish heritage.</p> <p><i>42 U.S.C. 1973aa-1a</i></p> <p>Except as provided by Election Code 272.003, bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.</p> <p>An election precinct may be exempt from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.</p> <p><i>Election Code 272.002, 272.003</i></p>



BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

VOTING MACHINES  
AND PUNCH-CARD  
BALLOTS

Effective January 1, 2006, a voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

VOTERS WITH  
DISABILITIES

Each polling place in an election must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments, and the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments, and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

Upon providing the notice detailed in Election Code 61.013(d), the District is not required to meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments if the District's election is not held jointly with another election in which a federal office appears on the ballot and if the District is located in a county:

1. With a population of less than 2,000;
2. With a population of 2,000 or more but less than 5,000, and the district provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;
3. With a population of 5,000 or more but less than 10,000, and the District provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;
4. With a population of 10,000 or more but less than 20,000, and the District:
  - a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;
  - b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance; and
  - c. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

For purposes of the above requirement, a district located in more than one county may choose:

- a. To be considered located in the county that contains the greatest number of registered voters of the District; or
- b. For each portion of the District located in a different county, to be considered a separate political subdivision.

*Election Code 61.013*

The requirement imposed above does not apply to any other election of Trustees of the District held before January 1, 2008.

*Election Code 61.012*

The District may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. *1 TAC 81.55* [See GA]

WRITE-IN VOTING

A write-in vote may not be counted for a person who has not filed a declaration of write-in candidacy with the Secretary of the Board in the manner provided for write-in candidates in a general election for state and county officers. To the extent practicable and in accordance with rules adopted by the secretary of state, Election Code Chapter 146, Subchapter B, shall govern write-in voting in Trustee elections. *Education Code 11.056*

ELECTION OF  
UNOPPOSED  
CANDIDATE

A board may declare each unopposed candidate elected to the office if:

1. Each candidate for an office that is to appear on the ballot is unopposed, and
2. No proposition is to appear on the ballot.

In the case of an election in which any members of a board are elected from single-member districts, the unopposed candidate procedures can apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that district is unopposed and the other requirements described above are met.

*Election Code 2.051*

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

The Board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that if the election were held, only the votes cast for that candidate in the election for that office may be counted. If the Board makes such a declaration, the election is not held. A copy of the order or ordinance must be posted on election day at each polling place that would have been used in the election. *Election Code 2.052, 2.053(a), (b)*

EARLY VOTING

The Board shall provide for early voting in Board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. *Election Code 81.001*

CANVASS RETURNS

Except as provided below, the Board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.

For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

Two members of the Board constitute a quorum for purposes of canvassing an election.

*Election Code 67.003, 67.004*

CERTIFICATE OF  
ELECTION

After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and

6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

A recount petition shall delay the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

The presiding officer of the canvass shall also prepare a report of the precinct results as contained in the election register and shall deliver the report to the secretary of state as required by law.

*Election Code 67.016, 67.017, 212.0331*

CERTIFICATE OF  
ELECTION FOR  
UNOPPOSED  
CANDIDATE

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(c)*

PLURALITY

To be elected to a public office, a candidate must receive a plurality of votes, more votes than any other candidate, except as otherwise provided by law. *Election Code 2.001*

DETERMINATION OF  
RESULTS

The candidate receiving the highest number of votes for each respective position voted on is entitled to serve as Trustee. *Education Code 11.057(a)*

MAJORITY VOTE  
OPTION

The board of an independent school district in which the positions of Trustees are designated by number may provide by resolution, not later than the 180th day before the date of an election, that a candidate must receive a majority of the votes cast for a position to be elected.

The resolution is effective until rescinded by a subsequent resolution adopted not later than the 180th day before the date of the first election to which the rescission applies.

*Education Code 11.057(c)*

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

RUNOFF ELECTION	If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required. <i>Election Code 2.021 et seq.</i>
TIE VOTES SECOND ELECTION	If two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie. Not later than the fifth day after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable, the Board shall order the second election. This election shall be held not less than 20 nor more than 30 days after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable. Notice of the second election shall be given in the same manner as for the first election. Only the names of the tying candidates shall be printed on the ballot; write-in votes shall not be permitted. <i>Election Code 2.002(a)–(e)</i>
CASTING LOTS	The tying candidates may agree to cast lots to resolve the tie. The agreement shall be filed with the Board, and the Board President shall supervise the casting of lots. <i>Election Code 2.002(f)</i>
WITHDRAWAL OF CANDIDATE	A tying candidate may resolve the tie by filing with the Board a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held. <i>Election Code 2.002(g)</i>
RECOUNT	<p>If a tie vote is not resolved by casting lots or by a candidate withdrawing, an automatic recount shall be conducted in accordance with Election Code Chapter 216. <i>Election Code 2.002(i)</i></p> <p>The cost of the recount shall be paid by the District. <i>Election Code 216.005(b)</i></p>
VOTING SYSTEM MALFUNCTION	If no private vendor supports the District's voting system, the District must give notice to the Secretary of State within 24 hours of a malfunction of the District's voting system software or equipment in an election. The notice may be verbal or in writing. <i>1 TAC 81.64</i>
OFFICER'S STATEMENT	Newly elected and appointed Trustees, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. <i>Tex. Const. Art. XVI, Sec. 1(b)</i> [See BBB(EXHIBIT)]
OATH OF OFFICE	After the officer's statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the Trustee shall take the oath or affirmation of office

BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

and shall file it with the President of the Board. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061* [See BBB(EXHIBIT)]

The oath may be administered and a certificate of the fact given by:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace or clerk of a justice court.
5. The Texas secretary of state.
6. The speaker of the house of representatives.
7. The lieutenant governor of Texas.
8. The governor of Texas.
9. A legislator or retired legislator.
10. The attorney general.

*Gov't Code 602.002, 602.006*

VOTING RIGHTS ACT

The Board, being subject to the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the justice department interposes an objection within 60 days after the date of submission. *42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F.Supp. 1211 (D.C. Tex. 1980)*

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

REQUIRED TRAINING	<p>Each Trustee must complete any training required by the State Board of Education. The minutes of the last regular meeting of the Board held during a calendar year must reflect whether each Trustee has met or is delinquent in meeting the training required to be completed as of the date of the meeting. <i>Education Code 11.159</i></p> <p>Continuing education for Board members includes orientation sessions, an annual team building session with the Board and the Superintendent, and specified hours of continuing education based on identified needs.</p>
LOCAL ORIENTATION	<p>All Board members shall receive a local District orientation and an orientation to the Texas Education Code.</p>
NEW MEMBERS	<p>New Board members shall participate in a local orientation session within 60 days before or after their election or appointment. The purpose of this orientation is to familiarize new Board members with local Board policies and procedures and District goals and priorities.</p> <p>All newly elected Board members shall receive the orientation to the Texas Education Code within the first year of service. The orientation shall be delivered by regional education services centers and shall be three hours in length.</p>
SITTING MEMBERS	<p>All sitting Board members shall receive a basic orientation to the Texas Education Code and relevant legal obligations. The orientation will have special but not exclusive emphasis on statutory provisions related to Texas school district governance. The orientation shall be delivered by regional education services centers and shall be three hours in length. Topics shall include, but not be limited to, Texas Education Code, Chapter 26 (Parental Rights and Responsibilities), and Texas Education Code, Section 28.004 (Local School Health Education Advisory Council and Health Education Instruction). [See BDF, EHAA, and FNG]</p>
LEGISLATIVE UPDATES	<p>After each session of the Texas Legislature, each Board member shall receive an updated session from a regional education service center or any registered provider to the basic orientation to the Texas Education Code. The update session shall be of sufficient length to familiarize Board members with major changes in the Education Code and other relevant legal developments related to school governance. A Board member who has attended a basic orientation session given by a service center that incorporates the most recent legislative changes is not required to attend an additional legislative update.</p>
TEAM BUILDING	<p>The entire Board, including all Board members, shall annually participate with the Superintendent in a team building session facili-</p>

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

tated by the regional education service center or any registered provider. The team building session shall be of a length deemed appropriate by the Board, but generally at least three hours. The purpose of the team building session is to enhance the effectiveness of the Board-Superintendent team and to assess the continuing education needs of the Board-Superintendent team. The assessment of needs shall be based on the framework for governance leadership and shall be used to plan continuing education activities for the governance leadership team for the upcoming year.

CONTINUING  
EDUCATION

In addition to the orientation and team building training, all Board members shall receive additional continuing education on an annual basis, in fulfillment of assessed needs and based on the framework for governance leadership. [See BBD(EXHIBIT)] The continuing education sessions may be provided by the regional education service centers or other registered providers.

To the extent possible, the entire Board shall participate in continuing education programs together.

FIRST YEAR

In their first year of service, Board members shall receive at least ten hours of continuing education in fulfillment of assessed needs. Board members may fulfill up to five of the required ten hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

SUBSEQUENT  
YEARS

Following the first year of service, Board members shall receive at least five hours of continuing education annually in fulfillment of assessed needs. Board members may fulfill the five hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

PRESIDENTS

The Board President shall receive continuing education related to leadership duties of the Board President as some portion of the annual requirement.

LOCAL TRAINING

At least 50 percent of the annual continuing education shall be designed and delivered by persons not employed or affiliated with the Board member's local school District. No more than one hour of the required continuing education that is delivered by the local District may use self-instructional materials.



BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

*19 TAC 61.1*

SPECIFIC OPEN  
MEETINGS TRAINING

Within 90 days after taking the oath of office, each Board member shall complete a course of training regarding the responsibilities of the Board and its members under Chapter 551 of the Texas Government Code. The office of the attorney general may provide the training and may also approve other acceptable sources of training.

Board members sworn in before January 1, 2006, must complete the training required by Government Code 551.005 before January 1, 2007.

*Gov't Code 551.005*

SPECIFIC OPEN  
RECORDS TRAINING

Within 90 days after taking the oath of office or assuming duties as a public official, each Board member and public information coordinator shall complete a course of training regarding the responsibilities of the District and District officers and employees under Chapter 552 of the Texas Government Code. The office of the attorney general may provide the training and may also approve other acceptable sources of training.

A Board member may designate a public information coordinator to satisfy the training requirements of Government Code 552.012 for the Board member if the public information coordinator is primarily responsible for administering the responsibilities of the Board member or District under Government Code Chapter 552.

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

*Gov't Code 552.012*

ANNUAL COMPLIANCE  
ANNOUNCEMENT

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

TRAINING DURING  
MEETINGS

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

*19 TAC 61.1*

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

CONVENTIONS AND  
WORKSHOPS

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

COMMENDATION

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

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

SUBSTANTIAL  
INTEREST AFFIDAVIT  
AND ABSTENTION

If a local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official, before a vote or decision on any matter involving the business entity or the real property, shall file an affidavit with an official Board recordkeeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

*Local Gov't Code 171.004*

CONTRACTS  
PERMITTED

The Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above. *Atty. Gen. Op. JM-424 (1986)*

DEFINITIONS  
SUBSTANTIAL  
INTEREST

A person has a substantial interest in a business entity if any of the following is the case:

1. The person owns at least:
  - a. Ten percent of the voting stock or shares of the business entity, or
  - b. Either ten percent or \$15,000 of the fair market value of the business entity.
2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

The local public official is considered to have a substantial interest if a person related in the first degree by either affinity or consanguinity to the local public official, as determined under Government Code Chapter 573, Subchapter B [see DBE], has a substantial interest as defined above.

*Local Gov't Code 171.002*

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

LOCAL PUBLIC OFFICIAL	<p>“Local public official” shall mean a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. <i>Local Gov’t Code 171.001(1)</i></p>
BUSINESS ENTITY	<p>“Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. <i>Local Gov’t Code 171.001(2)</i></p>
MAJORITY CONFLICT	<p>If a Trustee is required to file and does file an affidavit, that Trustee shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the trustees are likewise required to file and do file affidavits of similar interests on the same official action. <i>Local Gov’t Code 171.004</i></p>
SEPARATE VOTE ON BUDGET	<p>The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Trustee has a substantial interest. The affected Trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved. <i>Local Gov’t Code 171.005</i></p>
VIOLATIONS	<p>Except as provided above, the local public official shall not knowingly:</p> <ol style="list-style-type: none"><li>1. Participate in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter will have a special economic effect on the business entity or value of the property that is distinguishable from the effect on the public.</li><li>2. Act as surety for a business entity that has a contract, work, or business with the District.</li><li>3. Act as surety on any official bond required of an officer of the District.</li></ol> <p><i>Local Gov’t Code 171.003</i></p> <p>If a Trustee has a substantial interest in a bank with which the District is considering entering into a loan or other transaction besides a depository contract, then the Trustee must comply with the affidavit and abstention requirements. <i>Atty. Gen. Op. JM-1082 (1989); Local Gov’t Code 171.004</i></p>

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

VOIDABLE ACTIONS

The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of the Board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov't Code 171.006*

CONFLICTS  
DISCLOSURE  
STATEMENT

A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor enters into a contract with the District or the District is considering entering into a contract with the vendor; and the vendor:

1. Has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that a contract has been executed or the District is considering entering into a contract with the person; or
2. Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that such a contract has been executed or the District is considering entering into a contract with the vendor.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. Given by a family member of the person accepting the gift;
2. A political contribution as defined by Title 15, Election Code; or
3. Food, lodging, transportation, or entertainment accepted as a guest.

A local government officer shall file the conflicts disclosure statement with the records administrator of the District not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

VIOLATIONS

A local government officer commits a Class C misdemeanor if the officer knowingly violates this law. It is an exception to the application of the penalty that the local government officer filed the required conflicts disclosure statement not later than the seventh

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

business day after receiving notice from the District of the alleged violation.

*Local Gov't Code 176.003-.004*

DEFINITIONS

LOCAL  
GOVERNMENT  
OFFICER

"Local government officer" means a member of the governing body of the District; a director, Superintendent, administrator, President, or other person designated as the executive officer of the District; an employee of the District who has the authority to approve contracts on behalf of the District, including a person designated as the representative of the District for purposes of Chapter 271, and with respect to whom the District has, in accordance with Local Government Code 176.005, extended the requirements of Local Government Code 176.003 and 176.004. *Local Gov't Code 176.001(4)*

FAMILY MEMBER

"Family member" shall mean a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Government Code 573.024(b). *Local Gov't Code 176.001(2)*

RECORDS  
ADMINISTRATOR

"Records administrator" means the director, Superintendent, or other person responsible for maintaining the records of the District or another person designated by the District to maintain statements and questionnaires filed under Local Government Code 176 and perform related functions. *Local Gov't Code 176.001(5)* [See CPC]

INVESTMENT  
INCOME

"Investment income" means dividends, capital gains, or interest income generated from:

1. A personal or business:
  - a. Checking or savings account,
  - b. Share draft or share account, or
  - c. Other similar account;
2. A personal or business investment; or
3. A personal or business loan.

*Local Gov't Code 176.001(2-b)*

INTERNET POSTING  
REQUIREMENT

A district that maintains an Internet Web site shall provide access on the District's Internet Web site to the conflicts disclosure statements and questionnaires required to be filed with the records administrator. *Local Gov't Code 176.009*

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

AFFIDAVIT  
DISCLOSING  
INTEREST IN  
PROPERTY

If a public servant has a legal or equitable interest in any property that is to be acquired with public funds, and has actual notice of the acquisition or intended acquisition of the property, the public servant shall file an affidavit as follows:

1. The affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.
2. The affidavit must:
  - a. State the name of the public servant and the public office title or job designation held or sought.
  - b. Fully describe the property.
  - c. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest and the date the interest was acquired.
  - d. Include a verification of the truth of the information in the affidavit. [See BBFA(EXHIBIT)]
  - e. Include an acknowledgment of the same type required for recording a deed in the deed records of a county.

*Gov't Code 553.002, 553.003*

VIOLATIONS

A public servant who fails to file the affidavit when required is presumed to have the intent to commit an offense. An offense under this section is a Class A misdemeanor. *Gov't Code 553.003*

DEFINITION OF  
PUBLIC SERVANT—  
GOVERNMENT CODE

"Public servant" shall mean a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office, or
2. An officer of government.

*Gov't Code 553.001*

ANNUAL FINANCIAL  
MANAGEMENT  
REPORT

The Commissioner shall develop a reporting procedure under which the District is required to prepare and distribute an annual financial management report.

REPORT  
REQUIREMENTS

The report shall contain information on state-established standards and the District's financial management performance for the current and previous years' financial accountability ratings. The report shall also contain any descriptive information required by the

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

Commissioner of Education including summary reports of reimbursement received by the Superintendent and each Board member, reports of compensation and/or fees received by the Superintendent for outside consulting, reports of certain gifts from school vendors, and reports of Board member business transactions with the District. [See BR]

*Education Code 39.203; 19 TAC 109.1005*

TRUSTEE FINANCIAL  
STATEMENT

The Board by resolution adopted by majority vote may require each member of the Board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with the Board and the Texas Ethics Commission.

Not later than the 15th day after the date the Board adopts this resolution, the Board shall deliver a certified copy of the resolution to the Texas Ethics Commission. A resolution applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board that has adopted a resolution is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

The Commissioner by order shall require the members of the Board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, in the same manner as the members of a board that have adopted a resolution if the Commissioner determines that:

1. A Board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;
2. District financial accounting practices are not adequate to safeguard state and District funds; or
3. The District has not met a standard set by the Commissioner in the financial accountability rating system.

The Commissioner may require the filing of financial statements covering not more than three fiscal years and beginning on January 1 of the second year following the date of the Commissioner's order. A member of a board subject to an order issued by the Commissioner is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the order is issued. The Commissioner may renew the requirement if the Commissioner determines that a condition described above continues to exist.



ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

VIOLATIONS

A Trustee serving in a school district that has adopted a resolution or that is subject to an order issued by the Commissioner commits an offense if the Trustee fails to file the statement required by the resolution or order.

An offense under this section is a Class B misdemeanor.

*Education Code 11.064*

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**Note:** See also CBB for requirements when federal funds are involved.

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OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

SELECTION	The depository selected under the terms of this policy shall be a bank located in the state of Texas. The depository may be a state bank authorized and regulated under Texas law; a national bank, savings and loan association, or savings bank authorized and regulated by federal law; or a savings and loan association or savings bank organized under Texas law; but shall not be any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation (FDIC). <i>Education Code 45.201(2), 45.203</i>
METHOD	Not later than the 60th day before the date the District's current depository contract expires, the District shall choose whether to select a depository through competitive bidding or through requests for proposals. <i>Education Code 45.206(a)</i>
COMPETITIVE BIDDING NOTICE	If the District chooses to use competitive bidding, the District shall, not later than the 30th day before the date the current depository contract expires, mail to each bank in the District and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board rule. <i>Education Code 45.206(a-1); 19 TAC 109.51</i>
REQUESTS FOR PROPOSALS NOTICE	If the District chooses to use requests for proposals, the District shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the District and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board rule. The District shall state the selection criteria, including the factors specified under Education Code 45.207(c) [see FACTORS TO CONSIDER below], in the request for proposals.
BEST VALUE	The District shall select the proposal that offers the best value to the District based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. The District may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.  <i>Education Code 45.206(a-2), (d)</i>
FACTORS TO CONSIDER	Each bid or proposal received in accordance with these provisions shall be considered by the Board at a regular or special meeting. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, the Board shall consider the interest rate bid or proposed on-time deposits; the charge for keeping District accounts, records, and reports and furnishing checks; the ability of

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository, and any other matters the Board considers to be in the best interests of the District. *Education Code 45.207(c)*

AWARD OF  
CONTRACT

The District shall award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, except that the District may award the contract as provided by Education Code 45.207(a-1) [see TIE BIDS AND PROPOSALS below] if:

1. The District:
  - a. Receives tying bids for the contract; or
  - b. After evaluating the proposals for the contract, ranks two or more proposals equally;
2. Each bank submitting a tying bid or proposal has bid or proposed to pay the District the maximum interest rates allowed by the Federal Reserve System and the FDIC; and
3. In the Board's judgment, the tying bids or proposals are otherwise equal.

*Education Code 45.207(a)*

TIE BIDS AND  
PROPOSALS

In the case of tying bids or proposals, the Board may:

1. Award the contract to each of the banks submitting the tying bids or proposals; or
2. Determine by lot which of the banks submitting the tying bids or proposals will receive the contract.

*Education Code 45.207(a-1)*

REJECTION OF BIDS  
OR PROPOSALS

The Board has the right to reject any and all bids or proposals.  
*Education Code 45.207(d)*

COLLATERAL

In accordance with written Board policy, the District shall determine if an investment security is eligible to secure deposits of public funds covered by the Public Funds Collateral Act.

The policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an investment, and the method by which an investment security used to secure a deposit of public funds is valued.

*Gov't Code 2257.023*

DUTIES

The depository shall:

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

- |                          |   |
|--------------------------|---|
| TERM OF OFFICE           | 1. Serve for a term of two years and until its successor is duly selected and qualified, except that the District and its depository bank may agree to extend the contract for two additional two-year terms. The initial contract term and any extension must coincide with the District's fiscal year. An extension is not subject to the bid notice requirements of Education Code 45.206 [see METHOD above]. <i>Education Code 45.205</i> |
| CONTRACT                 | 2. Make and enter into a depository contract(s), bond(s), or other necessary instruments setting forth the duties and agreements pertaining to the depository. The form and content of the documents shall be as prescribed by the State Board. The bid or proposal of the depository shall be attached to the contract and incorporated by reference in the contract. <i>Education Code 45.208(a); 19 TAC 109.52</i>                         |
| AUTHORIZED<br>COLLATERAL | 3. Secure public funds by eligible securities to the extent and in the manner required by the Public Funds Collateral Act. <i>Gov't Code, Ch. 2257</i>  |
| OTHER DUTIES             | 4. Faithfully perform all legal duties and obligations and make payments from District funds upon order, duly entered, of the Board. <i>Education Code 45.208(c)(1)–(4)</i><br><br>5. Faithfully keep and account for, according to law, all District funds and pay over to the successor depository all balances remaining in District accounts. <i>Education Code 45.208(c)(5), (6)</i>   |



OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LOCAL)

SELECTING A  
DEPOSITORY

The Superintendent or designee shall have the authority to determine the method of selecting a depository in accordance with BDAE(LEGAL).

ALLOWABLE  
COLLATERAL

Eligible securities for collateralization of deposits are those defined as "eligible securities" by the Public Funds Collateral Act. [See CDA]

MONITORING  
COLLATERAL  
ADEQUACY

The District shall require monthly reports with market values of pledged securities from all financial institutions with which the District has collateralized deposits. The investment officers shall monitor adequacy of collateralization levels to verify market values and total collateral positions.

RELEASE OF  
PLEDGED  
SECURITIES

The investment officer or designee shall approve in writing the release or substitution of any securities pledged to the District that are being held by any organization.





BOARD MEETINGS

BE  
(LEGAL)

The Board may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the Board is present and voting. *Education Code 11.051(a-1)*

DEFINITIONS

'MEETING'

"Meeting" means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. "Meeting" also means a gathering:

1. That is conducted by the Board or for which the Board is responsible;
2. At which a quorum of members of the Board is present;
3. That has been called by the Board; and
4. At which Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the District, about the public business or public policy over which the Board has supervision or control.

*Gov't Code 551.001(4)*

'DELIBERATION'

"Deliberation" means a verbal exchange during a meeting among a quorum of the Board, or between a quorum of the Board and another person, concerning any issue within the jurisdiction of the Board or any public business. *Gov't Code 551.001(2)*

SOCIAL FUNCTION OR  
CONVENTION

The term "meeting" does not include the gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board, or the attendance by a quorum of the Board at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference. *Gov't Code 551.001(4)*

LEGISLATIVE  
COMMITTEE OR  
AGENCY MEETING

The attendance by a quorum of the Board at a meeting of a committee or agency of the legislature is not considered to be a meeting of the Board if the deliberations at the meeting by the Board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035*

SUPERINTENDENT  
PARTICIPATION

The Board shall provide the Superintendent an opportunity to present at a meeting an oral or written recommendation to the Board

BOARD MEETINGS

BE  
(LEGAL)

on any item that is voted on by the Board at the meeting. *Education Code 11.051(a-1)*

OPEN TO PUBLIC

Every meeting of the Board shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. *Gov't Code 551.002, 551.084, Ch. 551, Subch. D, Subch. E* [See BDB and BEC]

PARENTAL ACCESS

A parent, as defined in Education Code 26.002, is entitled to complete access to any meeting of the Board, other than a closed meeting held in compliance with the Open Meetings Act. *Education Code 26.007(a)*

RECORDING

All or any part of an open meeting may be recorded by any person in attendance by means of a tape recorder, video camera, or any other means of aural or visual reproduction. The Board may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. These rules shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. *Gov't Code 551.023*

MINUTES

The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. *Gov't Code 551.021*

BOARD MEMBER  
ATTENDANCE

The minutes or recording, as applicable, of a regular or special meeting of the Board must reflect each member's attendance at or absence from the meeting. *Education Code 11.0621*

AVAILABILITY

The minutes and tapes are public records and shall be available for public inspection and copying on request to the Superintendent or designee. *Gov't Code 551.022; Education Code 11.0621*

NOTICE REQUIRED

The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. *Gov't Code 551.041*

CONTINUED  
MEETING

If the Board recesses an open meeting to the following regular business day, the Board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the Board continues the meeting to another day, the Board body must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

BOARD MEETINGS

BE  
(LEGAL)

INQUIRY DURING  
MEETING

If a member of the public or of the Board inquires at a meeting about a subject for which notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. *Gov't Code 551.042*

LOCATION

The Board must hold each public meeting within the boundaries of the District, except:

1. As otherwise required by law; or
2. To hold a joint meeting with another district or with another governmental entity if the boundaries of the governmental entity are in whole or in part within the boundaries of the District.

*Education Code 26.007(b)*

TIME OF NOTICE AND  
ACCESSIBILITY

Notice of a Board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), 551.051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

If the District is required to post notice of a meeting on the Internet, the District satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

The District must still comply with the duty to physically post the notice in the central administration office and if the District makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

*Gov't Code 551.043(b)*

INTERNET POSTING

If the District maintains an Internet Web site, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet Web site.

A district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more

BOARD MEETINGS

BE  
(LEGAL)

must also, concurrently with the notice, post on the District's Internet Web site the agenda for a Board meeting, if the agenda differs from the posted notice.

The validity of a posting of a district that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the District.

*Gov't Code 551.056*

SPECIFICITY OF  
AGENDA / NOTICE

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to the Superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the Board proposes to discuss or accomplish. Cox Enterprises, Inc. v. Austin ISD, 706 S.W.2d 956 (Tex. 1986); Point Isabel ISD v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi, 1990, writ denied); *Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)*

The terms "employee briefing" or "staff briefing" do not give adequate notice of the subject matter to be presented to the Board by employees or staff members. *Atty. Gen. Op. JC-0169 (2000)*

EMERGENCY  
MEETING OR  
EMERGENCY  
ADDITION TO AGENDA

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to the District's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Education Code 551.047 not later than one hour before the meeting.

*Gov't Code 551.045*

BOARD MEETINGS

BE  
(LEGAL)

CATASTROPHE

A board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the Board gives the required written notice of the meeting.

“Catastrophe” means a condition or occurrence that interferes physically with the ability of the Board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

*Gov't Code 541.0411(b), (c)*

SPECIAL NOTICE TO  
NEWS MEDIA

The District shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested it and agreed to reimburse the District for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, the Board President shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. *Gov't Code 551.047, 551.052*

QUORUM

A majority of the Board (e.g., four members of a seven-member board or five members of a nine-member board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board. *Gov't Code 551.001(6), 311.013(b)*

DISASTER

Notwithstanding any other law, a quorum is not required for the Board to act if:

1. The District's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the Board are unable to be present at a Board meeting as a result of the disaster.

BOARD MEETINGS

BE  
(LEGAL)

*Gov't Code 418.112*

SECRET BALLOT

No vote shall be taken by secret ballot. *Atty. Gen. Op. H-1163 (1978)*

MEETING BY  
CONFERENCE CALL

The Board may hold a meeting by telephone conference call if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a quorum of the Board is difficult or impossible, or if the meeting is held by an advisory board.

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

NOTICE

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting, the location where meetings of the governmental body are usually held.

RECORDING

The conference call meeting shall be tape-recorded and made available to the public.

*Gov't Code 551.125*

MEETING BY  
VIDEOCONFERENCE  
CALL

If the District does not extend into three or more counties, a meeting may be held by videoconference call only if a quorum of the Board is physically present at one location of the meeting. If the District extends into three or more counties, a meeting may be held by videoconference call if a majority of the quorum is physically present at one location of the meeting. A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

NOTICE OF  
LOCATIONS

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call by a board in a district that extends into three or more counties must specify as a location of the meeting each location where a majority of the quorum of the Board will be physically present and specify the intent to have a majority of the quorum of the Board Present at that location.

BOARD MEETINGS

BE  
(LEGAL)

In addition, the notice of the meeting must specify as a location of the meeting each other location where a Board member who will participate in the meeting will be physically present during the meeting. Each of the locations shall be open to the public during the open portions of the meeting.

RECORDING

The Board shall make at least an audio recording of the meeting. The recording shall be made available to the public.

QUALITY OF AUDIO  
AND VIDEO SIGNALS

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified in the notice.

Each location specified in the notice shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:

1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and
2. Be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

REMOTE  
PARTICIPATION

The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in the meeting from a remote location.

*Gov't Code 551.127; 1 TAC 209.10–12*

INTERNET  
BROADCAST

The Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act. *Gov't Code 551.128*

BOARD MEETINGS

BE  
(LEGAL)

ATTORNEY  
CONSULTATION

The Board may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the Board or a private consultation with its attorney in a closed meeting of the Board. [See BEC]

Each part of a public consultation by the Board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

EXCEPTION

This does not apply to a consultation with an attorney who is an employee of the District. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by the District, is an employee of the District.

*Gov't Code 551.129*

HEARING-IMPAIRED  
PERSONS

In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an adjudicative hearing, the Board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

*Gov't Code 558.001, 558.003*



SUPERINTENDENT  
QUALIFICATIONS AND DUTIES

BJA  
(LEGAL)

QUALIFICATIONS

The qualifications for Superintendent must permit a candidate for certification to substitute management training or experience for educational experience. *Education Code 21.046*

DUTIES

The Superintendent shall be the educational leader and chief executive officer of the District. *Education Code 11.201(a)*

The duties of the Superintendent include:

1. Assuming administrative responsibility and leadership for the planning, organization, operation, supervision, and evaluation of the education programs, services, and facilities of the District and for the annual performance appraisal of the District's staff.
2. Except as provided by Education Code 11.202, assuming administrative authority and responsibility for the assignment and evaluation of all personnel of the District other than the Superintendent.
3. Overseeing compliance with the standards for school facilities established by the Commissioner under Education Code 46.008.
4. Initiating the termination or suspension of an employee or the nonrenewal of an employee's term contract. [See DF series]
5. Managing the day-to-day operations of the District as its administrative manager, including implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of District operations.
6. Preparing and submitting to the Board a proposed budget and administering the budget.
7. Preparing recommendations for policies to be adopted by the Board and overseeing the implementation of adopted policies.
8. Developing or causing to be developed appropriate administrative regulations to implement policies established by the Board.
9. Providing leadership for the attainment and, if necessary, improvement of student performance in the District based on the state's academic excellence indicators and other indicators as may be adopted by the State Board of Education or the Board.
10. Organizing the District's central administration.

SUPERINTENDENT  
QUALIFICATIONS AND DUTIES

BJA  
(LEGAL)

11. Consulting with the District-level committee as required under Education Code 11.252(f).
12. Ensuring:
  - a. Adoption of a Student Code of Conduct as required under Education Code 37.001 and enforcement of that Code of Conduct; and
  - b. Adoption and enforcement of other student disciplinary rules and procedures as necessary.
13. Submitting reports as required by state or federal law, rule, or regulation.
14. Providing joint leadership with the Board to ensure that the responsibilities of the Board and Superintendent team are carried out.
15. Performing any other duties assigned by action of the Board.

*Education Code 11.201(d)*

16. On a day-to-day basis, ensuring the implementation of the policies created by the Board. *Education Code 11.1512(a)*

COLLABORATION  
WITH THE BOARD

The Board and the Superintendent shall work together to:  
Advocate for the high achievement of all District students;

2. Create and support connections with community organizations to provide community-wide support for the high achievement of all District students;
3. Provide educational leadership for the District, including leadership in developing the District vision statement and long-range educational plan [see AE];
4. Establish Districtwide policies and annual goals that are tied directly to the District's vision statement and long-range educational plan;
5. Support the professional development of principals, teachers, and other staff; and
6. Periodically evaluate Board and Superintendent leadership, governance, and teamwork.

*Education Code 11.1512(b)*

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)*

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 in order to attain state standards in respect to the academic excellence indicators. [See GND]

The District improvement plan must include provisions for:

1. A comprehensive needs assessment addressing District student performance on the academic excellence 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 academic excellence 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, such as suicide prevention, conflict resolution, violence prevention, or dyslexia treatment programs.

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

- 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.
  - 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)* [See FNC]
10. A dating violence policy that must:

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

- 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]

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 for the purpose of improving student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the academic excellence indicators and any other appropriate performance measures for special needs populations.

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the academic excellence indicator system.
2. Set the campus performance objectives based on the academic excellence 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.
8. Provide for a program to encourage parental involvement at the campus.

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

9. Include goals and methods for violence prevention and intervention on campus.

*Education Code 11.253(c), (d)*

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)*

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)*

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 also 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)*

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)*

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.

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

4. Create a new cause of action or require collective bargaining.

*Education Code 11.251(g)*





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

## SECTION C: BUSINESS AND SUPPORT SERVICES

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

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

## SECTION C: BUSINESS AND SUPPORT SERVICES

CH	PURCHASING AND ACQUISITION
CHB	Petty Cash Account
CHD	Purchasing Procedures
CHE	Vendor Relations
CHF	Payment Procedures
CHG	Real Property and Improvements
CHH	Financing Personal Property Purchases
CI	SCHOOL PROPERTIES DISPOSAL
CJ	EXTERNAL CONTRACTED SERVICES
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
CO	FOOD SERVICES MANAGEMENT
COA	Food Purchasing
COB	Free and Reduced-Price Food Program
COC	Vending Machines
CP	OFFICE MANAGEMENT
CPA	Office Communications
CPAA	Printing and Duplicating
CPAB	Mail and Delivery
CPAC	Telephone

**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**

CPC	Records Management
CQ	ELECTRONIC COMMUNICATION AND DATA MANAGEMENT
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Design-Build Contracts
CVD	Construction Manager-Agent
CVE	Construction Manager-At-Risk
CVF	Job Order Contracts
CW	NEW FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS



ACCOUNTING  
FINANCIAL REPORTS AND STATEMENTS

CFA  
(LEGAL)

ACCOUNTING SYSTEM	<p>The Board must adopt and install a standard school fiscal accounting system that meets the minimum requirements prescribed by the State Board of Education; is consistent with state financial laws; does not misrepresent the nature, scope, or duration of the financial activities of the state or the District; may follow the statutory standards in Government Code Chapter 2264 when other accounting bases conflict with state law; and conforms with generally accepted accounting principles. <i>Education Code 44.007(a),(b); Gov't Code 2264.002; 19 TAC 109.1, 109.41</i></p>
REPORT OF REVENUES AND EXPENDITURES	<p>A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. The report shall include management, cost accounting, and financial information that will enable the State Board to monitor the funding process and determine educational costs by district, campus, and program. <i>Education Code 44.007(c), (d)</i></p>
FINANCIAL STATEMENT	<p>The Board shall prepare an annual financial statement that shows the following for each fund subject to its authority during the fiscal year:</p> <ol style="list-style-type: none"><li>1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived.</li><li>2. The total disbursements of the fund, itemized by the nature of the expenditure.</li><li>3. The balance in the fund at the close of the fiscal year.</li></ol> <p><i>Local Gov't Code 140.005</i></p>
PUBLICATION	<p>The Board President shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the District. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the District, the financial statement shall be published in a newspaper in each county in which the District or any part of the District is located. The statement shall be published in accordance with the accounting method required by TEA not later than the 150th day after the date the fiscal year ends. <i>Local Gov't Code 140.006</i></p>



PURCHASING AND ACQUISITION

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(LEGAL)

BOARD AUTHORITY	<p>The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i></p>
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> <p><i>Education Code 44.0312</i></p>
INJUNCTION	<p>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. <i>Education Code 44.032(f)</i></p>
PURCHASES VALUED AT OR ABOVE \$25,000	<p>All District contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 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"><li>1. Competitive bidding.</li><li>2. Competitive sealed proposals.</li><li>3. A request for proposals for services other than construction services.</li><li>4. An interlocal contract.</li><li>5. The reverse auction procedure as defined by Government Code 2155.062(d).</li><li>6. The formation of a political subdivision corporation under Local Government Code 304.001.</li></ol> <p><i>Education Code 44.031(a)</i></p> <hr/> <p><b>Note:</b> Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC for design/build contracts; CVD, CVE for contracts using a construction manager; and CVF for job order contracts for minor repairs/alterations.</p> <hr/>
FACTORS	<p>In awarding a contract, the District shall consider:</p>

PURCHASING AND ACQUISITION

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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. 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(b), 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. The District may apply one, some, or all of the criteria, but it may not completely ignore them. *R.G.V. Vending v. Weslaco Indep. Sch. Dist.*, 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

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*



PURCHASING AND ACQUISITION

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(LEGAL)

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)*

PERSONAL  
PROPERTY  
PURCHASES VALUED  
\$10,000 TO \$25,000

When the District seeks to purchase personal property of a value of at least \$10,000 but less than \$25,000, in the aggregate, for a 12-month period, the District may either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described below. *Education Code 44.033(a)*

NOTICE

For each 12-month period, the District shall publish a notice in two successive issues of any newspaper of general circulation in the county in which the school is located. If there is no newspaper in the county in which the school is located, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the school is located, specifying the categories of personal property to be purchased and soliciting the names, addresses, and telephone numbers of vendors that are interested in supplying any of the categories to the District. *Education Code 44.033(b)*

VENDOR LIST

For each category, the District shall create a vendor list consisting of each vendor that responds to the published notice and any additional vendors the District elects to include. Before the District makes a purchase from a category of personal property, it must obtain written or telephone price quotations from at least three vendors from the list for that category. If fewer than three vendors are on the list, the District shall contact each vendor. Whenever possible, telephone quotes should be confirmed in writing by mail or facsimile. The bidding records shall be retained with the District's competitive bid records and are subject to audit. Purchases shall be made from the lowest responsible bidder, except as provided by Education Code 44.033(f). *Education Code 44.033(b), (c)*

LOCATION OF BIDDER

In awarding a contract by competitive sealed bid under Education Code 44.031(b) and (c), 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

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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 44.033(f)*

PRODUCE OR FUEL  
PURCHASES

When the District purchases produce or fuel valued at \$10,000 or more in the aggregate, for a 12-month period, the District must either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described immediately above. *Education Code 44.033(a), (d)*

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, 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, 2254.003(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)*

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(LEGAL)

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. <i>Education Code 44.031(i)</i>
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. <i>Gov't Code 2157.006</i>
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. <i>Education Code 44.047</i>
SOLE SOURCE	<p>Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:</p> <ol style="list-style-type: none"><li>1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.</li><li>2. A film, manuscript, or book.</li><li>3. A utility service, including electricity, gas, or water.</li><li>4. A captive replacement part or component for equipment.</li></ol> <p>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.</p> <p><i>Education Code 44.031(j), (k)</i></p>
IMPERMISSIBLE PRACTICES	<p>A Trustee, 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.</p> <p>“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.</p>

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(LEGAL)

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

*Education Code 44.032*

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 or 44.033. *Education Code 44.031, 44.033; 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

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.

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*

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:

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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)*

OUT-OF-STATE  
BIDDERS

The Board shall not award a contract for general construction, improvements, services, or public works projects 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, 2252.002*

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, 2252.004*

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, 791.011, 791.025*

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.

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 annually.

*Gov't Code 791.011(d)–(f)*

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

PURCHASING AND ACQUISITION

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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 BPC a resolution adopted by the Board requesting that the District be allowed to participate on a voluntary basis, to the extent the BPC 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.
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

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auction purchase, and electronically sending the BPC 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.

ELECTRONIC  
MARKETPLACE

If the District has the ability to electronically send purchase orders and information, it may participate in the Department of Information Resources' electronic procurement system, as described in Government Code Chapter 2177.

*Local Gov't Code 271.083*

MULTIPLE AWARD  
CONTRACT  
SCHEDULE

The BPC 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, Subchapter I*

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.

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)*

PURCHASING AND ACQUISITION

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(LEGAL)

MANAGEMENT FEE  
REPORT

A district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Subchapter F, Chapter 271, Local Government Code (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 of Education 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)*

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, 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*

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 goal to reduce the District's annual electric consumption by five percent each year for six years, beginning September 1, 2007.

*Education Code 44.901* [See policy CL for legal requirements pertaining to such contracts]

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



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revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

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]

CRIMINAL HISTORY

Before entering into a contract with the District, a person or business must give notice to the District if the person or an owner or operator of the business has been convicted of a felony. The District may terminate a contract with a person or business if the District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. The

PURCHASING AND ACQUISITION

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(LEGAL)

District must compensate the person for services performed before the contract terminated. *Education Code 44.034*

EMPLOYED  
BEFORE  
JANUARY 1, 2008

An entity that contracts with the District to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Education Code 22.0834(b) [see DBAA] if:

1. The employee has continuing duties related to the contracted services; and
2. The employee has direct contact with students.

The entity shall certify to the District that it received all of the criminal history record information required above.

The District may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above.

*Education Code 22.0834(g)-(i)*

EMPLOYMENT  
OFFERED ON OR  
AFTER JANUARY 1,  
2008

A person who, on or after January 1, 2008, is offered employment by an entity that contracts with the District must submit to a national criminal history record information review if:

1. The employee or applicant has or will have continuing duties related to the contracted services; and
2. The employee or applicant has or will have direct contact with students.

The person must submit to the review before being employed or serving in a capacity described above.

An entity contracting with the District shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845. The entity shall certify to the District that the entity has received all criminal history record information relating to the person.

The District may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Government Code 411.0845.

*Education Code 22.0834(a)-(e)*

PURCHASING AND ACQUISITION

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(LEGAL)

EMERGENCY	<p>In the event of an emergency, the District may allow a person to whom Education Code 22.0834(a) or (g) applies to enter District property if the person is accompanied by a District employee. The District may adopt rules regarding an emergency situation. <i>Education Code 22.0834(f)</i></p>
RIGHT TO WORK	<p>While engaged in procuring goods and services or awarding a contract, the District:</p> <ol style="list-style-type: none"><li>1. May not consider whether a vendor is a member of or has another relationship with any organization; and</li><li>2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.</li></ol> <p><i>Education Code 44.043</i></p>
LOBBYING RESTRICTION: TOBACCO EDUCATION GRANT FUNDS	<p>The District may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:</p> <ol style="list-style-type: none"><li>1. Lobbying expenses incurred by the District;</li><li>2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission.</li><li>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);</li><li>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.</li></ol> <p><i>Gov't Code 403.1067</i></p>



PURCHASING AND ACQUISITION  
VENDOR RELATIONS

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(LEGAL)

REQUIRED VENDOR  
DISCLOSURE

The Texas Ethics Commission shall adopt a conflict of interest questionnaire that requires disclosure of a vendor's business relationships with the District.

A vendor to the District shall file any required conflict of interest questionnaire if the person has a business relationship with the District and:

1. Has an employment or other business relationship with an officer of the District, or a family member of the officer, described by Local Government Code 176.003(a)(2)(A); or
2. Has given an officer of the District, or a family member of the officer, one or more gifts with the aggregate value specified by Local Government Code 176.003(a)(2)(B), excluding any gift described by Local Government Code 176.003(a-1).

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the date that the vendor:

1. Begins discussions or negotiations to enter into a contract with the District;
2. Submits to the District an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the District; or
3. The date the person becomes aware:
  - a. Of an employment or other business relationship with a local government officer, or a family member of the officer; or
  - b. That the person has given one or more gifts.

*Local Gov't Code 176.006*

DEFINITION OF  
BUSINESS  
RELATIONSHIP

"Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
2. A transaction conducted at a price and subject to terms available to the public; or
3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CHE  
(LEGAL)

*Local Gov't Code 176.001(1-a)*

ELECTRONIC FILING	The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. <i>Local Gov't Code 176.008</i>
LIST OF LOCAL GOVERNMENT OFFICERS	The records administrator for each district shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. <i>Local Gov't Code 176.007</i> [See BBFA]
INTERNET POSTING	The District shall provide access on the District's Internet Web site to the required conflict of interest statements and questionnaires filed with the records administrator. <i>Local Gov't Code 176.009</i>

SAFETY PROGRAM/RISK MANAGEMENT  
EMERGENCY MEDICAL EQUIPMENT AND PROCEDURES

CKD  
(LEGAL)

AUTOMATED EXTERNAL DEFIBRILLATORS	Each school district shall make available at each campus in the District at least one automated external defibrillator, as defined by Health and Safety Code 779.001. A campus defibrillator must be readily available during any University Interscholastic League (UIL) athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the principal shall consider the primary location on campus where students engage in athletic activities.
AVAILABILITY CAMPUS	
ATHLETIC PRACTICE	To the extent practicable, the District, in cooperation with the UIL, shall make reasonable efforts to ensure that a defibrillator is available at each UIL athletic practice held at a District campus. If the District is not able to make a defibrillator available in such a manner, the District shall determine the extent to which a defibrillator must be available at each UIL athletic practice held at a District campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information.
ATHLETIC COMPETITION	The District, in cooperation with the UIL, shall determine the extent to which a defibrillator must be available at each UIL athletic competition held at a location other than a District campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with the District.
TRAINED STAFF	The District shall ensure the presence at each location at which a defibrillator is required above of at least one campus or District employee trained in the proper use of the defibrillator at any time a substantial number of District students are present at the location.
USE AND MAINTENANCE	The District shall ensure that an automated external defibrillator is used and maintained in accordance with standards established under Health and Safety Code Chapter 779.  <i>Education Code 38.017</i>
INSTRUCTION	The District shall annually make available to District employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator, as defined by Health and Safety Code 779.001. The instruction must meet the guidelines approved under Health and Safety Code 779.002.  Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other school employee specified by the Commissioner, and each student who serves as an athletic trainer must participate and must receive and maintain certification in the

SAFETY PROGRAM/RISK MANAGEMENT  
EMERGENCY MEDICAL EQUIPMENT AND PROCEDURES

CKD  
(LEGAL)

use of an automated external defibrillator from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

*Education Code 22.902*

[See CH for information regarding purchase and lease of automated external defibrillators]

RESPONSE TO  
CARDIAC ARREST

The District shall develop safety procedures for a District or school employee or student to follow in responding to a medical emergency involving cardiac arrest, including the appropriate response time in administering cardiopulmonary resuscitation, using an automated external defibrillator, as defined by Health and Safety Code 779.001, or calling a local emergency medical services provider. *Education Code 38.018*



EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

TEXTBOOKS	<p>Textbooks selected for use in the public schools shall be furnished without cost to the students attending those schools. All textbooks purchased in accordance with Education Code Chapter 31 are the property of the state of Texas. <i>Education Code 31.001, 31.102(a)</i> [See EFAA for provisions addressing Textbook Selection and Adoption]</p>
DELEGATION OF POWER	<p>The Board may delegate the power to requisition, distribute, and manage the inventory of books, consistent with Education Code Chapter 31. <i>Education Code 31.104(a)</i></p>
REQUISITIONS, USE, AND DISTRIBUTION	<p>Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for a school to the Superintendent. Not later than April 25, the Superintendent shall report the District's maximum attendance to the Commissioner of Education. Requisitions for textbooks for the following school year shall be based on the maximum attendance reports, plus an additional ten percent, except as otherwise provided, and shall be made no later than June 1 of each year. The District may requisition textbooks for grades above the grade level in which a student is enrolled, except that the total quantity requisitioned may not exceed the above limit. <i>Education Code 31.103; 19 TAC 66.104(l)</i> [See BJA]</p> <p>Once instructional materials have been requisitioned and delivered, including nonadopted materials, the District shall continue to use those instructional materials during the contract period or periods of the materials. The District may not return copies of one title to secure copies of another title in the same subject. <i>19 TAC 66.104 (f), (j)</i></p> <p>The Board, as legal custodian of the textbooks used in the District, shall distribute books to students as it may deem most effective and economical. <i>Education Code 31.102(c)</i></p>
ORDER QUANTITIES	<p>When placing orders for instructional materials, the District shall report enrollments as follows:</p> <ol style="list-style-type: none"><li>1. Annual orders for instructional materials: enrollments shall be reported based on the maximum number of students enrolled in the District during the previous school year and/or registered to attend the District during the next school year; and</li><li>2. Supplemental orders for instructional materials: enrollments shall be reported based on the actual number of students enrolled in the District when the order is submitted, adjusted for students reported as working above or below grade level.</li></ol> <p><i>19 TAC 66.107(d)</i></p>

EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

SHORTAGE

If the District does not have a sufficient number of copies of a textbook for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified at TIME FOR DELIVERY, the District is entitled to:

1. Be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board rule, for the purchase of a sufficient number of used adopted textbooks; or
2. Return currently used textbooks to the Commissioner in exchange for sufficient copies, if available, of other textbooks to be used during the following school year.

*Education Code 31.1031*

TIME FOR  
DELIVERY

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

SURPLUS

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

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

EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

CHARGES FOR  
FAILURE TO  
RETURN SURPLUS

If the District orders instructional material in excess of its eligibility by reporting enrollments exceeding those described above, the District enters into a contract with the state to purchase the instructional materials supplied that exceed the District's eligibility for the subject area/grade level. The District may cancel the contract to purchase the excess instructional materials by immediately notifying TEA of the surplus and posting the surplus in accordance with instructions provided by TEA. If prior approval is received, surplus instructional materials may be returned to the publisher's approved depository or placed into statewide surplus inventory in accordance with instructions from TEA. A school district that fails to notify TEA of surplus instructional materials for more than six months after the beginning of the school year shall reimburse the state at the full price for the surplus instructional materials. *19 TAC 66.107(g)*

SUPPLEMENTAL  
TEXTBOOKS

The District may requisition a supplemental textbook only if the District:

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

*Education Code 31.035(d)*

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

A district that requisitions supplemental textbooks under Education Code 31.035(d)(2) shall certify to the agency that the supplemental textbooks, in combination with any other textbooks or supplemental textbooks used by the District or school, cover the essential knowledge and skills identified under Education Code 28.002 by the State Board of Education for the subject and grade level for which the District or school is requisitioning the supplemental textbooks.

*Education Code 31.035(e), (f)*

EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

SPECIAL EDUCATION	Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. <i>19 TAC 66.104(m)</i>
TEXTBOOK CREDIT	The District is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a). <i>Education Code 31.1011(a)</i>
CALCULATION	<p>The credit is an amount equal to the difference between the price paid for a textbook and the cost limit for that textbook multiplied by the number of copies of that textbook the District purchases. <i>Education Code 31.1011(a)</i></p> <p>If the total cost for the supplemental textbooks requisitioned by the District under Education Code 31.035(d)(2) for a course is less than the cost limit for a single textbook on the conforming list for the course, the District is entitled to receive credit under Section 31.1011 in the same manner as if the single textbook were selected. <i>Education Code 31.035(e)</i></p>
DISTRIBUTION	<p>Fifty percent of the total textbook credit of the District shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the District to apply toward the requisition of:</p> <ol style="list-style-type: none"><li>1. Additional textbooks or electronic textbooks that are on the conforming or nonconforming list under Education Code 31.023 or the components of such textbooks, including any electronic components; or</li><li>2. Supplemental textbooks as provided by Education Code 31.035.</li></ol> <p><i>Education Code 31.1011(c)</i></p>
BOOK OWNERSHIP AND COVERS	<p>All textbooks shall state that the book is the property of or is licensed to the state. Books, other than electronic textbooks, must be covered by the student under the direction of the teacher. Books must be returned to the teacher at the end of the school year or when the student withdraws from school. <i>Education Code 31.104(c)</i></p>
RESPONSIBILITY FOR BOOKS	<p>Each student or his or her parent or guardian shall be responsible for all books not returned by the student, and any student failing to return all books shall forfeit the right to free textbooks until the books previously issued but not returned are paid for by the student, parent, or guardian.</p>

EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

Under circumstances determined by the Board, the District may waive or reduce the payment required if the student is from a low-income family. The District shall allow students to use textbooks at school during each school day.

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

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

SALE OF BOOKS

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

ANNUAL INVENTORY

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

LOCAL HANDLING  
EXPENSES

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

[See BBFB and DBD]

OUT-OF-ADOPTION  
TEXTBOOKS

The District may retain out-of-adoption instructional materials.

The District shall make out-of-adoption instructional materials (other than electronic instructional materials) available to libraries maintained by city and county jails, institutions within the Department of Corrections, and other state agency institutions. District officials may donate out-of-adoption instructional materials (other than electronic instructional materials) to students, adult education programs, and nonprofit organizations. Individuals and organizations making such requests shall be responsible for transporting the materials.

After all efforts to donate out-of-adoption instructional materials (other than electronic instructional materials) to organizations listed above have been exhausted, the District may donate those materials for recycling locally. Recycling means removing the bindings

and shredding the textbooks for the purpose of producing new products from the processed materials.

Under no circumstances shall the District sell out-of-adoption instructional materials.

*19 TAC 66.131*

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

DEFINITIONS

For purposes of this policy:

1. "Bus" means a motor vehicle used to transport persons and designed to accommodate more than ten persons, including the driver.
2. "Passenger car" refers to a motor vehicle, other than a motor-cycle, used to transport persons and designed to accommodate ten or fewer passengers.
3. "Passenger van" means a motor vehicle, other than a motor-cycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.
4. "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by the District and is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, or a school bus.
5. "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport preprimary, primary, or secondary students to and from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.
6. "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.

*Education Code 34.003; Trans. Code 541.201*

AUTHORITY

The District may establish and operate an economical public school transportation system in the District or outside the District, if the District enters into an interlocal contract as provided by Government Code Chapter 791. For that part of the system that the District operates directly, it shall employ bus drivers certified by the Department of Public Safety. *Education Code 34.007*

TRANSPORTATION  
FUNDING FOR  
ELIGIBLE STUDENTS

If the District operates a transportation system, the District is entitled to a state transportation allotment. The allotted funds are based on the cost of providing transportation services to students who live two or more miles from the school they attend. The Commissioner of Education cannot reduce the allotment because the District provides transportation for an eligible student to and from a child-care facility instead of the student's residence, if the

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

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transportation is provided within the approved routes of the District for the school the student attends. *Education Code 42.155*

The Board may require payment of a reasonable fee for transportation to and from school of a student who lives within two miles of the school the student attends. However, the Board may not charge a fee for transportation for which the District receives a transportation allotment under Education Code 42.155(d). *Education Code 11.158.*

HAZARDOUS  
CONDITIONS

The District may apply to the Commissioner of Education for an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of students living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. The Board shall provide to the Commissioner the definition of hazardous conditions applicable to the District and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and students must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition. *Education Code 42.155(d)*

BUS OPERATION

A person may not operate a school bus if:

1. The door of the school bus is open; or
2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

*Trans. Code 545.426*

TRANSPORTING  
STUDENTS TO  
SCHOOL

School buses or mass transit authority buses shall be used for the transportation of students to and from schools on routes having ten or more students. Passenger cars may be used on routes having fewer than ten students. *Education Code 34.003(a)*

DESIGNATION OF  
CHILD-CARE  
FACILITY OR  
GRANDPARENT'S  
RESIDENCE

The Board, after determining eligibility for transportation services, shall allow a parent to designate a child-care facility or the residence of a grandparent of the child instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school. Either designated location must be an approved stop on an approved route. *Education Code 34.007(b)(2)*

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adop-



TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

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(LEGAL)

tion to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

TRANSPORTATION  
TO A HIGHER  
PERFORMING  
SCHOOL

The District shall provide or pay for the transportation of a student to a higher-performing public school operated by another district, if the District is identified for corrective action, or to another public school within the District if the student's school:

1. Has been identified for school improvement;
2. Has failed to make adequate yearly progress by the end of the first full school year after identification for school improvement;
3. Has had corrective action implemented by the District for failure to make adequate yearly progress by the end of the second full school year after identification for school improvement; or
4. Has failed to make adequate yearly progress after one full school year of corrective action.

*No Child Left Behind Act of 2001, 20 U.S.C. 6316(b)(9)*

TRANSPORTATION  
OF HOMELESS  
STUDENTS

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, the District shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, at the request of the homeless liaison) to and from the school of origin, as follows:

1. If the homeless child lives in the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.
2. If the homeless child lives in a district other than that in which the school of origin is located, the district of origin and the district where the homeless child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

*McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Secs. 722, 725; 42 U.S.C. 11432(g)(1)(J)(iii)(I), (II)*  
[See FDC]

SCHOOL  
ACTIVITIES

When transporting students in connection with school activities other than on routes to and from school:

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

1. Only school buses or motor buses may be used to transport 15 or more students; and
2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

*Education Code 34.003(b)(1), (2)*

The operator of a passenger car or passenger van used to transport students to school or to a school activity shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

*Education Code 34.003(c)*

WIRELESS  
COMMUNICATION  
DEVICES

A person may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus except in case of emergency or if the passenger bus is not in motion.

*Trans. Code 545.425*

ACCELERATED  
INSTRUCTION  
PROGRAMS

The District shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j)*

STUDENT SAFETY

The District may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

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

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

*Trans. Code 545.426*

SCHOOL BUS  
EMERGENCY  
EVACUATION  
TRAINING

Pursuant to the safety standards established by the Department of Public Safety under Transportation Code 34.002, the District shall conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. The District shall conduct the school bus emergency evacuation training at least twice each school year, with one training session occurring in the fall and one training session occurring in the spring. A portion of the training session must occur on a school bus and the training session must last for at least one hour.

The training must be based on the recommendations of the most recent edition of the National School Transportation Specifications

TRANSPORTATION MANAGEMENT  
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and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

Not later than the 30th day after the date that the District completes a training session, the District shall provide the Department of Public Safety with a record certifying the District's completion of the training.

*Education Code 34.0021*

DISRUPTION OF  
TRANSPORTATION

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

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

TRANSPORTATION  
COMPANY OR  
SYSTEM

The Board may contract for all or any part of its public school transportation with a mass transit authority or commercial transportation company, provided that the authority or commercial transportation company:

1. Requires its school bus drivers to have the qualifications required by and be certified in accordance with standards established by the Department of Public Safety;
2. Transports 15 or more students only in school buses or mass transit authority buses that meet or exceed safety standards for school buses established under Education Code 34.002;
3. Conducts all the following education programs with Board approval:
  - a. A program to inform the public that public school students will be riding on the authority's or company's buses;
  - b. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and
  - c. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

The Board may supplement the state transportation cost allotment with local funds necessary to provide complete transportation services.

*Education Code 34.008*

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

CRIMINAL HISTORY  
RECORD

If the District contracts with a person for transportation services, the District shall obtain criminal history record information from any law enforcement or criminal justice agency relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with the District to provide transportation services shall submit to the District the name and other identification data required to obtain the criminal history record information of such persons. If the District obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, the District shall inform the chief personnel officer of the person with whom the District has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the Board. *Education Code 22.084 (a), (b)*

Criminal history record information obtained by the District shall not be released or disclosed to any person, other than the individual who is the subject of the information, the Texas Education Agency, the State Board for Educator Certification, or the chief personnel officer of a public or commercial transportation company with which the District contracts to provide transportation services to students. *Gov't Code 411.097*

COMMERCIAL  
TRANSPORTATION  
COMPANY

If the District contracts with a commercial transportation company for transportation services, the company may obtain all criminal history record information that relates to a person employed by the company as a bus driver, bus monitor, or bus aide, or a person the company intends to employ in one of these positions. If the company obtains criminal history record information indicating that a person it employs or intends to employ has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not, without the permission of the Board, employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported. If the commercial transportation company obtains the criminal history record information, the District is not required to do the same. *Education Code 22.084 (c), (d)*

CAREER AND  
TECHNOLOGY  
PROGRAM

The District shall be reimbursed the cost of transporting career and technology program students to another campus within the District, to another secondary public school or an area career and technology school, or to an approved postsecondary institution under a contract for instruction approved by TEA. *Education Code 42.155(f)*

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

## SECTION D: PERSONNEL

DA	EMPLOYMENT OBJECTIVES
DAA	Equal Employment Opportunity
DAB	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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DBAA	Criminal History and Credit Reports
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DBD	Conflict of Interest
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DC	EMPLOYMENT PRACTICES
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DEA	Salaries and Wages
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DFBB	Nonrenewal
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DFCA	Suspension/Termination
DFD	Hearings Before Hearing Examiner
DFE	Resignation
DFF	Reduction in Force

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## SECTION D: PERSONNEL

DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Intellectual Property Rights
DH	EMPLOYEE STANDARDS OF CONDUCT
DHA	Gifts and Solicitations
DHE	Searches and Alcohol/Drug Testing
DI	EMPLOYEE WELFARE
DIA	Freedom from Harassment
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	Special Programs Training
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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

NOTICE TO PARENTS:  
QUALIFICATIONS

As a condition of receiving assistance under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq.*), the District shall, at the beginning of each school year, notify the parents of each student attending any school receiving such funds that the parents may request, and the District shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

ADDITIONAL  
INFORMATION

A school that receives such federal funds shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

*20 U.S.C. 6311(h)(6)*

PROFESSIONAL  
PERSONNEL  
CERTIFICATE

A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by the District unless the person holds an appropriate certificate or permit. A person who desires to teach shall present the person's certificate for filing with the District before the person's contract with the Board is binding.

A person employed by the District as an educational diagnostician before September 1, 2008, may continue employment with the District without obtaining a certificate or permit as an educational diagnostician so long as the person is employed by that District.

*Education Code 21.003(a), 21.053(a)*

An educator who does not hold a valid certificate may not be paid for teaching or work done before the effective date of issuance of a valid certificate. *Education Code 21.053(b)*

FAILURE OF  
CERTIFICATION

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

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

This provision does not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.

*Education Code 21.0031(a), (e) [See DF]*

LICENSE

A person may not be employed by the District as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for the District only if the person holds the appropriate credentials from the appropriate state agency. *Education Code 21.003(b)*

SCHOOL DISTRICT  
TEACHING PERMIT

The District may issue a school district teaching permit and employ as a teacher a person who does not hold a teaching certificate issued by SBEC, if the person holds a baccalaureate degree. A baccalaureate degree is not required for persons who will teach only career and technology education.

STATEMENT TO  
COMMISSIONER

After employing a person under a school district permit, the District shall promptly send a written statement to the Commissioner. This statement must identify the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the Commissioner.

Not later than the 30th day after the Commissioner receives the District's statement, the Commissioner may inform the District that the person is not qualified to teach. The person may not teach if the Commissioner finds that the person is not qualified. If the Commissioner fails to act before the 30th day after receiving the statement, the District may issue the school district teaching permit and the person may teach the subject or class identified in the statement sent to the Commissioner.

DURATION OF  
PERMIT

A school district teaching permit remains valid unless the District issuing the permit revokes it for cause. A person authorized to teach under a school district teaching permit issued by a particular District may not teach in another school district unless that other district complies with the permit-issuing provisions. [See DK for Emergency Permits]

*Education Code 21.055*



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**Note:** The assignment of a teacher to teach a class for which he or she is not properly certified triggers parent notification requirements in accordance with state and federal laws. See DK.

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HIGHLY QUALIFIED  
STATUS

Pursuant to the No Child Left Behind Act of 2001, each district shall ensure that all teachers teaching in a program supported with funds under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq.*) are highly qualified.

'CORE ACADEMIC  
SUBJECTS'  
DEFINED

The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

GENERAL  
EDUCATION  
PROGRAM  
CERTIFICATION

The term "highly qualified":

1. When used with respect to any public elementary school or secondary school teacher, means the teacher:
  - a. Has obtained full state certification as a teacher (including alternative certification); and
  - b. Has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.
2. When used with respect to an elementary school teacher who is new to the profession, means the teacher:
  - a. Holds at least a bachelor's degree; and
  - b. Has demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.
3. When used with respect to a middle or secondary school teacher who is new to the profession, means the teacher:
  - a. Holds at least a bachelor's degree; and
  - b. Has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:
    - (1) Passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or
    - (2) Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework

SUBJECT  
COMPETENCY  
NEW  
ELEMENTARY  
TEACHER

NEW MIDDLE OR  
SECONDARY  
TEACHER

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equivalent to an undergraduate academic major, or  
advanced certification or credentialing.

EXISTING  
TEACHER

4. When used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means the teacher holds at least a bachelor's degree and:
  - a. Has met the applicable standard as detailed above for new teachers; or
  - b. Demonstrates competence in all academic subjects in which the teacher teaches based on a high objective uniform state standard of evaluation.

*20 U.S.C. 6319(a)(1), 7801(23)*

SPECIAL  
EDUCATION  
PROGRAM

The term "highly qualified," when used with respect to a special education teacher, means the teacher meets the above requirements, as applicable, and:

CERTIFICATION  
AND EDUCATION

1. Has obtained full state certification as a special education teacher (including alternative certification);
2. Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3. Holds at least a bachelor's degree.

SUBJECT  
MATTER  
COMPETENCY

Special education teachers who teach alternative achievement standards or who teach two or more core academic subjects exclusively to children with disabilities must also demonstrate subject matter competence as set forth below.

ALTERNATIVE  
ACHIEVEMENT  
STANDARDS

1. New and existing special education teachers who teach core academic subjects exclusively to children who are assessed against alternate achievement standards may:
  - a. Meet the applicable requirements for any new or existing elementary, middle, or secondary teacher; or
  - b. In the case of instruction above the elementary level, demonstrate subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, needed to effectively teach to those standards.

TWO OR MORE  
CORE ACADEMIC  
SUBJECTS

2. A special education teacher who teaches two or more core academic subjects exclusively to children with disabilities may either:
  - a. Meet the applicable requirements for any new or existing elementary, middle, or secondary school teacher;

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- b. In the case of an existing teacher, demonstrate competence in all core academic subjects in which the teacher teaches in the same manner as is required for any other existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects; or
- c. In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, the teacher may demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects. The teacher must demonstrate competence under this section not later than two years after the date of employment.

*20 U.S.C. 1401(10)*

PARAPROFESSIONAL  
EMPLOYEES  
CERTIFICATION

Educational aides shall be certified according to standards established by the State Board for Educator Certification. *19 TAC 230.551*

TITLE I PROGRAM

Each district receiving assistance under Title I, Part A of the ESEA shall ensure that all paraprofessionals working in a program supported with those funds shall:

DUTIES

- 1. Be assigned only duties consistent with 20 U.S.C. 6319(g).

HIGH SCHOOL  
DIPLOMA

- 2. Regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

HIGHER  
EDUCATION OR  
COMPETENCY TEST

- 3. If hired after January 8, 2002, have one of the following credentials:
  - a. Completed at least 2 years of study at an institution of higher education;
  - b. Obtained an associate's (or higher) degree; or
  - c. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment:
    - (1) Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

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- (2) Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

Receipt of a high school diploma is not sufficient to satisfy the formal academic assessment requirement.

EXCEPTIONS

The HIGHER EDUCATION OR COMPETENCY TEST requirements above shall not apply to a paraprofessional:

1. Who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under Title I, Part A by acting as a translator; or
2. Whose duties consist solely of conducting parental involvement activities.

*20 U.S.C. 6319*

CPR AND FIRST AID  
CERTIFICATION

A District employee who serves as head director of a school marching band, head coach, or chief sponsor of an extracurricular athletic activity (including cheerleading) that is sponsored or sanctioned by the District or UIL must maintain and submit to the District proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification. The District shall adopt procedures for administering this requirement, including procedures for the time and manner in which proof of current certification must be submitted. *Education Code 33.086*

AED CERTIFICATION

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the Commissioner must receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association. *Education Code 22.902 [See DMA]*

SCHOOL BUS  
DRIVERS  
CREDENTIALS

A school bus driver must:

1. Be at least 18 years old.
2. Hold an appropriate class of driver's license for the vehicle being operated.
3. Pass an annual physical exam and otherwise meet medical and physical requirements established by the Department of Public Safety (DPS). [See DBB]

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

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4. Have a driving record that is acceptable according to minimum standards adopted by the DPS. A check of the person's driving record shall be made with DPS annually.
5. Pass a pre-employment driver's license check with the DPS, and maintain a driving record acceptable according to the standards prescribed by the State Board and the DPS. [See ANNUAL EVALUATION, below]
6. Have an acceptable criminal history record. [See DC] If the District obtains information that a person has been convicted of a felony or misdemeanor involving moral turpitude, it may not employ the person to drive a school bus on which students are transported unless the employment is approved by the Board or the Board's designee.
7. Possess a valid certificate stating that the driver is enrolled in, or has completed, a driver training course in school bus safety education approved by the DPS.

*Trans. Code 521.022; 37 TAC 14.11, 14.12, 14.14*

ANNUAL  
EVALUATION

The District shall evaluate the driver's license record of each school bus driver at least annually to determine if the driver is still eligible to drive a school bus. *Trans. Code 521.022(d); 37 TAC 14.14*

EMPLOYEE RECORDS  
PROFESSIONAL  
EMPLOYEES

The following records on professional personnel must be readily available for review by the Commissioner:

1. Credentials (certificate or license);
2. Service record(s) and any attachments;
3. Contract;
4. Teaching schedule or other assignment record; and
5. Absence from duty reports.

SERVICE RECORD

The basic document in support of the number of years of professional service claimed for salary increment purposes and both the state's sick and personal leave program data for all personnel is the service record (form FIN-115) or a similar form containing the same information. It is the responsibility of the issuing district to ensure that service records are true and correct and that all service recorded on the service record was actually performed.

The service record must be validated by a person designated by the District to sign service records. The service record shall be kept on file at the District. When employment with the District is terminated, the original service record, signed by the employee,

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

shall be given to the employee upon request or sent to the next employing district. The District must maintain a legible copy for audit purposes.

*19 TAC 153.1021(b), (d)*

ACCESS TO  
EMPLOYEE  
RECORDS

With regard to public access to information in personnel records, custodians of such records shall adhere to the requirements of the Public Information Law. *Gov't Code 552* [See GBA]

Information in a personnel file is excepted from the requirements of the Public Information Law if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

An employee of the District shall choose whether to allow public access to information in the District's custody that relates to the employee's home address, home telephone number, or Social Security number, or that reveals whether the person has family members.

*Gov't Code 552.024, 552.102(a)*

EMPLOYEE  
RIGHT OF  
ACCESS

All information in the personnel file of a District employee shall be made available to that employee or the employee's designated representative as public information is made available under the Public Information Law. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the District that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

The District may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Law. The District may assert as grounds for denial of access other provisions of the Public Information Law or other laws that are not intended to protect the employee's privacy interests.

If the District determines that information in the employee's records is exempt from disclosure under an exception of Government Code Chapter 552, Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, it shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, the District shall release the information to the requestor not later than the tenth day after the request for information is received.

*Gov't Code 552.023, 552.102(a); 552.307*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
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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, informations, 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.

NOTICES 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.

CRIMINAL HISTORY

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.

*Education Code 22.0833*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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SUBSTITUTE TEACHERS APPLICABILITY	This section applies to a person who is a substitute teacher for the District or a shared services arrangement.
NOTICES 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"><li>1. May not be hired or must be discharged as provided by Education Code 22.085; or</li><li>2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.</li></ol>
ACCESS TO 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</i></p>
STUDENT TEACHERS APPLICABILITY CRIMINAL HISTORY	<p>This section applies to a person participating in an internship consisting of student teaching to receive a teaching certificate.</p> <p>A student teacher may not perform any student teaching until:</p> <ol style="list-style-type: none"><li>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</li><li>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.</li></ol> <p><i>Education Code 22.0835</i></p>
COORDINATION OF EFFORTS	<p>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. <i>Education Code 22.0833(h)</i></p>



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

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.

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

CONFIDENTIALITY OF  
RECORD

Criminal history record information obtained by the District may not be released or disclosed to any person, other than the individual who is the subject of the information, TEA, or SBEC. *Gov't Code 411.097(d)* [See CNA]

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. *Education Code 22.087; 19 TAC 249.14(d)(1)* [See also DF]

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

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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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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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:
  - 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

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

DEFINITIONS

"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.

"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*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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OBTAINING  
REPORTS

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

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 report.

ADVERSE ACTION

Before taking any adverse action based on the report, the District shall provide the applicant or employee a copy of the 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)*

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:

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  
CONFLICT OF INTEREST

DBD  
(LEGAL)

RESTRICTION ON  
PUBLIC SERVANTS —  
PENAL CODE

“Public servant,” for purposes of the following Penal Code provisions, includes a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of government, even if the person has not yet qualified for office or assumed his or her duties. *Penal Code 1.07(a)(41)(A), (E)*

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
  - a. As consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
  - b. As consideration for a violation of a duty imposed on the public servant by law.
  - c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

*Penal Code 36.01(3), 36.02*

ILLEGAL GIFTS

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of the District. *Penal Code 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

EXCEPTIONS

"Illegal Gifts to Public Servants" does not apply to:

- a. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
- b. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
  - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  - (2) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
- d. A political contribution as defined by Title 15, Election Code;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
- g. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

*Penal Code 36.10*

HONORARIA AND  
EXPENSES

3. A public servant commits a Class A misdemeanor offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services,

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory.  
*Penal Code 36.07*

ABUSE OF PUBLIC  
EMPLOYMENT

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the public servant's office or employment, or misuse District property, services, personnel, or any other thing of value, that has come into his or her custody or possession by virtue of his or her office or employment.  
*Penal Code 39.02(a)*

"Law relating to the public servant's office or employment" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

"Misuse" means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

*Penal Code 39.01(2)*

TEXTBOOK  
VIOLATIONS —  
COMMISSIONS

An administrator or teacher commits a class B misdemeanor offense if the administrator or teacher receives any commission or rebate on any textbooks used in the schools with which the administrator or teacher is associated. *Education Code 31.152(a)*

TEXTBOOK  
VIOLATIONS —  
CONFLICT

An administrator or teacher commits a class B misdemeanor offense if the administrator or teacher accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of a textbook; and
3. Could not be lawfully purchased with funds from the state textbook fund.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

“Gift, favor, or service” does not include staff development, in-service, or teacher training; or instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

*Education Code 31.152(b)–(d)*

TEXTBOOK  
VIOLATIONS —  
PURCHASE AND  
DISTRIBUTION

A person commits a Class C misdemeanor offense if the person knowingly violates any law providing for the purchase or distribution of free textbooks for the public schools. *Education Code 31.153*

HOLDING CIVIL  
OFFICE

No person shall hold or exercise at the same time more than one civil office of emolument, except for offices listed in the constitutional provision, unless otherwise specifically provided. *Tex. Const., Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 291 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993)*

Individuals who receive all or part of their compensation either directly or indirectly from funds of the state of Texas and who are not state officers shall not be barred from serving as members of the governing bodies of school districts (other than those in which they are employed), cities, towns, or other local governmental districts. Such individuals may not receive a salary for serving as members of such governing bodies. *Tex. Const., Art. XVI, Sec. 40(b); Atty. Gen. Op. DM-55 (1991)*

CONFLICT  
DISCLOSURE  
STATEMENT

The District may extend the requirements of Local Government Code 176.003 and 176.004 [see BBFA] to any employee of the District who has the authority to approve contracts on behalf of the District, including a person designated as the representative of the District for purposes of Local Government Code Chapter 271. The District shall identify each employee made subject to Sections 176.003 and 176.004 and shall provide a list of the identified employees on request to any person. The District may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with such requirements.

An employee commits a Class C misdemeanor if the employee knowingly violates the requirements. It is an exception to the application of the above penalty, however, that the employee filed the disclosure statement not later than the seventh business day after the person received notice from the District of the alleged violation.

*Local Gov't Code 176.005*

DEFINITION OF  
“CONTRACT”

“Contract” means a written agreement for the sale or purchase of real property, goods, or services. *Local Gov't Code 176.001(1-d)*



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

PERSONAL SERVICES  
PERFORMED BY  
SUPERINTENDENT

The Superintendent may not receive any financial benefit for personal services performed by the Superintendent for any business entity that conducts or solicits business with the District. Any financial benefit received by the Superintendent for performing personal services for any other entity, including a school district, open-enrollment charter school, regional education service center, or public or private institution of higher education, must be approved by the Board on a case-by-case basis in an open meeting. The receipt of reimbursement for a reasonable expense is not considered a financial benefit. *Education Code 11.201(e)*

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**Note:** See also CBB for requirements when federal funds are involved.

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EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

DEFINITION	In this policy, the term "appoint" includes appointing, confirming the appointment of, and voting to appoint or confirm the appointment of a person.
NEPOTISM PROHIBITED	<p>Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:</p> <ol style="list-style-type: none"><li>1. The person is related to the public official by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree [see below]; or</li><li>2. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.</li></ol> <p><i>Gov't Code 573.002, 573.041; Atty. Gen. Op. JC-0184 (2000)</i></p>
INDEPENDENT CONTRACTOR	<p>The nepotism law governs the hiring of an individual, whether the employee is hired as an individual or an independent contractor.</p> <p><i>Atty. Gen. Op. DM-76 (1992)</i></p>
SUPERINTENDENT	<p>If, under the employment policy [see DC], the Board delegates to the Superintendent the final authority to select District personnel:</p> <ol style="list-style-type: none"><li>1. The Superintendent is a public official for purposes of the nepotism prohibitions only with respect to a decision made under that delegation of authority; and</li><li>2. Each member of the Board remains subject to the nepotism prohibitions with respect to all District employees.</li></ol> <p>For purposes of this provision, a person hired by the District before September 1, 2007, is considered to have been in continuous employment [see CONTINUOUS EMPLOYMENT, below] and is not prohibited from continuing employment with the District subject to the abstention requirements.</p> <p><i>Education Code 11.1513(f); Atty. Gen. Op. GA-123 (2003) [See BBFA]</i></p>
COMPENSATION OF PROHIBITED EMPLOYEE	<p>A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the official knows the person is ineligible. <i>Gov't Code 573.083</i></p>
CONSANGUINITY	<p>Two persons are related to each other by consanguinity (blood) if one is a descendant of the other or if they share a common ancestor. An adopted child is considered to be a child of the adoptive parents for this purpose. <i>Gov't Code 573.022</i></p>

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

An individual's relatives within the third degree by consanguinity are the individual's:

1. Parent or child (first degree);
2. Brother, sister, grandparent, or grandchild (second degree); and
3. Great-grandparent, great-grandchild, aunt or uncle (who is a sibling of a parent of the person), nephew or niece (who is a child of a brother or sister of the person) (third degree).

*Gov't Code 573.023 [See DBE(EXHIBIT)]*

HALF-BLOOD  
RELATIVES

There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall within the same degree as those of the full blood. *Atty. Gen. Op. LO-90-30 (1990)*

AFFINITY

Two persons are related to each other by affinity (marriage) if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives. This provision applies to a Board member or officer of the District only until the youngest child of the marriage reaches the age of 21 years.

*Gov't Code 573.024*

A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity.

A person's relatives within the second degree by affinity are:

1. The person's spouse;
2. Anyone related by consanguinity to the person's spouse within the first or second degree; and
3. The spouse of anyone related to the person by consanguinity within the first or second degree.

*Gov't Code 573.025*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

EFFECT OF TRUSTEE  
RESIGNATION

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a Trustee's resignation is filled by a successor, the Trustee continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment. *Tex. Const., Art. XVI, Sec. 17; Att'y. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)*

EXCEPTIONS  
CONTINUOUS  
EMPLOYMENT  
(‘GRANDFATHER  
CLAUSE’)

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

1. Thirty days, if the public official is appointed; or
2. Six months, if the public official is elected.

*Gov't Code 573.062(a)*

RETIREEES

A teacher who has retired from a full-time, certified teacher position has broken his or her employment with the District and does not qualify for the continuous-employment exception to the nepotism laws. *Att'y. Gen. Op. JC-0442 (2001)*

For purposes of calculating the appropriate date for the applicability of the continuous-employment exception, a superintendent with final authority to select personnel is an appointed public official. *Att'y. Gen. Op. GA-0177 (2004)*

ABSTENTION

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees. *Gov't Code 573.062(b)*

A “change in status” includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. *Att'y. Gen. Op. JC-0193 (2000)*

For an action to be “taken with respect to a bona fide category of employees,” the officeholder’s action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. *Att'y. Gen. Op. DM-46 (1991)*

SUBSTITUTE  
TEACHER

The nepotism prohibitions do not apply to appointment or employment of a substitute teacher. *Gov't Code 573.061*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

TRADING

A public official may not appoint a person to a position in which the person's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

1. The person is related to another public official within the prohibited degree; and
2. The appointment would be carried out in whole or in partial consideration for the other public official's appointing a person who is related to the first public official within a prohibited degree.

*Gov't Code 573.044*

FEDERAL FUNDS

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. *Atty. Gen. L.A. No. 80 (1974)*

PENALTIES

An individual who violates the nepotism prohibitions shall be removed from his or her position. *Gov't Code 573.081, 573.082.*

An individual who violates Government Code 573.041 (Prohibition on Public Officials), 573.062(b) (see CONTINUOUS EMPLOYMENT and ABSTENTION, above), or 573.083 (see COMPENSATION OF PROHIBITED EMPLOYEE) commits an offense involving official misconduct. *Gov't Code 573.084*

EMPLOYMENT PRACTICES

DC  
(LEGAL)

EMPLOYMENT POLICIES	The Board shall adopt a policy providing for the employment and duties of District personnel. The policy shall provide that:
SUPERINTENDENT	1. The Board employs and evaluates the Superintendent;
SELECTION OF PERSONNEL	2. The Superintendent has sole authority to make recommendations to the Board regarding the selection of all personnel, except that the Board may delegate final authority for those decisions to the Superintendent [see SUPERINTENDENT RECOMMENDATIONS, below];
CAMPUS ASSIGNMENTS	3. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP]; and
JOB POSTINGS	4. Notice will be provided of vacant positions [see POSTING OF VACANCIES, below].
EMPLOYEE GRIEVANCES	<p>The employment policy must provide each employee with the right to present grievances to the Board. [See DGBA]</p> <p>The policy may not restrict the ability of an employee to communicate directly with a member of the Board regarding a matter relating to the operation of the District, except that the policy may prohibit ex parte communication relating to:</p> <ol style="list-style-type: none"><li>1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and</li><li>2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the Board.</li></ol> <p><i>Education Code 11.1513</i></p>
CONTRACT POSITIONS	The Board shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply. <i>Education Code 21.002(c)</i>
DELEGATION OF AUTHORITY	The District's employment policy may specify the terms of District employment or delegate to the Superintendent the authority to determine the terms of employment with the District. <i>Education Code 11.1513(c)</i>
NEPOTISM	A superintendent to whom the Board has delegated final hiring authority to select personnel is a "public official" with appointment authority for purposes of the nepotism laws. <i>Atty. Gen. Op. GA-123 (2003)</i> [See DBE]
INTERNAL AUDITOR	If the District employs an internal auditor, the Board shall select the internal auditor and the internal auditor shall report directly to the Board. <i>Education Code 11.1513</i>

EMPLOYMENT PRACTICES

DC  
(LEGAL)

SUPERINTENDENT  
RECOMMENDATION

The Board may accept or reject the Superintendent's recommendation regarding the selection of District personnel and shall include the Board's acceptance or rejection in the minutes of the Board's open meeting, in the certified agenda or tape recording of a closed meeting, or in the recording required under Government Code 551.125 or 551.127, as applicable. If the Board rejects the Superintendent's recommendation, the Superintendent shall make alternative recommendations until the Board accepts a recommendation. *Education Code 11.1513*

POSTING OF  
VACANCIES

The District's employment policy must provide that not later than the tenth school day before the date on which the District fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that affects the safety and security of students as determined by the Board, the District must provide to each current District employee:

1. Notice of the position by posting the position on:
  - a. A bulletin board at:
    - (1) A place convenient to the public in the District's central administrative office, and
    - (2) The central administrative office of each campus during any time the office is open; and
  - b. The District's Internet Web site, if the District has a Web site; and
2. A reasonable opportunity to apply for the position.

*Education Code 11.1513(d)*

EXCEPTION

If, during the school year, the District must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the District must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, the District is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. *Education Code 11.1513(e)*

CONTRACT  
EMPLOYEES

The District shall employ each classroom teacher, principal, librarian, nurse, or counselor under a probationary contract, a continuing contract, or a term contract. The District is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. *Education Code 21.002*



EMPLOYMENT PRACTICES

DC  
(LEGAL)

	<p>“Classroom teacher” means an educator who is employed by the District and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher’s aide or a full-time administrator. <i>Education Code 5.001(2)</i></p>
LENGTH OF CONTRACT	<p>A contract between the District and an educator must be for a minimum of ten months of service. An educator employed under a ten-month contract must provide a minimum of 187 days of service. The Commissioner may reduce the number of days of service, but such a reduction by the Commissioner does not reduce an educator’s salary. <i>Education Code 21.401</i></p>
EDUCATIONAL AIDES	<p>The Board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. <i>Education Code 54.214(f); 19 TAC Chapter 21</i></p>
EMPLOYMENT OF RETIREES REPORT TO TRS	<p>The District shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. The District shall inform TRS of changes in status of the District that affect the District’s reporting responsibilities.</p> <p>The certified statement must include information regarding employees of third party entities if the employees are service or disability retirees who were first employed by the third party entity on or after May 24, 2003, and are performing duties or providing services on behalf of or for the benefit of the District.</p> <p>An administrator of the District who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.</p> <p><i>Gov’t Code 824.6022, 825.403(k); 34 TAC 31.2</i></p>
ACUTE SHORTAGE AREAS	<p>For purposes of Government Code 824.602(a)(5) (permitting certain retirees to return to work in acute shortage areas) the Board shall determine by rule whether there are acute shortage areas in the District based on TEA’s acute shortage area guidelines. The guidelines must include:</p> <ol style="list-style-type: none"><li>1. A list of acute shortage areas;</li><li>2. Suggested criteria for identifying local acute shortage areas; and</li><li>3. A requirement that a certified applicant for a position as a classroom teacher who is not a retiree be given preference in hiring.</li></ol> <p><i>Gov’t Code 824.602(m)</i></p>

EMPLOYMENT PRACTICES

DC  
(LEGAL)

NEW HIRES  
I-9 FORMS

The District shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

The District must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If the District hires an individual for employment for a duration of less than three business days, the District must verify employment at the time of hire.

The District shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

When the District rehires an individual, the District may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.

2. For an individual whose employment authorization expires, not later than the date of expiration.

*8 CFR 274a.2(b)(1)(ii), (iii), (vii), (viii)*

NEW HIRE  
REPORTING

The District shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and Social Security number of each newly hired employee. The report shall also contain the District's name, address, and employer identification number.

The District may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the District's payroll address for mailing of notice to withhold child support.

The District shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by the District and in a format acceptable to the attorney general.

DEADLINE

New hire reports are due:

1. Not later than 20 calendar days after the date the District hires the employee; or
2. In the case of the District transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

EMPLOYMENT PRACTICES

DC  
(LEGAL)

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

*42 U.S.C. 653a(b), (c); Family Code 234.101–234.104; 1 TAC 55, Subch. I*

SOCIAL SECURITY  
NUMBERS

It shall be unlawful for the District to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her Social Security number.

EXCEPTIONS

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the Social Security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to the District maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within the District's jurisdiction.

STATEMENT OF  
USES

A district that requests disclosure of a Social Security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

*Privacy Act of 1974, Pub. L. No. 93-579, sec. 7(b), 88 Stat. 1896, 1897 (1974)*



EMPLOYMENT PRACTICES

DC  
(LOCAL)

PERSONNEL DUTIES	The Superintendent shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.
POSTING VACANCIES	The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current District employees may apply for any vacancy for which they have appropriate qualifications.
APPLICATIONS	All applicants shall complete the application form supplied by the District. Information on applications shall be confirmed before a contract is offered for a contractual position and before hiring or as soon as possible thereafter for a noncontractual position.
EMPLOYMENT OF CONTRACTUAL PERSONNEL	<p>The Superintendent has sole authority to make recommendations to the Board regarding the selection of contractual personnel.</p> <p>The Board retains final authority for employment of contractual personnel. [See DCA, DCB, DCC, and DCE as appropriate]</p>
EMPLOYMENT OF NONCONTRACTUAL PERSONNEL	<p>The Board delegates to the Superintendent final authority to employ and dismiss noncontractual employees on an at-will basis. [See DCD]</p>
EXIT INTERVIEWS AND EXIT REPORTS	An exit interview shall be conducted, if possible, and an exit report shall be prepared for every employee who leaves employment with the District.



COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

STATE FUNDING

Subject to Education Code 42.2516(g) and (h) (regarding reduction in state aid for certain districts), the District is entitled to state revenue necessary to provide the District with an amount equal to \$2,500 for each classroom teacher, full-time librarian, full-time counselor, and full-time school nurse employed by the District and entitled to the state minimum salary. *Education Code 42.2516(b)(2)*

The District is entitled to state aid in an amount equal to the sum of:

1. \$500 for each full-time District employee, other than administrators or employees subject to the minimum salary schedule; and
2. \$250 for each part-time District employee, other than administrators.

*Education Code 42.2513*

MINIMUM SALARY  
SCHEDULE —  
EDUCATORS

The District shall pay each classroom teacher, full-time librarian, full-time counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 TAC 153.1021.

DEFINITIONS

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from SBEC. Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

"Nurse" means an educator employed to provide full-time nursing and health care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

“Full-time” means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081.

*19 TAC 153.1022(a)*

PLACEMENT ON  
SALARY SCHEDULE

The Commissioner’s rules determine the experience for which a teacher, librarian, counselor, or nurse is to be given credit in placing the teacher, librarian, counselor, or nurse on the minimum salary schedule. The District shall credit the teacher, librarian, counselor, or nurse for each year of experience, whether or not the years are consecutive. *Education Code 21.402(a), 21.403(c); 19 TAC 153.1022*

EMPLOYEES  
FORMERLY ON  
CAREER LADDER

A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district.

“Gross monthly salary” includes the amount the teacher or librarian received as a career ladder supplement under Section 16.057, as that section existed January 1, 1993.

*Education Code 21.402(f), 21.403(d)*

In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to:

LEVEL TWO  
EDUCATORS

1. Placement on the minimum salary schedule at the step above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level two of the career ladder on August 31, 1993; or

LEVEL THREE  
EDUCATORS

2. Placement on the minimum salary schedule at the step two steps above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level three of the career ladder on August 31, 1993.

*Education Code 21.403(d)*

SUPPORT STAFF  
COMPENSATION

The District shall pay each District employee, other than an administrator or an employee subject to the minimum salary schedule, an amount at least equal to:

1. \$500, for full-time employees.
2. \$250, for part-time employees.



COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

Such payment is in addition to wages the District would otherwise pay the employee during the school year.

*Education Code 22.107*

PAY INCREASES

The District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53* [See CE]

SALARY ADVANCES  
AND LOANS

The District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.-Houston [1st Dist.] 1976, no writ)*

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. The amount designated may not exceed the amount permitted under federal law. *Education Code 21.103*

USE

An employee may use the compensation designated for health care supplementation for any employee benefit, including depositing 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 21.106*

ANNUAL ELECTION

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 21.105*

DEFINITION

For purposes of the designation of compensation as health care supplementation, "employee" means an active, contributing member of TRS who:

1. Is employed by the District;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the District as an independent contractor.

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

*Education Code 22.101(2)*

FAIR LABOR  
STANDARDS ACT

Unless an exemption applies, the District shall pay each of its employees not less than minimum wage. *29 U.S.C. 206(a)(1)*

MINIMUM WAGE

Unless an exemption applies, the District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours in excess of forty in any workweek. *29 U.S.C. 207(a)(1); 29 CFR part 778*

COMPENSATORY  
TIME

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

ACCRUAL

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

PAYMENT FOR  
ACCRUED TIME

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).

USE

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the District.

The Fair Labor Standards Act does not prohibit the District from compelling the use of accrued compensatory time.

*29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)*

EXEMPT  
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity, including academic administrative personnel or teachers in elementary or secondary schools. *29 U.S.C. 213(a)(1)*

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

SALARY BASIS	<p>To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the District did not intend to pay employees on a salary basis.</p>
SAFE HARBOR POLICY	<p>If the District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the District will not lose the deduction unless the District willfully violates the policy by continuing to make improper deductions after receiving employee complaints.</p> <p>The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the District's intranet.</p> <p><i>29 CFR 541.600, .602(a), .603</i></p>
WAGE AND HOUR RECORDS	<p>The District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. <i>29 CFR 516.2</i></p>
TRS CONTRIBUTIONS FOR NEW HIRES	<p>During each fiscal year, the District shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.</p> <p>"New member" means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.</p> <p>On a monthly basis, the District shall:</p> <ol style="list-style-type: none"><li>1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and</li><li>2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate</li></ol>

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

compensation for the first 90 days of employment for new employees.

The District must remit the amount required under this section to TRS at the same time the District remits the member's contribution. In computing the amount required to be remitted, the District shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

*Gov't Code 825.4041*

TRS SURCHARGE FOR  
REHIRED RETIREES

TRS FUND  
CONTRIBUTIONS

During each payroll period for which a retiree is reported, the District shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and
2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

HEALTH  
INSURANCE  
CONTRIBUTIONS

In addition, 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. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers.

EXCEPTION

The District is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005.

*Gov't Code 825.4092; Insurance Code 1575.204*

TERMINATION OF CONTRACT

DF  
(LEGAL)

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	<b>Note:</b> 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).
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WITHHOLDING INFORMATION	An attempt by any District employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). <i>Education Code 26.008(b)</i>
DISCHARGE OF CONVICTED EMPLOYEES	<p>The District shall discharge an employee if the District obtains information through a criminal history record information (CHRI) review that:</p> <ol style="list-style-type: none"><li>1. The employee has been convicted of:<ol style="list-style-type: none"><li>a. A felony under Penal Code Title 5;</li><li>b. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or</li><li>c. An offense under the laws of another state or federal law that is equivalent to an offense under paragraphs a or b; and</li></ol></li><li>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.</li></ol>
EXCEPTION	<p>However, the District is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:</p> <ol style="list-style-type: none"><li>1. The date of the offense is more than 30 years before June 15, 2007; and</li><li>2. The employee satisfied all terms of the court order entered on conviction.</li></ol>
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-

TERMINATION OF CONTRACT

DF  
(LEGAL)

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 CHILDREN

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

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

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

*Education Code 21.058*

FAILURE OF  
CERTIFICATION

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

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

DISTRICT'S  
OPTIONS

After an employee receives notice that the employee's contract is void 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 other than classroom teacher at the employee's existing rate of pay or at a reduced rate.

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

NO APPEAL OR  
CHAPTER 21  
HEARING

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 this chapter do not apply to the decision.

TERMINATION OF CONTRACT

DF  
(LEGAL)

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.</p> <p><i>Education Code 21.0031; <u>Nunez v. Simms</u>, 341 F.3d 385 (5th Cir. 2003)</i></p>
REPORT TO SBEC	<p>In addition to the reporting requirement under Family Code 261.101 [see FFG], the Superintendent shall promptly notify SBEC if the Superintendent has reasonable cause to believe that:</p>
CRIMINAL RECORD	1. An educator employed by or seeking employment by the District has a criminal record;
ASSESSMENT INSTRUMENT	2. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301; or
RESIGNATION	3. The educator resigned and reasonable evidence supports a recommendation by the Superintendent to terminate the educator based on a determination that the educator engaged in misconduct described in 4(a)–(e), below [see DFE];
TERMINATION	<p>4. An educator's employment at the District was terminated based on a determination that the educator:</p> <ul style="list-style-type: none"><li>a. Abused or otherwise committed an unlawful act with a student or minor;</li><li>b. 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.;</li><li>c. Illegally transferred, appropriated, or expended funds or other property of the District;</li><li>d. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or</li><li>e. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event.</li></ul> <p>"Abuse" has the meaning assigned by Family Code 261.001 and includes any sexual conduct involving an educator and a student or minor.</p>
REPORTS	<p>The Superintendent must file a report with SBEC within seven calendar days after first learning about an alleged incident of miscon-</p>

TERMINATION OF CONTRACT

DF  
(LEGAL)

duct described in items 1–3, above. The report must be in writing and in a form prescribed by SBEC.

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

The Superintendent shall notify the Board of the District and the educator of the filing of the report.

IMMUNITY

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

*Education Code 21.006; 19 TAC 249.14*



EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

EMPLOYEE FREE  
SPEECH

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

*Garcetti v. Ceballos*, 126 S.Ct. 1951 (2006); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969) [See also GKD]

WHISTLEBLOWER  
PROTECTION

The Board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by the District or another public employee to an appropriate law enforcement authority.

A “report” is made to an “appropriate law enforcement authority” if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

*Gov’t Code 554.002*

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov’t Code 554.008*

DEFINITIONS

“Employee” means an employee or appointed officer who is paid to perform services for the District. It does not include independent contractors. *Gov’t Code 554.001(4)*

“Law” means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov’t Code 554.001(1)*

A “good faith” belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and
2. The employee’s belief was reasonable in light of the employee’s training and experience.

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
  - a. Regulate under or enforce the law alleged to be violated in the report, or
  - b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dept. of Transp. v. Needham, 82 S.W.3d 314 (Tex. 2002)

WHISTLEBLOWER  
COMPLAINTS

An employee who alleges a violation of whistleblower protection may sue the District for injunctive relief, actual damages, court costs, and attorney's fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

INITIATE  
GRIEVANCE

Before suing, an employee must initiate action under the District's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke the District's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

LEGAL ACTION

If the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the District's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or
2. Terminate District grievance procedures and sue within the time lines established by Government Code 554.005 and 554.006.

*Gov't Code 554.005, 554.006* [See DGBA regarding grievance procedures]

NOTICE OF RIGHTS

The Board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. *Gov't Code 554.009*

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

PROTECTION FOR  
REPORTING CHILD  
ABUSE

The Board or its agents may not suspend or terminate the employment of, or otherwise discriminate against, a professional employee who in good faith:

1. Reports child abuse or neglect to:
  - a. The person's supervisor,
  - b. An administrator of the facility where the person is employed,
  - c. A state regulatory agency, or
  - d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of the foregoing may sue for injunctive relief, damages, or both. A District employee who has a cause of action under WHISTLEBLOWER PROTECTION may not bring an action under PROTECTION FOR REPORTING CHILD ABUSE.

*Family Code 261.110*

ATTENDANCE  
COMMITTEE  
MEMBERSHIP

A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee. *Education Code 25.092(c)*

REPORT OF DRUG  
OFFENSES

A teacher, administrator, or other District employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property any of the following substances:

1. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act.
2. A dangerous drug, as defined by the Texas Dangerous Drug Act.
3. An abusable glue or aerosol paint, as defined by Health and Safety Code Chapter 485, or a volatile chemical, if the substance is used or sold for the purpose of inhaling its fumes or vapors.
4. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

*Education Code 37.016*

REPORT TO LOCAL  
LAW ENFORCEMENT

A principal or person designated by the principal is not liable in civil damages for making a good faith report to law enforcement, as required by law, of an activity specified at Education Code 37.015.  
*Education Code 37.015* [See GRA(LEGAL)]

ADMINISTRATION OF  
MEDICATION

The District, the Board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of medication to a student in accordance with Education Code 22.052. *Education Code 22.052(a), (b)* [See FFAC]

PROTECTION OF  
NURSES

The District may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;
2. Constitutes a minor incident, as defined at Occupations Code Section 301.419; or
3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the District at the time of the refusal that this is the reason for refusing to engage in the act or omission.

*Occupations Code 301.352(a)*

IMMUNITY FROM  
INDIVIDUAL LIABILITY

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

'PROFESSIONAL  
EMPLOYEES'

A professional employee of the District is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion, except in circumstances where, in disciplining a student, the employee uses excessive force or his or her negligence results in bodily injury to the student.

"Professional employee of the District" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with the District to provide the teacher's services to the District; a supervisor; social worker; counselor; nurse; teacher's aide; a student in an education preparation program participating in a field experience or internship; a DPS-certified school bus driver, and any other person whose employment requires certification and the exercise of discretion.

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

MOTOR VEHICLE EXCEPTION	<p>Education Code Section 22.0511 does not apply to the operation, use, or maintenance of any motor vehicle.</p> <p><i>Education Code 22.0511(a)–(b), 22.051; <u>Hopkins v. Spring ISD</u>, 736 S.W.2d 617 (Tex. 1987); <u>Barr v. Bernhard</u>, 562 S.W.2d 844 (Tex. 1978)</i></p>
'INDIVIDUALS'	<p>In addition to the immunity described above [at PROFESSIONAL EMPLOYEES], and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (Coverdell Act). [See TEACHERS, below] Nothing in Education Code 22.0511(c) shall be construed to limit or abridge any immunity or protection afforded an individual under state law. <i>Education Code 22.0511(c)</i></p>
NO WAIVER	<p>The District may not, by policy, contract, or administrative directive:</p> <ol style="list-style-type: none"><li>1. Require an employee to waive the employee's immunity from liability under Education Code 22.0511; or</li><li>2. Require an employee who acts in good faith to pay for or replace property belonging to a student or other person that the employee possessed because of an act incident to or within the scope of employment. [See TEXTBOOKS AND TECHNOLOGICAL EQUIPMENT, below]</li></ol> <p><i>Education Code 22.0511(d)</i></p>
'TEACHERS' (COVERDELL ACT)	<p>Except as provided in 20 U.S.C. Section 6736(b), no "teacher" in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if:</p> <ol style="list-style-type: none"><li>1. The teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;</li><li>2. The actions of the teacher were carried out in conformity with federal, state, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;</li><li>3. If appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the state in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;</li><li>4. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, fla-</li></ol>

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

grant indifference to the rights or safety of the individual harmed by the teacher; and

5. The harm was not caused by the teacher's operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to:
  - a. Possess an operator's license; or
  - b. Maintain insurance.

"Teacher" means:

1. A teacher, instructor, principal, or administrator;
2. Another educational professional who works in a school;
3. An individual member of a school board (as distinct from the Board); or
4. A professional or nonprofessional employee who works in a school, and:
  - a. In the employee's job, maintains discipline or ensures safety; or
  - b. In an emergency, is called on to maintain discipline or ensure safety.

*20 U.S.C. Section 6733, 6736(a)*

TEXTBOOKS AND  
TECHNOLOGICAL  
EQUIPMENT

The Board may not require an employee who acts in good faith to pay for a textbook, electronic textbook, or technological equipment that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

EXCEPTION

The District may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic textbook or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the employee to use the electronic textbook or technological equipment for personal business.

The written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to enter into such an agreement as a condition of employment.

*Education Code 31.104(e)*

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LEGAL)

UNITED STATES  
CONSTITUTION

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

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

TEXAS CONSTITUTION

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

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

FEDERAL LAWS  
SECTION 504

A district that receives federal financial assistance, directly or indirectly, 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 of 1973. *34 CFR 104.7(b), 104.11*

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 Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107, 35.140*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b); North Haven Board of Education v. Bell*, 456 U.S. 512 (1982)

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LEGAL)

STATE LAWS

WAGES, HOURS,  
CONDITIONS OF  
WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi ISD*, 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974)*; *Corpus Christi ISD v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

EMPLOYMENT  
POLICY

The District's employment policy must provide each employee with the right to present grievances to the Board.

The policy may not restrict the ability of an employee to communicate directly with a member of the Board regarding a matter relating to the operation of the District, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the Board.

*Education Code 11.1513*



PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LEGAL)

GRIEVANCE POLICY	<p>The District's grievance policy must permit an employee to report a grievance against a supervisor to a different supervisor if the employee alleges that the supervisor:</p> <ol style="list-style-type: none"><li>1. Violated the law in the workplace; or</li><li>2. Unlawfully harassed the employee.</li></ol> <p><i>Education Code 11.171</i></p>
FINALITY OF GRADES	<p>An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the board of the district in which the teacher is employed.</p> <p>The Board's determination is not subject to appeal.</p> <p><i>Education Code 28.0214</i></p>
OPEN MEETINGS ACT	<p>The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. <i>Gov't Code 551.074</i> [See BEC]</p>
CLOSED MEETING	<p>The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. [See BEC]</p>
RECORD OF PROCEEDINGS	<p>An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. <i>Education Code 7.057(c), (f)</i></p> <p>It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:</p> <ol style="list-style-type: none"><li>1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:<ol style="list-style-type: none"><li>a. The tape recording must be complete, audible, and clear; and</li><li>b. Each speaker must be clearly identified.</li></ol></li><li>2. All evidence admitted;</li><li>3. All offers of proof;</li></ol>

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4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the Board; and
8. The decision of the Board.

*19 TAC 157.1073(d)*

WHISTLEBLOWER  
COMPLAINTS

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the District's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.005* [See DG]

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GUIDING PRINCIPLES	The Board encourages employees to discuss their concerns and complaints through informal conferences with their supervisor, principal, or other appropriate administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
DIRECT COMMUNICATION WITH BOARD MEMBERS	Employees shall not be prohibited from communicating with Board members regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.
FORMAL PROCESS	<p>If an informal conference regarding a complaint fails to reach the outcome requested by the employee, he or she may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time.</p> <p>The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.</p>
FREEDOM FROM RETALIATION	Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint. [See DG]
NOTICE TO EMPLOYEES	The principal of each campus and other supervisory personnel shall inform employees of this policy.
SPECIFIC COMPLAINTS	<p>For more information on how to proceed with complaints regarding:</p> <ol style="list-style-type: none"><li>1. Alleged discrimination, including violations of Title IX or Section 504, see DAA.</li><li>2. Instructional materials, see EFA.</li><li>3. A commissioned peace officer who is an employee of the District, see CKE.</li></ol>
OTHER REVIEW PROCESSES	<p>Complaints alleging certain forms of harassment, including harassment by a supervisor, shall be processed in accordance with DIA.</p> <p>Complaints arising from any of the following must be addressed through the local and statutory processes indicated below:</p>

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1. The proposed nonrenewal of a term contract issued under Chapter 21 of the Texas Education Code, in accordance with DFBB.
2. The proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Texas Education Code during the contract term, in accordance with DFAA, DFBA, or DFCA, respectively.

This policy shall apply to all other employee complaints.

DEFINITIONS

For purposes of this policy, terms are defined as follows:

COMPLAINT /  
GRIEVANCE

The terms "complaint" and "grievance" shall have the same meaning. A complaint under this policy may include:

1. Grievances concerning an employee's wages, hours, or conditions of work;
2. Specific allegations of unlawful discrimination in employment based on the employee's sex, race, religion, national origin, age, or disability;
3. Specific allegations of unlawful discrimination or retaliation based on the employee's exercise of legally protected rights; or
4. Specific allegations of adverse personnel action based on the employee's good faith report to an appropriate law enforcement authority of a violation of a law by the District or a District employee, i.e., "whistleblower complaints." [See DG]
5. Complaints arising from the dismissal or termination of an at-will employee. [See DCD]
6. Complaints arising from the termination at end of year of the probationary contract of a professional employee. [See DFAB]

FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

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RESPONSE	At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered or sent by U.S. Mail to the employee's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on the deadline and received by the employee or designated representative no more than three days after the response deadline.
DAYS	"Days" shall mean District business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."
REPRESENTATIVE	"Representative" means any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process.
DESIGNATION OF REPRESENTATIVE	The employee may designate a representative through written notice to the District at any level of this process. If the employee designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel.
WHISTLEBLOWER COMPLAINTS	Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with LEVEL TWO, below. Time lines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint. [See DG]
GENERAL PROVISIONS	<p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not bring separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.</p> <p>When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.</p>
UNTIMELY FILINGS	<p>All time limits shall be strictly followed unless modified by mutual written consent.</p> <p>If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.</p>

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COSTS INCURRED	Each party shall pay its own costs incurred in the course of the complaint.
COMPLAINT FORM	<p>Complaints under this policy shall be submitted in writing on a form provided by the District.</p> <p>Copies of any documents that support the complaint should be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted unless the employee did not know the documents existed before the Level One conference.</p> <p>A complaint form that is incomplete in any material aspect may be dismissed, but may be refiled with all the requested information if the refiling is within the designated time for filing a complaint.</p>
COMPLAINTS AGAINST SUPERVISORS	Complaints alleging a supervisor's violation of law may be made to the Superintendent beginning at Level Two. A complaint alleging a violation of law by the Superintendent may be made directly to the Board beginning at Level Three.
LEVEL ONE	<p>Complaint forms must be filed:</p> <ol style="list-style-type: none"><li>1. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and</li><li>2. With the lowest level administrator who has the authority to remedy the alleged problem.</li></ol> <p>In most circumstances, employees on a school campus shall file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.</p> <p>If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.</p> <p>If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.</p> <p>The appropriate administrator shall hold a conference with the employee within ten days after receipt of the written complaint.</p> <p>The administrator shall have ten days following the conference to provide the employee a written response.</p>

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LEVEL TWO

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level One.

The Superintendent or designee shall hold a conference within ten days after the appeal notice is filed. At the conference, the Superintendent or designee shall consider only the issues and documents presented at Level One and identified in the Level Two appeal notice. The Level Two conference shall be audiotaped. The Superintendent or designee shall have ten days following the conference to provide the employee a written response.

LEVEL THREE

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

The Superintendent or designee shall inform the employee of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the employee or the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presen-

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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(LOCAL)

tation by the employee or the employee's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.



PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

STAFF DEVELOPMENT	Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee [see BQB].
TRAINING SPECIFICS	<p>The staff development provided by the District must be conducted in accordance with standards developed by the District and designed to improve education in the District.</p> <p>The staff development may include:</p> <ol style="list-style-type: none"><li>1. Training in technology, conflict resolution, and discipline strategies, including classroom management, District discipline policies, and the Student Code of Conduct;</li><li>2. Training that relates to instruction of students with disabilities and is designed for educators who work primarily outside the area of special education; and</li><li>3. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.</li></ol> <p><i>Education Code 21.451</i></p> <p>The District may use District-wide staff development that has been developed and approved through the District-level decision process. <i>Education Code 21.452(c)</i></p>
SPECIAL PROGRAMS TRAINING	A district that receives assistance under Title I shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the state content standards, to enable all children to meet the state's student performance standards; and shall meet the requirements of federal law. <i>20 U.S.C. 6320(a), 7801(34)</i>
TITLE I STAFF DEVELOPMENT	
GIFTED AND TALENTED EDUCATION	<p>The District shall ensure that:</p> <ol style="list-style-type: none"><li>1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.</li><li>2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.</li><li>3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.</li></ol>

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

*19 TAC 89.2*

ADULT EDUCATION All adult education staff shall receive at least 12 clock hours of professional development annually. All staff new to adult education shall receive six clock hours of preservice professional development before they begin work in an adult education program.  
*19 TAC 89.25(a)(1), (2)*

Directors, teachers, counselors, and supervisors who do not have valid Texas teacher certification must attend 12 clock hours of in-service professional development annually in addition to the 12 hours required above until they have completed either six clock hours of adult education college credit or attained two years of adult education experience. *19 TAC 89.25(a)(4)(B)*

EXCEPTIONS The in-service professional development requirements may be reduced by local programs in individual cases where exceptional circumstances prevent employees from completing the required hours of in-service professional development. Documentation justifying such circumstances must be kept. Requests for exemption in individual cases may be submitted to TEA for approval in the application for funding and must include justification and proposed qualification. *19 TAC 89.25(a)(5)*

VOLUNTEERS The above requirements also apply to volunteers who generate student contact time that is accrued by the adult education program and reported to TEA for funding purposes. *19 TAC 89.25(7)*

RECORDS Records of staff qualifications and professional development shall be maintained by the District and must be available for monitoring.  
*19 TAC 89.25(a)(6)*

AUTOMATED  
EXTERNAL  
DEFIBRILLATORS The District shall annually make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).

The instruction provided in the use of AEDs must meet guidelines for approved AED training under Health and Safety Code 779.002. Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the Commissioner, and each student who serves as an athletic trainer, must:

1. Participate in the instruction;

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

*Education Code 22.902*

STEROIDS

The District shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the University Interscholastic League (UIL) complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the District or a private entity with relevant expertise.

*Education Code 33.091(c-1)*

RESOURCES FOR  
STAFF DEVELOPMENT

If the District receives resources from the Commissioner's staff development account, it must pay to the Commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the District. *Education Code 21.453*



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.

**EXCEPTION** 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.

*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 of Education 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 development, 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*



BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ELEMENTARY)

EHAB  
(LEGAL)

ESSENTIAL  
KNOWLEDGE AND  
SKILLS

A district that offers kindergarten through grade 5 must provide instruction in the required curriculum as specified in 19 TAC 74.1 (relating to Essential Knowledge and Skills).

The District shall ensure that sufficient time is provided for teachers to teach and students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English.

*19 TAC 74.2*

DAILY PHYSICAL  
ACTIVITY

The District shall require students in kindergarten through grade 5 to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the District's physical education program or through structured activity during a campus's daily recess.

If the District determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the District may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

The District must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

*Education Code 28.002(l)*





SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

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**Note:** Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

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TUITION-FREE

The District shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. The District may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.

The District may not charge tuition for a prekindergarten program offered under these provisions.

EXEMPTION

The District may apply to the Commissioner for an exemption from the requirement that it provide a free prekindergarten program if the District would be required to construct classroom facilities in order to provide the program.

ELIGIBILITY

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless, as defined by federal law [see FD(LEGAL)], regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201.

A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

NOTICE

The District shall develop a system to notify the population in the District with children who are eligible for enrollment in a free pre-

SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

kindergarten program of the availability of the program. The system must include public notices issued in English and Spanish.

HALF-DAY BASIS

A free prekindergarten class shall be operated on a half-day basis.

TRANSPORTATION

The District is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

*Education Code 29.153*

TUITION-  
SUPPORTED  
OR DISTRICT-  
FINANCED

The District may offer on a tuition basis or use District funds to provide:

1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten; and
2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

The District may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (regarding PEIMS data for prekindergarten programs). The District must submit its proposed tuition rate to the Commissioner for approval.

*Education Code 29.1531*

PROGRAM DESIGN

The District's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. *Education Code 29.1532(a)*

PREKINDERGARTEN  
EXPANSION GRANT

The District may use funds from grants administered by the Commissioner of Education to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.

The District may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs.

The District may use funds granted under this program in contracting with another entity, including a private entity.

*Education Code 29.155*

READY TO READ  
GRANT

A district that operates a prekindergarten program is eligible to apply for a Ready to Read grant if at least 75 percent of the children

enrolled in the program are low-income students, as determined by Commissioner rule.

Grants shall be used to provide scientific, research-based prereading instruction for the purpose of directly improving prereading skills and for identifying cost-effective models for prereading intervention. Grants funds shall be used for:

1. Professional staff development in prereading instruction;
2. Prereading curriculum and materials;
3. Prereading skills assessment materials; and
4. Employment of prereading instructors.

*Education Code 29.157*

STATEWIDE  
INFORMATION  
REFERRAL  
NETWORK

The District shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. The District shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

"Child care and education services" includes child-care and education services provided by the District through a prekindergarten or after-school program. *Gov't Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, the District shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services. On certifying eligibility, the District shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

The District shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

*Gov't Code 531.0312(c)–(e)*

SHARED SITE

Before establishing a new prekindergarten program, the District shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. *Education Code 29.1533*

SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

PRE-K LICENSING  
STANDARDS

If the District contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*

SPECIAL PROGRAMS  
OTHER INSTRUCTIONAL INITIATIVES

EHBK  
(LEGAL)

RECOGNITION DATES	The District shall regularly observe the following recognition days, weeks, and months by appropriate programs, celebrations, and activities:
WOMEN'S INDEPENDENCE DAY	August 26: Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. <i>Gov't Code 662.051</i>
TEXAS FIRST RESPONDERS DAY	September 11: Texas First Responders Day, in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. <i>Gov't Code 662.050</i>
CONSTITUTION DAY	September 17: A district that receives federal funds for a fiscal year shall hold an educational program on the United States Constitution for the students served by the District. <i>Pub. L. 108-447 (2004)</i>
CELEBRATE FREEDOM WEEK	Week of September 17: Celebrate Freedom Week, to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded. [See CELEBRATE FREEDOM WEEK, below] <i>Education Code 29.907</i>
FATHER OF TEXAS DAY	November 3: Father of Texas Day, in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas. <i>Gov't Code 662.045</i>
SAM RAYBURN DAY	January 6: Sam Rayburn Day, in memory of that great Texas and American statesman, Sam Rayburn. <i>Gov't Code 662.041</i>
STATE OF TEXAS ANNIVERSARY REMEMBRANCE DAY	February 19: State of Texas Anniversary Remembrance Day (STAR Day), in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846. <i>Gov't Code 662.047</i>
TEXAS HISTORY MONTH	March: Texas History Month, in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history. <i>Gov't Code 662.102.</i>
PARAPROFESSIONAL DAY	The second Wednesday in May: Public School Paraprofessional Day, in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. <i>Gov't Code 662.049</i>
OPTIONAL RECOGNITION MONTHS	In addition, the District may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:

SPECIAL PROGRAMS  
OTHER INSTRUCTIONAL INITIATIVES

EHBK  
(LEGAL)

LUNG CANCER AWARENESS MONTH	November: Lung Cancer Awareness Month, to increase awareness of lung cancer and encourage funding of research and more effective treatments. <i>Gov't Code 662.104</i>
CHILD SAFETY MONTH	April: Child Safety Month, in recognition of the children of this state as this state's most precious resource. <i>Gov't Code 662.103</i>
CELEBRATE FREEDOM WEEK  APPROPRIATE INSTRUCTION	<p>The week in which September 17 falls is designated as Celebrate Freedom Week in public schools. For purposes of this section, Sunday is considered the first day of the week. <i>Education Code 29.907</i></p> <p>Each social studies class shall include, during Celebrate Freedom Week or during another full school week as determined by the Board, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context.</p> <p>The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.</p> <p><i>19 TAC 74.33(a)</i></p>
RECITATION	Each district shall require that, during Celebrate Freedom Week or other prescribed week of instruction, students in grades 3–12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their Just Powers from the Consent of the Governed."
EXCEPTION	<p>Each district shall excuse from recitation a student:</p> <ol style="list-style-type: none"><li>1. Whose parent or guardian submits to the District a written request that the student be excused;</li><li>2. Who, as determined by the District, has a conscientious objection to the recitation; or</li><li>3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.</li></ol> <p><i>19 TAC 74.33(b)</i></p>

SPECIAL PROGRAMS  
OTHER INSTRUCTIONAL INITIATIVES

EHBK  
(LEGAL)

"EDUCATION: GO GET  
IT" WEEK

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as "Education: Go Get It" Week. During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information about the pursuit of higher education, including:

1. Higher education options;
2. Standard admission requirements for institutions of higher education, including:
  - a. Overall high school grade point average;
  - b. Required curriculum; and
  - c. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;
3. Automatic admission of certain students to general academic teaching institutions under Education Code 51.803 [see EIC]; and
4. Financial aid availability and requirements, including the financial aid information provided by counselors under Education Code 33.007(b) [see EJ].

In addition, each middle school, junior high school, and high school shall provide to students at least one public speaker to promote the importance of higher education.

*Education Code 29.911*

CHARACTER  
EDUCATION

The District may provide a character education program, which must:

1. Stress positive character traits, such as:
  - a. Courage;
  - b. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
  - c. Integrity;
  - d. Respect and courtesy;
  - e. Responsibility, including accountability, diligence, perseverance, and self-control;
  - f. Fairness, including justice and freedom from prejudice;

SPECIAL PROGRAMS  
OTHER INSTRUCTIONAL INITIATIVES

EHBK  
(LEGAL)

- g. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
  - h. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law; and
  - i. School pride;
- 2. Use integrated teaching strategies; and
  - 3. Be age appropriate.

In developing or selecting a character education program under this section, the District shall consult with a committee selected by the District that consists of parents of District students, educators, and other members of the community, including community leaders.

The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

*Education Code 29.906*

CPR INSTRUCTION

The District may accept from TEA donations the agency receives under Education Code 7.026 for use in providing instruction to students in the principles and techniques of CPR. The District may accept other donations, including donations of equipment, for use in providing CPR instruction. *Education Code 29.903*



EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

**NOTICE TO PARENTS** Each school year, the District shall notify the parent of each student enrolled in grade nine or above of the availability of programs under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs. The notice must include the name and contact information of any public or private entity offering such a program in the District.

The District may provide the notice on the District's Internet Web site.

*Education Code 28.010*

**COLLEGE CREDIT PROGRAM** Not later than the fall 2008 semester, the District shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

Annually, the District shall report to TEA:

1. The number of students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

*Education Code 28.009*

**COLLEGE-LEVEL COURSES** The Board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools
2. Middle States Association of Colleges and Schools
3. New England Association of Colleges and Schools
4. North Central Association of Colleges and Schools

EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

5. Western Association of Colleges and Schools
6. Northwest Association of Colleges and Schools

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by the District. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

*19 TAC 74.25*

DUAL CREDIT  
PROGRAMS

The District may enter into an agreement with a public college to form a dual credit partnership. *19 TAC Ch. 4, Subch. D*

For purposes of the following provisions, "college" means a public two-year associate degree-granting institution or a public university.

"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 4.83(4)*

ATTENDANCE  
ACCOUNTING

The time during which a student attends a dual credit course shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. [See FEB] *Education Code 42.005*

PARTNERSHIP  
AGREEMENT

The Board of the District and the governing board of a college must approve any dual credit partnership between the schools before offering such courses.

The partnership agreement must address:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and gathering;
7. Academic policies and student support services;
8. Transcribing of credit; and
9. Funding.

EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

*19 TAC 4.84(a), 4.85*

CERTAIN ACADEMIES      The District shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*



ACADEMIC GUIDANCE PROGRAM

EJ  
(LEGAL)

HIGHER EDUCATION  
COUNSELING

Each counselor at an elementary, middle, or junior high school shall advise students and their parents or guardians regarding the importance of higher education, coursework designed to prepare students for higher education, and financial aid availability and requirements.

During the first school year a student is enrolled in high school, and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must cover:

1. The importance of higher education;
2. The advantages of completing the recommended or advanced high school program;
3. The disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
4. Financial aid eligibility;
5. Instruction on how to apply for federal financial aid;
6. The center for financial aid information established under Education Code 61.0776;
7. The automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803; and
8. The eligibility and academic performance requirements for the TEXAS Grant; and
9. The availability of programs in the District under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs.

*Education Code 33.007; 19 TAC 61.1071*

NOTICE OF GRANT  
PROGRAMS

The District shall notify students in middle school, junior high school, and high school and those students' teachers, counselors, and parents of:

1. The Toward Excellence, Access, and Success (TEXAS) program and the Teach for Texas program;
2. The eligibility requirements of each program;
3. The need for students to make informed curriculum choices to be prepared for success beyond high school; and

ACADEMIC GUIDANCE PROGRAM

EJ  
(LEGAL)

4. Sources of information on higher education admissions and financial aid in a manner that assists the District in implementing its strategies, contained in the District improvement plan, for resources needed to implement identified strategies.

NOTATION ON  
TRANSCRIPT OR  
DIPLOMA

In addition, the District shall ensure that each student's official transcript or diploma indicates:

1. Whether the student has completed or is on schedule to complete the recommended or the advanced high school curriculum required for grant eligibility.
2. That the District has certified to the Commissioner of Education that the high school did not offer all the necessary courses for a student to complete all parts of the recommended or advanced high school curriculum, but that the student completed all courses offered at the District's high school that would apply toward the completion of the recommended or advanced high school curriculum.

*Education Code 56.308*

TESTING PROGRAMS

EK  
(LEGAL)

LOCAL ACHIEVEMENT  
TESTING

In addition to the state-administered assessment instruments, the District may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, "assessment instrument" means a District-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to the District for verification. The District shall have 90 days to verify the accuracy of test data and report the results to the Board.

The company or organization shall provide test results in electronic form to the District and to TEA. If the District develops its own assessment instrument, it must report the results in electronic form to TEA.

The District shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101 Subchapter C. [See EKB] The District may not use the same form of an assessment instrument for more than three years.

*Education Code 39.026, 39.032; 19 TAC 101.101*

In any subject area for which a state assessment is administered, the District may not administer District-required assessments to any student on more than 10 percent of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*

COLLEGE  
PREPARATION  
ASSESSMENTS

Each school year, and at state cost, the District shall administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade, for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade, for the purpose of measuring a student's progress toward readiness for college and the workplace.

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost, one of

TESTING PROGRAMS

EK  
(LEGAL)

the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes. A high school student is not prohibited from taking a test more than once, at the student's own expense.

TEA shall:

1. Select and approve vendors of the specific assessment instruments administered under this section; and
2. Pay all fees associated with the administration of the assessment instrument, and the Commissioner shall reduce the total amount of state funds allocated to the District from any source in the same manner described for a reduction in allotments under Education Code 42.253.

*Education Code 39.0261*

HOME-SCHOOLED  
STUDENTS

The following provisions apply to a home-schooled student entitled under Education Code 25.001 to attend school in the District.

The District shall permit a home-schooled student to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the District.

"Home-schooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

FEES

The District shall require a home-schooled student to pay the same fee to participate in such a test that a student enrolled in the District is required to pay.

NOTICE

The District shall post on an Internet Web site maintained by the District the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice must state that the PSAT/NMSQT or the advanced placement test is available for home-schooled students eligible to attend school in the District and describe the procedures for a home-schooled student to register for the test.

A district that does not maintain an Internet Web site must publish the notice in a newspaper in the District. If a newspaper is not published in the District, the District shall provide for the publication of notice in at least one newspaper in the county in which the District's central administrative office is located.



TESTING PROGRAMS

EK  
(LEGAL)

The required notice must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a District school.

*Education Code 29.916*



TESTING PROGRAM  
READING ASSESSMENT

EKC  
(LEGAL)

ADOPTION OF  
READING  
INSTRUMENTS

The Commissioner shall adopt a list of reading instruments that the District may use to diagnose student reading development and comprehension. The District-level committee may adopt a list of reading instruments for use in the District in addition to the reading instruments on the Commissioner's list. Each reading instrument adopted by the Commissioner or the District-level committee shall be based on scientific research concerning reading skills development and reading comprehension. A list of adopted reading instruments shall provide for diagnosing the reading development and comprehension of students participating in a bilingual or special language program.

The District shall administer, at the kindergarten and first- and second-grade levels, a reading instrument on the list adopted by the Commissioner or by the District-level committee. The District shall administer the reading instrument in accordance with the Commissioner's recommendations.

The District shall administer at the beginning of the seventh grade a reading instrument adopted by the Commissioner to each student whose performance on the state assessment in reading in grade six did not demonstrate reading proficiency, as determined by the Commissioner.

REPORTS

The Superintendent shall:

1. Report to the Commissioner and the Board the results of the reading instruments;
2. Report, in writing, to a student's parent or guardian the student's results on the reading instrument; and
3. Effective with the 2008–09 school year, and using the school readiness certification system, report each student's raw score on the reading instrument to TEA using the school readiness certification system.

The results of reading instruments may not be used for purposes of appraisals, incentives, or accountability.

The reading instruments specified in this policy are required only if funds are appropriated for administering them. Funds, other than local funds, may be used to pay the cost of administering a reading instrument only if the instrument is on the list adopted by the Commissioner.

NOTICE TO  
PARENTS

The District shall notify the parent or guardian of each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The District shall make a good-faith effort

TESTING PROGRAM  
READING ASSESSMENT

EKC  
(LEGAL)

to ensure that this notice is provided in person or by regular mail, is clear and easy to understand, and is written in English and in the parent or guardian's native language.

ACCELERATED  
READING  
INSTRUCTION  
PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. [See ACCELERATED READING INSTRUCTION PROGRAM at EHBC(LEGAL)]

*Education Code 28.006*

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

## SECTION F: STUDENTS

FA	STUDENT GOALS AND OBJECTIVES
FB	EQUAL EDUCATIONAL OPPORTUNITY
FC	SCHOOL ATTENDANCE AREAS
FD	ADMISSIONS
FDA	Interdistrict Transfers
FDAA	Public Education Grants
FDB	Intradistrict Transfers and Classroom Assignments
FDC	Homeless Students
FDD	School Safety Transfers
FE	ATTENDANCE
FEA	Compulsory Attendance
FEB	Attendance Accounting
FEC	Attendance for Credit
FED	Attendance Enforcement
FEE	Open/Closed Campus
FEF	Released Time
FF	STUDENT WELFARE
FFA	Wellness and Health Services
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FFAC	Medical Treatment
FFAD	Communicable Diseases
FFAE	School-Based Health Centers
FFAF	Individualized Health Plan
FFB	Crisis Intervention
FFC	Student Support Services
FFD	Student Insurance
FFE	Student Assistance Programs/Counseling
FFEA	Comprehensive Guidance Program
FFEB	Substance Abuse
FFF	Student Safety
FFFA	Supervision of Students
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FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect
FFH	Freedom from Harassment
FG	STUDENT AWARDS AND SCHOLARSHIPS
FH	STUDENT VOLUNTEERS

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

## SECTION F: STUDENTS

FJ	GIFTS AND SOLICITATIONS
FL	STUDENT RECORDS
FLA	Confidentiality of Student Health Information
FM	STUDENT ACTIVITIES
FMA	School-Sponsored Publications
FMB	Student Government
FMD	Social Events
FME	Performances
FMF	Contests and Competition
FMG	Travel
FMH	Commencement
FN	STUDENT RIGHTS AND RESPONSIBILITIES
FNA	Student Expression
FNAA	Distribution of Nonschool Literature
FNAB	Use of School Facilities for Nonschool Purposes
FNB	Involvement in Decision Making
FNC	Student Conduct
FNCA	Dress Code
FNCB	Care of School Property
FNCC	Prohibited Organizations and Hazing
FNCD	Tobacco Use and Possession
FNCE	Telecommunications Devices
FNCF	Alcohol and Drug Use
FNCG	Weapons
FNCH	Assaults
FNCI	Disruptions
FND	Married Students
FNE	Pregnant Students
FNF	Interrogations and Searches
FNG	Student and Parent Complaints/Grievances
FO	STUDENT DISCIPLINE
FOA	Removal by Teacher
FOB	Out-of-School Suspension
FOC	Placement in a Disciplinary Alternative Education Setting
FOCA	Disciplinary Alternative Education Program Operations
FOD	Expulsion
FODA	Juvenile Justice Alternative Education Program
FOE	Emergency and Alternative Placement
FOF	Students with Disabilities
FP	STUDENT FEES, FINES, AND CHARGES

ADMISSIONS

FD  
(LEGAL)

GENERAL ELIGIBILITY      The Board or its designee shall admit into the public schools of the District free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

STUDENT AND  
PARENT

1.    The person and either parent reside in the District.

CONSERVATOR

2.    The person does not reside in the District, but one of the parents resides in the District and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.

GUARDIAN OR  
PERSON HAVING  
LAWFUL CONTROL

3.    The person and his or her guardian or other person having lawful control under an order of a court reside in the District.

STUDENTS LIVING  
SEPARATE AND  
APART

4.    The person is under the age of 18 and has established a separate residence in the District apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the District is not for the primary purpose of participation in extracurricular activities. The Board is not required to admit such person, however, if the person has:

- a.    Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
- b.    Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or
- c.    Been convicted of a criminal offense and is on probation or other conditional release.

*Education Code 25.001(a), (b), (d)*

HOMELESS  
STUDENTS

5.    The person is a homeless child. [See also FDC]

- a.    A child is "homeless," under the McKinney-Vento Homeless Education Act, if the child lacks a fixed, regular, and adequate nighttime residence. This includes:
  - (1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in

emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (4) Migratory children living in circumstances described above.

"Migratory child" means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work:

- (a) Has moved from one school district to another; or
- (b) Resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

*20 U.S.C. 6399*

- b. A child is homeless, under state law, regardless of the residence of the child, either parent, or the child's guardian or other person having lawful control, if:
  - (1) The child lacks a fixed, regular, and adequate nighttime residence; or
  - (2) The child has a primary nighttime residence in a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used



ADMISSIONS

FD  
(LEGAL)

as, a regular sleeping accommodation for human beings.

*Education Code 25.001(b); 42 U.S.C. 11434(a)*

FOREIGN  
EXCHANGE  
STUDENTS

6. The person is a foreign exchange student placed with a host family that resides in the District by a nationally recognized foreign exchange program, unless the District has applied for and been granted a waiver by the Commissioner because:
  - a. This requirement would impose a financial or staffing hardship on the District;
  - b. The admission would diminish the District's ability to provide high quality education services for the District's domestic students; or
  - c. The admission would require domestic students to compete with foreign exchange students for educational resources.

*Education Code 25.001(b)(6), (e)*

STUDENTS IN  
RESIDENTIAL  
FACILITY

7. The person resides at a residential facility, as defined in Education Code 5.001, located in the District. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located. *Education Code 25.001(b)(7), 29.012(c)*

STUDENTS OVER 18

8. The person resides in the District and is 18 or older or the person's disabilities of minority have been removed. *Education Code 25.001(b)(8)*

RESIDENT  
GRANDPARENT

9. The person does not reside in the District but the grandparent of the person:
  - a. Resides in the District; and
  - b. Provides a substantial amount of after-school care for the person as determined by the Board.

*Education Code 25.001(b)(9)*

PROOF OF ELIGIBILITY

The District may require evidence that a person is eligible to attend the public schools of the District at the time it considers an application for admission of the person. The Board or its designee shall establish minimum proof of residency acceptable to the District. The Board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, the Board shall determine whether an applicant qualifies as a resident of the District and may adopt reasonable

ADMISSIONS

FD  
(LEGAL)

guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*

The District may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

ILLEGAL ALIENS

Denying enrollment to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Plyler v. Doe, 457 U.S. 202 (1982)*

HIGH SCHOOL  
EQUIVALENCY  
CERTIFICATE

A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. *Education Code 29.087(h)*

SUBSTITUTE FOR  
PARENT OR  
GUARDIAN

The Board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. *Education Code 25.001(j)*

STUDENTS IN FOSTER  
CARE

A student placed in foster care by an agency of the state or a political subdivision, and whose foster parents reside in the District, shall be permitted to attend District schools free of any charge to the foster parents or to the agency. No durational residency requirement shall be used to prohibit such a student from fully participating in all activities sponsored by the District. *Education Code 25.001(f)*

A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Department of Human Services at a residence outside the attendance area for the school or outside the District is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition. *Education Code 25.001(g)*

TRANSFERS FROM  
OTHER STATES

The District shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the Commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to the District. *Education Code 25.003*

TEXAS YOUTH  
COMMISSION

A school-age child of an employee of the Texas Youth Commission (TYC) residing in an adjacent district may attend school in the District free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TYC facility. *Education Code 25.042*

ADMISSIONS

FD  
(LEGAL)

MILITARY  
DEPENDENTS

The District may not charge tuition for the attendance of a student who is domiciled in another state and resides in military housing that is located in the District but is exempt from taxation by the District. *Education Code 25.004*

ENROLLMENT

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. The District shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

LEGAL SURNAME

A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

REQUIRED  
DOCUMENTATION

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 of Education 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;  
  
Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.
3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

*Education Code 25.002(a); 19 TAC 129.1(a), (b)*

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

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

ADMISSIONS

FD  
(LEGAL)

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)*

CHILD IN FPS  
POSSESSION

The District shall enroll a child without the required documentation if the Department of Family and Protective Services (FPS) has taken possession of the child. FPS shall ensure that the required documentation is furnished to the District not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

INCONSISTENT  
DOCUMENTATION

If a child is enrolled under a name other than the name that appears in the identifying documents or records, the District shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.

MISSING  
DOCUMENTATION

If the required documents and other records are not furnished to the District within 30 days after enrollment, the District shall notify the police department of the city or the sheriff's department of the county in which the District is located and request a determination of whether the child has been reported as missing.

*Education Code 25.002(b), (c)*

STUDENTS UNDER 11

On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

1. Request from the person enrolling the child the name of each previous school attended by the child;
2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and
3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
  - a. A certified copy of the child's birth certificate; or
  - b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

*Code of Criminal Procedure 63.019*

FALSE INFORMATION

When accepting a child for enrollment, the District shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in the District is liable to the District if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee the District may charge [see FDA] or the amount the District has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

The District may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

PLACEMENT OF  
TRANSFERS

CREDITS AND  
RECORDS

The District shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at the District's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

The District shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in Texas Youth Commission educational programs. *Education Code 30.104*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. *Education Code 37.001(d)*

NONPUBLIC  
SCHOOLS

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. The District may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

ADMISSIONS

FD  
(LEGAL)

FOUNDATION SCHOOL  
PROGRAM

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person is at least five years of age and under 21 years of age, and has not graduated from high school.
2. On September 1 of the year, the person is at least 21 years of age and under 26 years of age and is admitted by the District to complete the requirements for a high school diploma.
3. The person is enrolled in prekindergarten under Education Code 29.153 [see EHBG].
4. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and the District has adopted a policy to admit students younger than five years of age.
5. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

*Education Code 25.001(a), 42.003*

SCREENING

The principal of each District school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

PEST CONTROL  
INFORMATION

At the time a student is registered, District personnel shall inform parents, guardians, or managing conservators that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455* [See CLB]

ADMISSIONS

FD  
(LOCAL)

PERSONS AGE 21 AND OVER	The District shall not admit into its public schools any person age 21 or over unless otherwise required by law.
REGISTRATION FORMS	Appropriate registration forms shall be completed annually and signed by the student's parent, legal guardian, or other person having lawful control. Students who have reached age 18 shall be permitted to complete and sign these forms themselves.
MINOR LIVING APART PERSON STANDING IN PARENTAL RELATION	A minor student residing in the District but whose parent, guardian, or other person having lawful control under a court order does not reside in the District shall present a Power of Attorney assigning responsibility for the student in all school-related matters to an adult resident of the District.
MISCONDUCT	Any such student who has engaged in misconduct that results in any of the consequences found in Education Code 25.001(d) shall not be permitted to attend a District school.
EXCEPTIONS	Based on the individual student's circumstance, the Superintendent shall have authority to grant exceptions to the Power of Attorney requirement and to the exclusion for misconduct.
RESIDENCY REVIEW	The Superintendent shall determine whether a minor student residing in the District separate and apart from a parent, guardian, or other person having lawful control is present in the District for the primary purpose of participating in extracurricular activities.
NONRESIDENT STUDENT IN GRANDPARENT'S AFTER-SCHOOL CARE	<p>The parent and grandparent of a nonresident student requesting admission under Education Code 25.001(b)(9) shall provide to the Superintendent the required information on the grandparent's residency and complete a form provided by the District describing the extent of after-school care to be provided by the grandparent.</p> <p>The Superintendent shall have authority to approve such admissions requests in accordance with criteria approved by the Board.</p>
PLACEMENT ACCREDITED SCHOOLS	<p>Students entering a District school from accredited public, private, or parochial schools after grade 1 shall provide evidence of prior schooling outside the District. They shall be placed initially at the grade level reached elsewhere, pending observation by the classroom teacher, guidance personnel, and the principal. On the basis of these observations and results of tests that may be administered by appropriate District personnel, the principal shall determine the final grade placement.</p> <p>For the purposes of this policy, "accredited" shall be defined as accreditation by TEA, an equivalent agency from another state, or an accrediting association recognized by the Commissioner of Education.</p>

ADMISSIONS

FD  
(LOCAL)

NONACCREDITED  
SCHOOLS

Students entering a District school from nonaccredited public, private, or parochial schools, including homeschools, shall be placed initially at the discretion of the principal, pending observation by classroom teachers, guidance personnel, and the principal. Criteria for placement may include:

1. Scores on achievement tests, which may be administered by appropriate District personnel.
2. Recommendation of the sending school.
3. Prior academic record.
4. Chronological age and social and emotional development of the student.
5. Other criteria deemed appropriate by the principal.

TRANSFER  
CREDIT

The District shall validate high school credit for courses of transfer students from nonaccredited public, private, or parochial schools by testing or by other evidence that the courses meet State Board requirements and standards.

WITHDRAWAL

Minor students may withdraw from school by presenting a request signed by the student's parent or guardian and stating the reason for the withdrawal. Students 18 or older may request withdrawal without a parent's or guardian's signature.

[For District withdrawal of students no longer in attendance, see FEA(LOCAL)]



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 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

ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB  
(LEGAL)

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*

VICTIM 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.

"Bullying" means engaging in written or verbal expression or physical conduct that the Board or its designee determines:

1. 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, or pervasive that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

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 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*

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**Note:** For bullying rising to the level of prohibited harassment, see also FFH.

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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

ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB  
(LEGAL)

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  
ACADEMICALLY  
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 was considered academically unacceptable at any time in the preceding three years.

*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 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

ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB  
(LEGAL)

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), 6316(b)(13)*

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**Note:** See also EHBD for identification for school improvement and FDD for the school safety transfer option in Title I programs.

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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, 26.003(a)(2), (b)* [See FNG]



ADMISSIONS  
SCHOOL SAFETY TRANSFERS

FDD  
(LEGAL)

SCHOOL SAFETY  
CHOICE OPTION

TEA shall establish and implement a statewide policy requiring that a student be allowed to attend a safe public elementary or secondary school within the District, including a public charter school, if the student:

1. Attends a persistently dangerous public elementary or secondary school, as defined by TEA; or
2. Becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of the public elementary or secondary school that the student attends.

*No Child Left Behind Act of 2001, 20 U.S.C. 7912*

SEXUAL ASSAULT  
TRANSFER

For the purposes of the following provisions:

1. "Assailant" means a student who has been adjudicated for continuous sexual abuse of a young child or children, sexual assault, or aggravated sexual assault if the assault was committed against another student who, at the time of the offense, was assigned to the same campus as the assailant, regardless of whether the conduct occurred on or off of school property.
2. "Victim" means the victim of the sexual assault.

TRANSFER OF  
VICTIM

On the request of a parent or other person with authority to act on behalf of the victim of the sexual assault, the Board shall transfer the victim to:

1. A District campus other than the campus to which:
  - a. The victim was assigned at the time the conduct occurred;
  - b. The assailant is assigned, if the assailant has been assigned to a different campus since the conduct occurred;or
2. A neighboring school district, if there is only one campus in the District serving the grade level in which the victim is enrolled.

The transfer must be to a campus or school district, as applicable, agreeable to the parent or other person with authority to act on the victim's behalf.

TRANSFER OF  
ASSAILANT

If the victim does not wish to transfer to another campus or district, the Board shall transfer the assailant to:

1. A District campus other than the campus to which the victim is assigned; or

2. The District's disciplinary alternative education program or juvenile justice alternative education program, if there is only one campus in the District serving the grade level in which the assailant is enrolled. [See FOC]

To the extent permitted under federal law [see FL], the District shall notify the parent or other person with authority to act on behalf of the victim of the campus or program to which the assailant is assigned.

Education Code 25.034 [see FDB] does not apply to a transfer under this provision.

The District is not required to provide transportation to a student who transfers to another campus or district under this provision.

*Education Code 25.0341*



ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

GENERAL RULE

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their eighteenth birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. Students enrolled in prekindergarten or kindergarten shall attend school.

STUDENTS 18 AND  
OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's eighteenth birthday shall attend school each school day for the entire period the program of instruction is offered. The District may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester. A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

The Board may adopt a policy requiring the student to attend school until the end of the school year. If the Board adopts such a policy, Education Code 25.094 (student liability) applies to the student, but Education Code 25.093 and 25.095 do not apply to the student's parent.

ACCELERATED /  
COMPENSATORY  
PROGRAMS

A student must also attend:

1. An extended-year program for which the student is eligible that is provided by the District for students identified as likely not to be promoted to the next grade level or tutorial classes required by the District under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];
4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or
5. A summer program provided:
  - a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete each course in which the student was enrolled at the time of removal. [See FO]

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

- b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. [See FOCA]

*Education Code 25.085*

EXEMPTIONS

Students who meet one or more of the following conditions shall be exempt from compulsory attendance requirements:

EQUIVALENCY  
DIPLOMA

1. The student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

PRIVATE OR HOME  
SCHOOL

2. The student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. TEA v. Leeper, 893 S.W.2d 432 (Tex. 1994)

SPECIAL  
EDUCATION —  
NONDISTRICT  
PLACEMENT

3. The student is eligible to participate in the District's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

MEDICAL  
CONDITION

4. The student has a temporary and remediable physical or mental condition that renders attendance infeasible and the student has a certificate from a qualified physician that specifies the condition, indicates the prescribed treatment, and covers the anticipated time of absence needed for receiving and recuperating from remedial treatment.

EXPULSION — NO  
JJAEP

5. The student has been expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]

17-YEAR-OLD IN  
GED COURSE

6. The student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and:
  - a. Has the permission of the student's parent or guardian to attend the course;
  - b. Is required by court order to attend the course;

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

	<ul style="list-style-type: none"><li>c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or</li><li>d. Is homeless as defined by 42 U.S.C. 11302.</li></ul>
HIGH SCHOOL REPLACEMENT PROGRAMS	7. The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.
16-YEAR-OLD IN GED PROGRAM OR JOB CORPS	8. The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if: <ul style="list-style-type: none"><li>a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or</li><li>b. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.</li></ul>
OTHER EXEMPTION	9. The student is specifically exempted under another law. <i>Education Code 25.086</i>
EXCUSED ABSENCES	A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or Superintendent of the school in which the person is enrolled. <i>Education Code 25.087</i>
TEMPORARY ABSENCES	
SPECIAL EDUCATION MATTERS	Students may be excused for special education assessment procedures and for special education-related services. <i>19 TAC 129.21(l)</i>
COURT PROCEEDINGS	A student who has been referred to a juvenile court for delinquent conduct or conduct indicating a need for supervision shall receive an excused absence for any missed class when: <ul style="list-style-type: none"><li>1. The assigned juvenile judge or probation officer has detained the student or required the student to participate in activities related to the student's referral;</li><li>2. Detention or participation in such activities resulted in absence from class;</li><li>3. The probation officer communicates the cause of the absence in writing to District personnel; and</li><li>4. The student successfully completes all missed assignments.</li></ul> <i>19 TAC 129.22(a)</i>

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

HUMAN SERVICES  
ACTIVITIES

A student who has been referred to the Texas Department of Human Services or a county or local welfare unit on the basis that he or she has been abused or is neglected shall be excused when:

1. The assigned caseworker has required the student to participate in activities related to the student's referral;
2. Participation in such activities resulted in an absence from class;
3. The caseworker communicates the cause of the absence in writing to District personnel; and
4. The student successfully completes all missed assignments.

*19 TAC 129.22(b)*

RELIGIOUS, COURT-  
RELATED, AND  
MEDICAL  
ABSENCES

The District shall excuse a student from attending school for the following purposes, including travel for those purposes:

1. Observing religious holy days. Excused days for travel shall be limited to not more than one day for travel to and one day for travel from the site where the student will observe the religious holy days.
2. Attending a required court appearance; or
3. Temporary absence resulting from an appointment with a health-care professional if that student commences classes or returns to school on the same day of the appointment.

*Education Code 25.087; 19 TAC 129.21(k) [See FEB]*

MAKE-UP WORK

The student shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence. *Education Code 25.087*

In the case of a student who has missed class due to court proceedings or human services activities, it is the responsibility of the liaison for court-related children [see FFC(LEGAL)] to assist students and teachers to ensure that students are provided the opportunity to complete all missed assignments. *19 TAC 129.22(c)*

TAPS AT MILITARY  
FUNERAL

In addition, the District may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.

If the District excuses the absence, the student may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily atten-

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

dance of students in the District. The student shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

*Education Code 25.087(c)*

NOTICES TO PARENTS  
WARNING NOTICE

The District shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to prosecution under Education Code 25.094 or to referral to a juvenile court in a county with a population less than 100,000.

NOTICE OF  
ABSENCES

The District shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
  - a. It is the parent's duty to monitor the student's school attendance and require the student to attend school, and
  - b. The parent is subject to prosecution under Education Code 25.093; and
2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense to prosecution for the parent's failure to require a child to attend school nor for the student's failure to attend school.

*Education Code 25.095*

NON-ATTENDANCE  
PARENT LIABILITY

If a warning notice is issued, a parent or person standing in parental relation with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Education Code 25.094, the attendance officer [see FED] or other appropriate school official shall file a complaint against him or her in an appropriate court, as permitted under Education Code 25.093.

AFFIRMATIVE  
DEFENSE —  
PARENT

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

*Education Code 25.093*

STUDENT LIABILITY

A student who is required to attend school under the compulsory attendance laws and fails to attend school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period may be prosecuted for nonattendance in:

1. The constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of two million or more;
2. The justice court of any precinct in the county in which the student resides;
3. The justice court of any precinct in the county in which the school is located;
4. The municipal court in the municipality in which the child resides; or
5. The municipal court in the municipality in which the school is located.

*Education Code 25.094(a), (b)*

CONDUCT IN  
NEED OF  
SUPERVISION

Conduct indicating a need for supervision includes the absence of a child on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school. *Family Code 51.03(b)(2)*

AFFIRMATIVE  
DEFENSE —  
STUDENT

It is an affirmative defense to prosecution for nonattendance or to an allegation of conduct in need of supervision that one or more of the absences required to be proven were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense.

A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

*Education Code 25.094(f), (g); Family Code 51.03(d)*

DISTRICT COMPLAINT  
OR REFERRAL

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, the District shall within seven school days of the student's last absence:

1. File a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense un-

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

der Education Code 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000; or

2. Refer the student to a juvenile court for conduct indicating a need for supervision under Family Code 51.03(b)(2).

A court shall dismiss a complaint or referral by the District that does not comply with these requirements.

The District may take the actions listed above if a student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above.

*Education Code 25.0951*





ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LOCAL)

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

STUDENTS AGE 18  
AND OVER

A student who voluntarily attends school after the student's eighteenth birthday shall be required to attend school until the end of the school year.

WITHDRAWAL FOR  
NONATTENDANCE

The District may initiate withdrawal of a student under the age of 18 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days;  
and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

For withdrawal of students 18 or older, see FEA(LEGAL).

STUDENTS IN  
HOMESCHOOLS

When the District becomes aware that a student is being or will be homeschooled, the Superintendent or designee may request in writing a letter of notification from the parents of their intention to homeschool using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

If the parents refuse to submit a letter of notification or if the District has evidence that the school-age child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.



ATTENDANCE  
ATTENDANCE ACCOUNTING

FEB  
(LEGAL)

RECORDS

The District shall maintain records to reflect the average daily attendance (ADA), as required by the Commissioner. The Superintendent, principals, and teachers shall be responsible to the Board and the state to maintain accurate, current attendance records.  
*19 TAC 129.21(a)*

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 *Student Attendance Accounting Handbook*. *19 TAC 129.1023–1025*

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. *19 TAC 129.21(m)*

MINIMUM  
ENROLLMENT

A student must be enrolled for at least two hours to be considered in membership for a half-day, and for at least four hours to be considered in membership for one full day.

HALF-DAY  
STUDENTS

Students enrolled on a half-day basis may earn only 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.

ATTENDANCE FOR  
STATE FUNDING  
PURPOSES

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.

The established period in which absences are recorded may not be changed during the school year.

Students absent during the daily period selected by the District for taking attendance shall be counted absent for the entire day. Students present at the time attendance is taken shall be counted present for the entire day.

*19 TAC 129.21*

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)*

ATTENDANCE  
ATTENDANCE ACCOUNTING

FEB  
(LEGAL)

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 Distinguished Achievement Program outlined in 19 TAC 74.13(a)(3). [See Exhibit C at EIF(EXHIBIT)]
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. Excused days for travel shall be limited to not more than one day for travel to and one day for travel from the site where the student will observe the religious holy days. [See FEA]
COURT APPEARANCE	5. The student is attending a required court appearance, including travel for that purpose. [See FEA]
HEALTH CARE APPOINTMENTS	6. The student has 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. [See FEA]  7. The student is in attendance at a dropout recovery education program.
	<i>Education Code 25.087, 29.081(e); 19 TAC 129.21</i>
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. <i>19 TAC 129.21(d)</i>

ATTENDANCE  
ATTENDANCE FOR CREDIT

FEC  
(LEGAL)

90 PERCENT RULE	Except as provided below, a student shall not be given credit for a class unless the student is in attendance 90 percent of the days the class is offered. This restriction does not affect a student's right to excused absences to observe religious holy days. [See FEB]
PRINCIPAL'S PLAN	A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class. However, a student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit without the consent of the judge presiding over the student's case.
EXTENUATING CIRCUMSTANCES	<p>An attendance committee (see below) may give class credit to a student because of extenuating circumstances. The Board shall establish guidelines for determining what constitutes extenuating circumstances.</p> <p>The Board shall adopt policies that establish alternative ways for students to make up work or regain credit lost because of absences. The alternative ways must include at least one option that does not require a student to pay a fee. The availability of such option must be substantially the same as the availability of the educational program for which the District may charge a fee. [See FP]</p>
ATTENDANCE COMMITTEE	The Board shall appoint one or more attendance committees to hear petitions for class credit by students who have not met the 90 percent rule and have not earned class credit by completing a principal's plan. Classroom teachers shall comprise a majority of the attendance committee.
APPEAL	If the committee denies a student credit, the student may appeal the decision to the Board. The Board's decision may be appealed to the district court of the county in which the District's central administrative office is located.
ADDITIONAL DUTIES	<p>A certified employee may not be assigned additional instructional duties as a result of the above provision outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.</p> <p><i>Education Code 25.092</i></p>



ATTENDANCE  
ATTENDANCE FOR CREDIT

FEC  
(LOCAL)

ATTENDANCE  
COMMITTEES

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent or designee shall make the specific appointments in accordance with legal requirements.

PARENTAL NOTICE  
OF EXCESSIVE  
ABSENCES

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

METHODS FOR  
REGAINING CREDIT

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit by submitting a written petition to the appropriate attendance committee.

Petitions for credit may be filed at any time the student receives notice but, in any event, no later than 30 days after the last day of classes.

The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit. The committee may also, whether a petition is filed or not, review the records of all students whose attendance drops below 90 percent of the days the class is offered.

Students who have lost credit because of excessive absences may regain credit by fulfilling the requirements established by the attendance committee.

PERSONAL ILLNESS

When a student's absence for personal illness exceeds five consecutive days, the student shall present a statement from a physician or health clinic verifying the illness or condition that caused the student's extended absence from school.

If the student has established a questionable pattern of absences, the attendance committee may also require a physician's or clinic's statement of illness after a single day's absence as a condition of classifying the absence as one for which there are extenuating circumstances.

ATTENDANCE  
ATTENDANCE FOR CREDIT

FEC  
(LOCAL)

GUIDELINES ON  
EXTENUATING  
CIRCUMSTANCES

The attendance committee shall adhere to the following guidelines to determine attendance for credit:

DAYS OF  
ATTENDANCE

1. All absences shall be considered in determining whether a student has attended the required percentage of days. If make-up work is completed, absences for religious holy days, required court appearances, and health-care appointments shall be considered days of attendance for this purpose. [See FEB]

TRANSFERS /  
MIGRANT  
STUDENTS

2. A transfer or migrant student incurs absences only after his or her enrollment in the District.

BEST INTEREST  
STANDARD

3. In reaching consensus regarding a student's absences, the committee shall attempt to ensure that its decision is in the best interest of the student.
4. The Superintendent or designee shall develop administrative regulations addressing the committee's documentation of the decision.

DOCUMENTATION

5. The committee shall consider the acceptability and authenticity of documented reasons for the student's absences.

CONSIDERATION  
OF CONTROL

6. The committee shall consider whether the absences were for reasons out of the student's or parent's control.

STUDENT'S  
ACADEMIC RECORD

7. The committee shall consider whether or not the student has completed assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.

INFORMATION  
FROM STUDENT OR  
PARENT

8. The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit.

IMPOSING  
CONDITIONS FOR  
AWARDING CREDIT

The committee may impose any of the following conditions for receiving credit lost because of excessive absences:

1. Completing additional assignments, as specified by the committee or teacher.
2. Satisfying time-on-task requirements before and/or after school.
3. Attending tutorial sessions as scheduled.
4. Attending Saturday classes.
5. Maintaining the attendance standards for the rest of the semester.



ATTENDANCE  
ATTENDANCE FOR CREDIT

FEC  
(LOCAL)

6. Taking an examination to earn credit.
7. Other requirements specified by the committee.

In all cases, the student must also earn a passing grade in order to receive credit.

APPEAL PROCESS

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL) beginning at Level Three.



WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

IMMUNIZATION  
REQUIREMENT

Each student shall be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis. The Texas Department of State Health Services (TDSHS) may modify or delete any of these immunizations or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school. *Education Code 38.001(a), (b)*

TDSHS requires students in kindergarten through twelfth grade to have the following additional vaccines, according to the immunization schedules set forth in department regulations: pertussis, hepatitis B, hepatitis A (for students attending schools in high incidence geographic areas as designated by the department), and varicella (chickenpox). *25 TAC 97.63(2)(B)* [See TDSHS's Web site at [http://www.dshs.state.tx.us/immunize/imm\\_sched.shtm](http://www.dshs.state.tx.us/immunize/imm_sched.shtm)]

In the event of an outbreak of vaccine-preventable disease, the local health authority may require or recommend additional doses or boosters to provide further protection. *25 TAC 97.72*

IMMUNIZATION  
AWARENESS  
PROGRAM

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

1. A list, in English and Spanish, of:
  - a. The immunizations required by TDSHS for admission to public school;
  - b. Any immunizations or vaccines recommended for public school students by TDSHS. The list must include the influenza vaccine, unless TDSHS requires the influenza vaccine for admission to public school; and
  - c. Health clinics in the District that offer the influenza vaccine, to the extent those clinics are known to the District; and
2. A link to the TDSHS Internet Web site where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements. The link must be presented in the same manner as the information provided under paragraph 1.

APPLICABILITY

The vaccine requirements apply to all students entering, attending, enrolling in, and/or transferring to the District. *25 TAC 97.61(a)*

EXCEPTIONS

Immunization is not required for admission to the District:

1. If the student submits to the admitting official:

MEDICAL  
REASONS

- a. An affidavit or a certificate signed by the student's physician (M.D. or D.O.) who is duly registered and licensed

WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

to practice medicine in the United States and who has examined the student.

The affidavit or certificate must state that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

OR

REASONS OF  
CONSCIENCE

- b. An affidavit signed by the student or, if a minor, the student's parent or guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period.

The affidavit must be on a form obtained from the TDSHS and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

or

MILITARY DUTY

2. If the student can prove that he or she is a member of the armed forces of the United States and is on active duty.

*Education Code 38.001(c), (c-1), (f); Health and Safety Code 161.004(a), (d)(2), 161.0041; 25 TAC 97.62*

PROVISIONAL  
ADMISSION

A student may be provisionally admitted or enrolled if the student has begun the required immunizations. The student must have an immunization record that indicates the student has received at least one dose of each age-appropriate vaccine specified in the regulations.

COMPLETION OF  
VACCINATIONS

To remain enrolled, the student must continue to receive the necessary immunizations as rapidly as medically feasible. The student must complete the required subsequent doses in each vaccination series on schedule and provide acceptable evidence of vaccination to the District.

WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

REVIEW OF STATUS	<p>A school nurse or school administrator shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and the District will exclude the student from school attendance until the required dose is administered.</p>
HOMELESS STUDENT	<p>A student who is homeless, as defined in the McKinney-Vento Homeless Education Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. The school shall promptly refer the student to appropriate public health programs to obtain the required vaccinations. [See FD and FDC]</p>
TRANSFER STUDENTS	<p>A student can be enrolled provisionally for no more than 30 days if he or she transfers from one Texas school to another, and is awaiting the transfer of the immunization record.</p>
MILITARY DEPENDENTS	<p>A dependent of a person who is on active duty with the armed forces of the United States can be enrolled provisionally for no more than 30 days if the student transfers from one school to another and is awaiting the transfer of the immunization record.</p> <p><i>Education Code 38.001(e); 25 TAC 97.66, 97.69; Atty. Gen. Op. GA-178 (2004)</i></p>
EVIDENCE OF IMMUNIZATION	<p>A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to the District. <i>25 TAC 97.63(2)</i></p> <p>Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:</p> <ol style="list-style-type: none"><li>1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel;</li><li>2. An official immunization record generated from a state or local health authority, such as a registry; or</li><li>3. A record received from school officials including a record from another state.</li></ol> <p><i>25 TAC 97.68</i></p> <p>Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, or hepatitis B, or varicella illnesses must consist of a laboratory report that indicates either confirmation of immunity or infection.</p>

WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

A parent- or physician-validated history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of vaccine. A written statement from a physician, or the student's parent or guardian, or school nurse, must support histories of varicella disease.

*25 TAC 97.65*

IMMUNIZATION  
RECORDS

Not later than the 30th day after a parent or other person with legal control of a student under a court order enrolls the student in the District, the parent or other person, or the District in which the student most recently attended school, shall furnish to the District a record showing that the student has the required immunizations. *Education Code 25.002(a)(3)*

Each district shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be sufficient for a valid audit to be completed. The records shall be open for inspection at all reasonable times by TEA, local health departments, or the TDSHS. *Education Code 38.002(a); 25 TAC 97.67*

TRANSFER OF  
RECORDS

Each district shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records. *Education Code 38.002(b)*

ANNUAL REPORT

Districts shall submit annual reports of the immunization status of students, in a format prescribed by TDSHS, to monitor compliance with immunization requirements. All districts shall submit the report at the time and in the manner indicated in the instructions printed on the form. *Education Code 38.002(c); 25 TAC 97.71*

CONSENT TO  
IMMUNIZATION

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

*Family Code 32.101(a)*

The district in which the child is enrolled may give consent to the immunization if:

1. The persons listed above are not available; and
2. The district has written authorization to consent from a person listed above.

*Family Code 32.101(b)(5)*

WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

The District may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for the District to consent.

*Family Code 32.101(c)*

DUTY TO PROVIDE  
INFORMATION

A district that consents to immunization of a child shall provide the health-care provider with sufficient and accurate health history and other information as set forth in Family Code 32.101(e).

FORM OF CONSENT

Consent to immunization must meet the requirements of Family Code 32.002(a). [See FFAC] The District has the responsibility to ensure that the consent, if given, is an informed consent. The District is not required to be present when the immunization is requested if a consent form has been given to the health-care provider. *Family Code 32.101(f), 32.102*

LIABILITY

A district consenting to immunization of a child is not liable for damages arising from an immunization administered to a child authorized under Family Code Subchapter B except for injuries resulting from the district's own acts of negligence. *Family Code 32.103*





STUDENT WELFARE  
FREEDOM FROM HARASSMENT

FFH  
(LEGAL)

The District may develop and implement a sexual harassment policy to be included in the District improvement plan. The District shall adopt and implement a dating violence policy to be included in the District improvement plan. *Education Code 37.083, 37.0831* [See BQ]

Sexual abuse of a student by an employee, when there is a connection between the physical sexual activity and the employee's duties and obligations as a District employee, violates a student's constitutional right to bodily integrity. Sexual abuse may include fondling, sexual assault, or sexual intercourse. *U.S. Const. Amend. 14; Doe v. Taylor ISD, 15 F.3d 443 (5th Cir. 1994)*

Sexual harassment of students may constitute discrimination on the basis of sex in violation of Title IX. *20 U.S.C. 1681; 34 CFR 106.11; Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See FB regarding Title IX]

DEFINITION OF  
SEXUAL  
HARASSMENT

Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling among school children, however, even when the comments target differences in gender. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*

EMPLOYEE- STUDENT  
SEXUAL  
HARASSMENT

A District official who has authority to address alleged harassment by employees on the District's behalf shall take corrective measures to address the harassment or abuse. *Gebser v. Lago Vista ISD, 118 S.Ct. 1989 524 U.S. 274 (1998); Doe v. Taylor ISD, 15 F.3d 443 (5th Cir. 1994)*

STUDENT-STUDENT  
SEXUAL  
HARASSMENT

The District must reasonably respond to known student-on-student harassment where the harasser is under the District's disciplinary authority. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*



STUDENT WELFARE  
FREEDOM FROM HARASSMENT

FFH  
(LOCAL)

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**Note:** This policy addresses harassment of District students. For provisions regarding harassment of District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG.

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The District does not discriminate in any of its programs, activities, services, or other operations on the basis of race, color, religion, national origin or disability. The District does not tolerate discriminatory behavior by its students that may arise in any program or activity operated by the District.

The District prohibits sexual harassment, dating violence, and harassment based on a person's race, color, gender, national origin, disability, or religion.

Employees shall not tolerate harassment of students and shall make reports as required at REPORTING PROCEDURES, below.

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.

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:

STUDENT WELFARE  
FREEDOM FROM HARASSMENT

FFH  
(LOCAL)

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, but are not limited to, 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.

DATING VIOLENCE

Dating violence occurs when one partner in a dating relationship, either past or current, intentionally uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other partner.

Examples of dating violence against a student may include, but are not limited to, physical or sexual assaults, name-calling, put-downs, threats to hurt the student or the student's family members or members of the student's household, destroying property belonging to the student, threats to commit suicide or homicide if the student ends the relationship, attempts to isolate the student from friends and family, stalking, or encouraging others to engage in these behaviors.

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.

OTHER PROHIBITED  
HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, gender,

STUDENT WELFARE  
FREEDOM FROM HARASSMENT

FFH  
(LOCAL)

national origin, disability, or religion 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.

EXAMPLES

Examples of prohibited harassment may include, but are not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating 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.

REPORTING  
PROCEDURES

Any student who believes that he or she has experienced prohibited harassment should immediately report the alleged acts to a teacher, counselor, principal, or other District employee.

Any District employee who receives notice that a student has or may have experienced prohibited harassment is required to immediately report the alleged acts to an appropriate person designated below.

Any other person who knows or believes that a student has experienced prohibited harassment should immediately report the alleged acts to the appropriate person designated below.

Reports of known or suspected child abuse or neglect shall be made as required by law. [See FFG]

TIMELY REPORTING

Reports of harassment shall be made as soon as possible after the alleged acts. A failure to promptly report alleged harassment may impair the District's ability to investigate and address the harassment.

Oral or written reports of prohibited harassment shall normally be made to the campus principal. A person shall not be required to report harassment to the alleged harasser; nothing in this policy prevents a person from reporting harassment directly to one of the District officials below:

DISTRICT  
OFFICIALS

1. For sexual harassment, the Title IX coordinator. [See FB(LOCAL)]

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FREEDOM FROM HARASSMENT

FFH  
(LOCAL)

2. For all other prohibited harassment, the Superintendent.

A report against the Title IX coordinator may be made directly to the Superintendent; a report against the Superintendent may be made directly to the Board.

NOTIFICATION OF  
REPORT

Upon receipt of a report of harassment, a principal shall immediately notify the appropriate District official listed above.

NOTICE TO PARENTS

The principal or District official shall promptly notify the parents of any student alleged to have experienced prohibited harassment by a District employee or another adult associated with the District. In cases of student-to-student harassment, the District shall promptly notify the parents of any student alleged to have experienced harassment when the allegations presented, if proven, would constitute sexual harassment or other prohibited harassment as defined by District policy.

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.

COUNSELING

The District's campus-level counselor shall provide counseling for its students who are either victims or offenders in incidents involving harassment. [See DH, DHB, DIA(LOCAL) for employees]

INVESTIGATION OF  
THE REPORT

The District may request, but shall not insist upon, a written report. If a report is made orally, the District official shall reduce the report to written form.

Upon receipt or notification of a report, the District official shall determine whether the allegations, if proven, would constitute sexual harassment or other prohibited harassment as defined by District policy. If so, the District official shall immediately authorize or undertake an investigation.

If appropriate, the District shall promptly take interim action to prevent harassment during the course of an investigation.

The investigation may be conducted by the District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the campus 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.

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	<p>The District's obligation to conduct an investigation is not satisfied by the fact that a criminal or regulatory investigation regarding the same or similar allegations is pending.</p>
CONCLUDING THE INVESTIGATION	<p>Absent extenuating circumstances, the investigation should be completed within ten business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.</p> <p>The investigator shall prepare a written report of the investigation. The report shall be filed with the District official overseeing the investigation.</p>
DISTRICT ACTION	<p>If the results of an investigation indicate that prohibited harassment occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the harassment.</p> <p>The District may take disciplinary action based on the results of an investigation, even if the District concludes that the conduct did not rise to the level of harassment prohibited by law or District policy.</p>
APPEAL	<p>A student, including a complainant, may appeal through FNG(LOCAL), beginning at the appropriate level. A complainant shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.</p>
RETALIATION PROHIBITED	<p>Retaliation against a student alleged to have experienced harassment, a witness, or another person who makes a report or participates in an investigation is strictly prohibited. A person who makes a good faith report of prohibited harassment shall not suffer retaliation for making the report. A person who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding prohibited harassment is subject to appropriate discipline.</p>
RECORDS RETENTION	<p>Retention of records shall be in accordance with FB(LOCAL).</p>
ACCESS TO POLICY	<p>Information regarding this policy shall be distributed annually to District employees and included in the student handbook. Copies of the policy shall be readily available at each campus and the District's administrative offices.</p>





STUDENT RECORDS

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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 2–3
	1. Definition of 'Education Records'	
	2. Screening Records	
	3. Immunization Records	
	4. Medical Records	
	5. Assessment Instruments	
	6. Academic Achievement Record	
SECTION II	Access, Disclosure, and Amendment	pages 3–9
	1. Access to Education Records: Parent, Student, and Other Persons	
	2. Request Procedure	
	3. Destruction of Requested Records	
	4. Subpoenaed Records	
	5. Transfer by Third Parties to Other Persons	
	6. Record of Access to Student Record	
	7. Right to Amend Records	
	8. Fees for Copies	
	9. Records of Students with Disabilities: Access, Consent, Confidentiality, Destruction	
	10. Annual Notification of Rights	
SECTION III	Directory Information	pages 9–12
	1. Definition and Disclosure of Directory Information	
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	3. Annual Notice, Contents	
	4. Student Recruiting Information, Parental Consent to Release	
SECTION IV	Videotapes and Recordings	page 12
	1. Parental Consent	
	2. Exceptions to Consent	
SECTION V	Information from Law Enforcement	pages 12–14
	1. Criminal Records: Disclosure, Retention	
	2. Duty to Flag Records of Missing Children	
	a. Requests Made in Person and in Writing	
	b. Removal of Flag	

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'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 contain only information about a student after he or she is no longer a student in the District.
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.

*20 U.S.C. 1232g; 34 CFR 99.3*

SCREENING  
RECORDS

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning ACCESS BY OTHER PERSONS. *20 U.S.C. 1232g; Health & Safety Code 36.006, 37.003, 95.004; 25 TAC 37.148(o)* [See FFAA]

IMMUNIZATION  
RECORDS

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 student's 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

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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]

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]

ACCESS TO  
EDUCATION  
RECORDS

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. "Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. *34 CFR 99.3, 99.10, 99.31(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, 153.073*

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, psycho-

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logical records, applications for admission, health and immunization information, teacher and counselor evaluations, and reports of behavioral patterns. *Education Code 26.004*

ACCESS BY  
STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student. *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:

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. *34 CFR 99.36; Education Code 38.009*
2. Officials of other schools or school systems in which the student seeks or intends to enroll, 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 give the parent an opportunity for a hearing to challenge the content of the record.

3. Authorized representatives of 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*

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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)*

4. Personnel involved with a student's application for, or receipt of, financial aid.
5. State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute adopted:
  - a. Prior to November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or
  - b. After November 19, 1974, if:
    - (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
    - (2) The officials and authorities to whom such information is disclosed certify in writing to the District that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.
6. Organizations conducting studies for educational agencies or institutions 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. Such information must be destroyed when no longer needed for the original purposes of the studies.
7. Accrediting organizations that require the information for purposes of accreditation.
8. Parents of a student who is a dependent for tax purposes.

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9. Appropriate persons who, in an emergency, must have such information in order to protect the health or safety of the student or other person. *34 CFR 99.36*
10. 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*

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*

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)*

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, the District shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 CFR 99.31(9)*

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; or the disclosure

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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.

*34 CFR 99.33(b)*

RECORD OF ACCESS  
TO STUDENT RECORD

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. 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, or requests for directory information. 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, 99.21*

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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. <i>20 U.S.C. 1232g; 34 CFR 99.11; Education Code 26.012</i>
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. <i>34 CFR 300.613(a)</i>
ACCESS RIGHTS	<p>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:</p> <ol style="list-style-type: none"><li>1. Parents may request that a representative inspect and review the records. <i>34 CFR 300.613(b)(3)</i></li><li>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. <i>34 CFR 300.613(a)</i></li><li>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. <i>34 CFR 300.614</i></li></ol>
LIST OF TYPES AND LOCATIONS OF INFORMATION	The District shall provide parents on request a list of types and locations of education records. <i>34 CFR 300.616</i>
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 the Family Educational Rights and Privacy Act (FERPA). <i>34 CFR 300.622</i>
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



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persons collecting or using this information shall receive training or 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 the Family Educational Rights and Privacy Act of 1974 and of the places where copies of this policy may be located, including notice of the right to file complaints concerning alleged failures by the District to comply with the provisions of the Act. The District shall effectively notify parents of students who have a primary or home language other than English. *20 U.S.C. 1232g(e); 34 CFR 99.7*

DIRECTORY  
INFORMATION

"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.

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.
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

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types of information about the student designated as directory information.

An educational agency or institution may disclose directory information about former students without satisfying the public notice conditions above.

*34 CFR 99.3, 99.37*

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.

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

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study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]”;

2. A form, such as a check-off list or similar mechanism, that:
  - a. Immediately follows, on the same page or the next page, the required statement; and
  - b. Allows a parent to record:
    - (1) The parent’s objection to the release of all directory information or one or more specific categories of directory information if District policy permits the parent to object to one or more specific categories of directory information;
    - (2) The parent’s objection to the release of a secondary student’s name, address, and telephone number to a military recruiter or institution of higher education; and
    - (3) The parent’s consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the District and is specifically identified, such as for a student directory, student yearbook, or District publication; and
3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 [see EHBD] 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 de-

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scribed 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*

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]

INFORMATION FROM  
LAW ENFORCEMENT

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense [see GRA], the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

WRITTEN NOTICE  
OF ARREST OR  
REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a District employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

ORAL NOTICE OF  
CONVICTION OR  
ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

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NOTICE OF  
TRANSFER OR  
REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent of the district to which the student transfers or returns shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

*Code of Criminal Procedure 15.27*

Information received by 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 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.

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After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN  
WRITING

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REMOVAL OF FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

*Code of Criminal Procedure 63.020–63.022*

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

FIRST AMENDMENT	<p>The District shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Board for a redress of grievances. <i>U.S. Const. Amend. I</i></p>
FREEDOM OF SPEECH	<p>Students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. At school and school events, students have First Amendment rights, applied in light of the special characteristics of the school environment.</p> <p>Student expression that is protected by the First Amendment may not be prohibited absent a showing that the expression will materially and substantially interfere with the operation of the school or the rights of others.</p> <p><u><i>Tinker v. Des Moines Indep. Cmty. Sch. Dist.</i>, 393 U.S. 503 (1969)</u> [See also FNCI]</p> <p>The special characteristics of the school environment and the governmental interest in stopping student drug abuse allow the District to restrict student expression that it reasonably regards as promoting illegal drug use. <u><i>Morse v. Frederick</i>, 2007 WL 1804317 (U.S. 2007)</u></p> <p>The inculcation of fundamental values necessary to the maintenance of a democratic society is part of the work of the school. The First Amendment does not prevent school officials from determining that particular student expression is vulgar and lewd, and therefore contrary to the school's basic educational mission. <u><i>Bethel Sch. Dist. No. 403 v. Fraser</i>, 478 U.S. 675 (1986)</u></p>
PRAYER AT SCHOOL ACTIVITIES	<p>A public school student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A student shall not be required, encouraged, or coerced to engage in or refrain from such prayer or meditation during any school activity. <i>Education Code 25.901</i></p> <p>Nothing in the Constitution as interpreted by the U.S. Supreme Court prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday. But the religious liberty protected by the Constitution is abridged when the District affirmatively sponsors the particular religious practice of prayer.</p> <p>The District shall not adopt a policy that establishes an improper majoritarian election on religion and has the purpose and creates the perception of encouraging the delivery of prayer at a series of important school events.</p>

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

*Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (addressing school-sponsored, student-led prayer delivered over the public address system at high school football games) [See also FMH]

FEDERAL FUNDS

As a condition of receiving certain federal funds, the District shall certify in writing to TEA that no policy of the District prevents, or otherwise denies participation in, constitutionally protected prayer in public schools, as detailed in the guidance from the United States secretary of education regarding constitutionally protected prayer. The certification shall be provided by October 1 of each year.

By November 1 of each year, TEA shall report to the secretary a list of districts that have not filed the certification or against which complaints have been made to TEA that the district is not in compliance with the paragraph above. The secretary may issue and secure compliance with rules or orders with respect to a district that fails to certify, or is found to have certified in bad faith, that no policy of the district prevents, or otherwise denies participation in, constitutionally protected prayer in public schools.

*No Child Left Behind Act of 2001, 20 U.S.C. 7904*

EXPRESSION OF  
RELIGIOUS  
VIEWPOINTS

The District shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the District treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject. *Education Code 25.151*

POLICIES

The District shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. If the District voluntarily adopts and follows the model policy governing voluntary religious expression in public schools at Education Code 25.156, the District is in compliance with the provisions of Education Code Chapter 25, Subchapter E covered by the model policy.

The District shall adopt a policy that includes the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak. The policy regarding the limited public forum must also require the District to:

1. Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;



STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

2. Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;
3. Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech; and
4. State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the District.

Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

DISCLAIMER

The disclaimer required by item 4, above, must be provided at all graduation ceremonies. The District must continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the District's nonsponsorship of the student's speech.

*Education Code 25.152, 25.155*

CLASS  
ASSIGNMENTS

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments must be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the District. Students may not be penalized or rewarded on account of the religious content of their work. *Education Code 25.153*

[For information on student religious groups and activities, see FNAB.]

PATRIOTIC  
OBSERVANCES

The District may officially encourage students to express love for the United States by reciting historical documents or singing official anthems that contain religious references; such patriotic or ceremonial occasions do not constitute a school-sponsored religious exercise. *Engel v. Vitale*, 370 U.S. 421 (1962)

The District shall not, however, compel students to participate in patriotic observances. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (holding unconstitutional a requirement that students salute the United States flag and recite the Pledge of Allegiance)



STUDENT EXPRESSION  
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

FNAB  
(LEGAL)

EQUAL ACCESS ACT

If a District secondary school receives federal financial assistance and has a limited open forum, as defined below, it shall not deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings. *20 U.S.C. 4071(a)*

LIMITED OPEN  
FORUM IN  
SECONDARY  
SCHOOLS

A District secondary school has a limited open forum for purposes of the Equal Access Act whenever the school grants an offering to or an opportunity for one or more noncurriculum-related student groups to meet on school premises during noninstructional time. *20 U.S.C. 4071(b)*

“Secondary school” means a public school that provides secondary education as determined by state law.

“Meeting” includes those activities of student groups that are permitted under a school’s limited open forum and that are not directly related to the school curriculum.

“Noninstructional time” means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

*20 U.S.C. 4072*

“Noncurriculum-related student group” means any student group that does not directly relate to the body of courses offered by the school. A student group directly relates to the school’s curriculum if it meets any of the following criteria:

1. The subject matter of the group is actually taught or will soon be taught in a regularly offered course.
2. The subject matter of the group concerns the body of courses as a whole.
3. Participation in the group is required for a particular course.
4. Participation in the group results in academic credit.

*Westside Cmty. Sch. v. Mergens*, 496 U.S. 226 (1990)

If a school has a limited open forum, it shall be deemed to offer a fair opportunity for students to conduct meetings within its forum if it uniformly provides that:

1. The meeting is voluntary and student-initiated.
2. There is no sponsorship of the meeting by the school or any government or its agents or employees.

STUDENT EXPRESSION  
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

FNAB  
(LEGAL)

“Sponsorship” includes the act of promoting, leading, and participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

3. School employees are present at religious meetings only in a nonparticipatory capacity.
4. The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.
5. Nonschool persons shall not direct, conduct, control, or regularly attend activities of student groups.

*20 U.S.C. 4071(c)*

The establishment of a limited open forum shall not authorize a school or the District to:

1. Influence the form or content of any prayer or other religious activity.
2. Require any person to participate in prayer or other religious activity.
3. Expend public funds beyond the incidental cost of providing the space for student-initiated meetings.
4. Compel any school agent or employee to attend a meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee.
5. Sanction meetings that are otherwise unlawful.
6. Limit the rights of groups of students that are not of a specified numerical size.
7. Abridge the constitutional rights of any person.

*20 U.S.C. 4071(d)*

MAINTAIN ORDER

The establishment of a limited open forum shall not limit the authority of a school, the District, its agents, or its employees to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary. *20 U.S.C. 4071(f)*

RELIGIOUS GROUPS  
AND ACTIVITIES

Students may organize prayer groups, religious clubs, “see you at the pole” gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Reli-

STUDENT EXPRESSION  
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

FNAB  
(LEGAL)

gious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression.

If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the District may not discriminate against groups that meet for prayer or other religious speech.

The District may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

*Education Code 25.154*



STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

REMOVAL UNDER  
STUDENT CODE OF  
CONDUCT

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

MANDATORY  
PLACEMENT IN DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

SCHOOL-RELATED  
MISCONDUCT

A student shall be removed from class and placed in a DAEP 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.

A student shall also be removed from class and placed in a DAEP if the student commits the following 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 school property:

1. Engages in conduct punishable as a felony;
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
  - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
  - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

*Education Code 37.006(a)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

EXCEPTION	Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. <i>Education Code 37.006(m)</i>
RETALIATION	Except where a student engages in retaliatory acts against a District employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation, as defined in Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
CONDUCT UNRELATED TO SCHOOL	<p>In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:</p> <ol style="list-style-type: none"><li>1. The student receives deferred prosecution under Family Code 53.03, for conduct defined as a felony offense in Title 5, Penal Code;</li><li>2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Title 5, Penal Code; or</li><li>3. The Superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Title 5, Penal Code.</li></ol> <p>[See FOC(EXHIBIT) for list of Title 5 felonies]</p> <p><i>Education Code 37.006(c)</i></p>
REASONABLE BELIEF	In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, the Superintendent or the Superintendent's designee may consider all available information, including the information furnished under Code of Criminal Procedure Article 15.27. <i>Education Code 37.006(e)</i> [See GRA]
SEXUAL ASSAULT OF ANOTHER STUDENT	<p>A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:</p> <ol style="list-style-type: none"><li>1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;</li><li>2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and</li></ol>



STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

3. There is only one campus in the District serving the grade level in which the student is enrolled.

*Education Code 25.0341, 37.0051(a)* [See FDD]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

PERMISSIVE  
REMOVAL

NON-TITLE 5  
FELONY

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The Superintendent or designee has a reasonable belief (as determined above) that the student has engaged in conduct defined as a felony offense other than those listed in Title 5, Penal Code [see FOC(EXHIBIT)]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

*Education Code 37.006(d), (e)*

ONE YEAR AFTER  
CONDUCT

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

OLDER 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 DAEP 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)*

PLACEMENT OF  
YOUNGER STUDENTS

A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f); 37.007(e)* [See FOD]

ELEMENTARY  
SCHOOL STUDENTS

An elementary school student may not be placed in a DAEP with any other student who is not an elementary school student. *Education Code 37.006(f)*

STUDENTS  
YOUNGER THAN  
SIX

Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] may be provided educational services in a DAEP. *Education Code 37.006(l)*

CONFERENCE

Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.

Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the Student Code of Conduct.

*Education Code 37.009(a)*

TERM OF REMOVAL

The Board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the District determines that the student is a threat to the safety of other students or to District employees; or extended placement is in the best interest of the student.

*Education Code 37.009(d)*

BEYOND GRADING  
PERIOD OR 60  
DAYS

If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the Board or designee.

NO APPEAL

Any decision of the Board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.

*Education Code 37.009(b)*

BEYOND END OF  
SCHOOL YEAR

Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, the Board or designee must determine that:

1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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(LEGAL)

2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

*Education Code 37.009(c)*

ORDER OF  
REMOVAL

The Board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, the Board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

ACTIVITIES

The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see GRA], a principal or designee 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 conduct for which DAEP placement must or may be ordered.

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 37.006(o)*

COMPLETION OF  
PROCEEDINGS UPON  
WITHDRAWAL

If a student withdraws from the District before an order for placement in a DAEP is entered, the principal or Board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the District the same or subsequent school year, the District may enforce the order at that time except for any period of the placement 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 in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

ENROLLMENT IN  
ANOTHER DISTRICT

If a student placed in a DAEP enrolls in another district before the expiration of the placement, the Board shall provide to the district in which the student enrolls a copy of the placement order at the

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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(LEGAL)

same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. 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.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
  - a. The out-of-state district provides a copy of the placement order; and
  - b. The grounds for placement are the same as grounds for placement in the enrolling district.

*Education Code 37.008(j)*

OUT-OF-STATE  
PLACEMENT

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling 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 37.008(j-1)*

COURT-ORDERED  
PLACEMENT

Unless the Board and the juvenile board for the county in which the District's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

EXPELLED  
STUDENT

1. A court may not order a student expelled under Section 37.007 to attend a District DAEP as a condition of probation;

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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(LEGAL)

MULTIPLE REFERRALS	<p>2. A court may not order a student to attend a DAEP without the District's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.</p> <p><i>Education Code 37.010(c), (d)</i></p>
SCHOOL ACTIVITIES	<p>Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. <i>Education Code 37.010(d)</i></p>
PLACEMENT AFTER COURT DISPOSITION	<p>After the student has successfully completed any court disposition requirements, including conditions of 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 into the public schools. The District may place the student in the DAEP.</p> <p>Notwithstanding Education Code 37.002(d) [see FOA], 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.</p> <p><i>Education Code 37.010(f)</i></p>
NOT GUILTY / INSUFFICIENT EVIDENCE / CHARGES DROPPED	<p>If a student was removed to DAEP for a reason other than false alarm or report, terroristic threat, or conduct on or within 300 feet of school property, the Superintendent or designee shall review the student's placement in the DAEP upon receipt of notice under Article 15.27(g), Code of Criminal Procedure, stating that:</p> <ol style="list-style-type: none"><li>1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or</li><li>2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.</li></ol> <p>A student may not be returned to the regular classroom pending the review. The Superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the Superintendent or designee receives notice from the office or official designated by the court.</p>

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

After reviewing the notice and receiving information from the student's parent or guardian, the Superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

*Education Code 37.006(h)*

APPEAL AFTER  
PLACEMENT  
UPHELD

The student or the student's parent or guardian may appeal the Superintendent's decision to the Board. The student may not be returned to the regular classroom pending the appeal. The Board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the Superintendent or designee and confirm or reverse the Superintendent's decision. The Board shall make a record of the proceedings.

If the Board confirms the decision, the Board shall inform the student and the student's parent or guardian of the right to appeal to the Commissioner. The student may not be returned to the regular classroom pending the appeal to the Commissioner.

*Education Code 37.006(i), (j)*

120-DAY REVIEW OF  
STATUS

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by the Board's designee at intervals not to exceed 120 days. In the case of a high school student, the Board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. This requirement does not, however, obligate the District to provide in the DAEP a course, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher that removed the student without that teacher's consent. The teacher cannot be coerced to consent. *Education Code 37.009(e)*

ADDITIONAL  
PROCEEDINGS

If, during the term of placement, 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)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

REPORTING

The District shall include the number of students removed to a DAEP in its annual performance report. *Education Code 37.053(e)(5)* [See BR]

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**Note:** See FOF for provisions concerning students with disabilities.

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EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

MEETINGS WITH  
JUVENILE BOARD

The Board or designee shall regularly meet with either:

1. The juvenile board for the county in which the District's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the President of the Board and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

*Education Code 37.013*

JUVENILE  
RESIDENTIAL  
FACILITIES

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*

JUVENILE JUSTICE  
ALTERNATIVE  
EDUCATION  
PROGRAM

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

MANDATORY JJAEP      The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile Probation Commission.

VOLUNTARY JJAEP      The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the Texas Juvenile Probation Commission. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

*Education Code 37.011(a), (k), (m)*

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**Note:**      The following provisions apply to all districts that operate JJAEPs, whether voluntary or mandatory.

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PLACEMENT OF  
STUDENTS IN JJAEP—  
EXPELLED STUDENTS      An expelled student shall, to the extent provided by law or by the memorandum of understanding (MOU), immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)*

COURT-ORDERED  
PLACEMENT      If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007, the juvenile court, juvenile board, or juvenile board's designee, as appropriate, shall:

1.    If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;
2.    If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;
3.    In determining the condition of the deferred prosecution or court-ordered probation, consider the length of the District's expulsion order for the student; and
4.    Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student. This provision does not require that educational services be provided to a student who is not entitled to admission under Education Code 25.001(b).

*Education Code 37.011(b), (b-1)*

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

	<p>A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless the District agrees to accept the student before the date ordered by the juvenile court. <i>Education Code 37.011(i)</i></p>
STUDENTS WHO MOVE	<p>If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the District and the juvenile board in the receiving county. <i>Education Code 37.011(n)</i></p>
FUNDING FOR JJAEPS MANDATORY EXPULSIONS	<p>Except as determined by the Commissioner, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the Texas Juvenile Probation Commission. <i>Education Code 37.011(h)</i></p>
COURT-ASSIGNED STUDENTS	<p>The District is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. <i>Education Code 37.012</i></p>
TITLE 5 FELONY PLACEMENTS	<p>The District shall reimburse a JJAEP in which a student is placed under Education Code 37.0081 [see FOE] for the actual cost incurred each day the student is enrolled in the program. For purposes of this subsection:</p> <ol style="list-style-type: none"><li>1. The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and</li><li>2. The juvenile board shall determine the actual cost each day of the program based on the board's annual audit.</li></ol> <p><i>Education Code 38.011(a)</i></p>
FUNDING FOR DISCRETIONARY EXPULSIONS	<p>Subject to Education Code 37.011(n) [see STUDENTS WHO MOVE, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is served by the JJAEP, provide funding to the juvenile board in an amount determined by the MOU under Education Code 37.011(k).</p> <p>The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to the District.</p> <p><i>Education Code 37.012(a)</i></p>

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

ARBITRATION OF DISPUTES	<p>If the District elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the District are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.</p> <p>Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the District shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.</p>
DECISION OF ARBITRATOR	<p>The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by the District for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:</p> <ol style="list-style-type: none"><li>3. The actual average total per student expenditure in the District's DAEP;</li><li>4. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and</li><li>5. The costs necessary to achieve the accountability goals under Education Code Chapter 37.</li></ol> <p><i>Education Code 37.011(p)</i></p>
LOCATION AND STAFFING	<p>A JJAEP may be provided in a facility owned by the District. The District may provide personnel and services for a JJAEP under a contract with the juvenile board. <i>Education Code 37.011(e)</i></p>
ACADEMIC MISSION OF JJAEP	<p>Academically, the mission of the JJAEP shall be to enable students to perform at grade level. <i>Education Code 37.011(h)</i></p>
ACCOUNTABILITY	<p>For purposes of accountability under Education Code Chapter 39, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. <i>Education Code 37.011(h)</i></p>
FEES	<p>Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, includ-</p>

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

ing an entrance or supply fee, for participating in the program.  
*Education Code 37.012(e)*

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**Note:** The following provisions apply only to districts located in counties with a population greater than 125,000.

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MEMORANDUM OF  
UNDERSTANDING

The District and the county juvenile board shall, no later than September 1 of each school year, enter into a joint memorandum of understanding (MOU) that:

1. Outlines the responsibilities of the juvenile board concerning the establishment and operation of a JJAEP;
2. Defines the amount and conditions on payments from the District to the juvenile board for students who are served in the JJAEP whose placement was not made on the basis of expulsion required under Section 37.007(a), (d), or (e);
3. Identifies those categories of conduct that the District has defined in its Student Code of Conduct as constituting serious or persistent misbehavior for which a student may be placed in the JJAEP;
4. Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the District has received a notice under Family Code 52.041(d);
5. Establishes services for the transitioning of expelled students to the District before the completion of the student's placement in the JJAEP;
6. Establishes a plan that provides transportation services for students placed in the JJAEP;
7. Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP setting once the juvenile is no longer under juvenile court jurisdiction; and
8. Establishes a plan to address special education services required by law.

*Education Code 37.011(k), (l), (m)*

PLACEMENT IN JJAEP

Every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. *Education Code 37.010(a)*

OPERATING  
REQUIREMENTS

The JJAEP shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Probation Commission for review and comment. The JJAEP

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

	is not subject to a requirement imposed by Education Code Title II, other than a reporting requirement or a requirement imposed by Education Code Chapters 37 and 39. <i>Education Code 37.011(g)</i>
STUDENT CODE OF CONDUCT	The JJAEP shall adopt a Student Code of Conduct in accordance with Education Code 37.001. <i>Education Code 37.011(c)</i>
EDUCATIONAL PROGRAM	The JJAEP shall focus on English language arts, mathematics, science, social studies, and self-discipline.
ASSESSMENT	The JJAEP shall administer assessment instruments under Education Code Chapter 39, Subchapter B.
EQUIVALENCY	The JJAEP shall offer a high school equivalency program.
REVIEW OF PROGRESS	<p>The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified above.</p> <p><i>Education Code 37.001(d)</i></p>
DAYS AND HOURS	The JJAEP must operate at least seven hours per day and 180 days per year, except that a JJAEP may apply to the Juvenile Probation Commission for a waiver of the 180-day requirement. The commission may not grant a waiver to a JJAEP for a number of days that exceeds the highest number of instructional days waived by the Commissioner during the same school year for a district served by the program. <i>Education Code 37.011(f)</i>

STUDENT DISCIPLINE  
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE  
(LEGAL)

EMERGENCY PLACEMENTS DAEP	The principal or the principal's designee is not prohibited from ordering the immediate placement of a student in a disciplinary alternative education program (DAEP) if the principal or designee reasonably believes that the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with students in class, with the ability of students to learn, or with the operation of school or a school-sponsored activity.
EXPULSION	A principal or designee may order the immediate expulsion of a student if the principal or designee reasonably believes that such action is necessary to protect persons or property from imminent harm.
PROCEDURE	At the time of an emergency placement or an emergency expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a DAEP or expulsion may be made on a nonemergency basis. Within a reasonable time, but not later than the tenth day after the placement or expulsion, the student shall be accorded the appropriate due process required for a removal or an expulsion. [See FOA, FOC, and FOD]
STUDENTS WITH DISABILITIES	If the student is a student with disabilities who receives special education services, the emergency placement is subject to federal law and regulations and must be consistent with the consequences that would apply under Education Code Chapter 37, Subchapter A, to a student without a disability. [See FOF]
IMMUNITY	A principal or designee is not liable in civil damages for an emergency placement.  <i>Education Code 37.019</i>
TITLE 5 FELONY	The Board or designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided below if: <ol style="list-style-type: none"><li>1. The student has been arrested, charged, referred to a juvenile court, received deferred prosecution, received probation, received deferred adjudication, found by a court or jury to have engaged in, or been convicted of, conduct defined as a felony offense in Penal Code, Title 5 [see FOC(EXHIBIT)]; and</li><li>2. The Board or the Board's designee determines that the student's presence in the regular classroom:<ol style="list-style-type: none"><li>a. Threatens the safety of other students or teachers;</li><li>b. Will be detrimental to the educational process; or</li></ol></li></ol>

STUDENT DISCIPLINE  
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE  
(LEGAL)

- c. Is not in the best interests of the District's students.

The Board or designee may expel the student and order the placement regardless of:

1. The date the conduct occurred;
2. The location of the conduct;
3. Whether the conduct occurred while the student was enrolled in the District; or
4. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

ALTERNATIVE  
SETTING

The student must be placed in:

1. A juvenile justice alternative education program (JJAEP), if the District is located in a county that operates a JJAEP or the District contracts with the juvenile board of another county for the provision of a JJAEP; or
2. A DAEP.

DURATION OF  
PLACEMENT

Notwithstanding Education Code Section 37.009(c) or (d) (placements beyond one year) or any other provision of Education Code Chapter 37, Subchapter C, the student is subject to the placement until:

1. The student graduates from high school;
2. The charges are dismissed or reduced to a misdemeanor offense; or
3. The student completes the term of the placement or is assigned to another program

These provisions continue to apply if the student transfers to another district in the state.

The student is entitled to periodic review [see FOC at 120-DAY REVIEW OF STATUS].

Any decision of the Board or designee under the above provisions is final and may not be appealed.

The above provisions apply notwithstanding any other provision of Education Code Chapter 37, Subchapter A, except that Section 37.007 (expulsion) prevails to the extent of a conflict.

*Education Code 37.0081*



STUDENT DISCIPLINE  
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE  
(LEGAL)

REGISTERED SEX  
OFFENDERS

APPLICABILITY

The following provisions apply to a student who is required to register as a sex offender under Code of Criminal Procedure, Chapter 62 (Chapter 62), but not to a student who is no longer required to register as a sex offender, including a student who receives an exemption from registration or a student who receives an early termination of the obligation to register.

REMOVAL FROM  
REGULAR  
CLASSROOM

Notwithstanding any provision of Education Code Chapter 37, Subchapter A, on receiving notice under Code of Criminal Procedure article 15.27 or Chapter 62 that a student is required to register as a sex offender, the District shall remove the student from the regular classroom and determine the appropriate placement.

*Education Code 37.302, 37.303*

STUDENT UNDER  
COURT  
SUPERVISION

The District shall place a student who is a registered sex offender and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program for at least one semester.

If a student transfers to another district during the placement, the district to which the student transfers may:

1. Require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester; or
2. Count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement.

*Education Code 37.304*

STUDENT NOT  
UNDER COURT  
SUPERVISION

The District may place a student who is a registered sex offender and who is not under any form of court supervision in the appropriate alternative education program for one semester or in the regular classroom. The District may not place the student in the regular classroom if the Board or designee determines that the student's presence in the regular classroom:

1. Threatens the safety of other students or teachers;
2. Will be detrimental to the educational process; or
3. Is not in the best interests of the District's students.

*Education Code 37.305*

APPROPRIATE  
PROGRAM

Except as provided below, the District shall place a student who is required by the Board or designee to attend an alternative education program in a DAEP. *Education Code 37.309*

STUDENT DISCIPLINE  
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE  
(LEGAL)

EXCEPTION	<p>The District shall place the student in a JJAEP if:</p> <ol style="list-style-type: none"><li>1. The memorandum of understanding between the District and juvenile board provides for the placement of students who are registered sex offenders in JJAEP; or</li><li>2. A court orders the placement of the student in a JJAEP.</li></ol> <p>A JJAEP is entitled to funding for the student in the same manner as for students who are subject to discretionary expulsion.</p> <p><i>Education Code 37.309, 37.310</i></p>
REVIEW	<p>At the end of the first semester of a student's placement, the Board or designee shall convene a committee to review the placement.</p>
REVIEW COMMITTEE	<p>The committee must be composed of:</p> <ol style="list-style-type: none"><li>1. A classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;</li><li>2. The student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;</li><li>3. An instructor from the alternative education program to which the student is assigned;</li><li>4. A District designee selected by the Board or designee; and</li><li>5. A counselor employed by the District.</li></ol>
RECOMMEN- DATION	<p>The committee by majority vote shall determine and recommend to the Board or designee whether the student should be returned to the regular classroom or remain in the alternative education program.</p> <p>If the committee recommends that the student be returned to the regular classroom, the Board or designee shall return the student to the regular classroom unless the Board or designee determines that the student's presence in the regular classroom:</p> <ol style="list-style-type: none"><li>1. Threatens the safety of other students or teachers;</li><li>2. Will be detrimental to the educational process; or</li><li>3. Is not in the best interests of the District's students.</li></ol> <p>If the committee recommends that the student remain in the alternative education program, the Board or designee shall continue the student's placement in the alternative education program unless</p>

STUDENT DISCIPLINE  
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE  
(LEGAL)

the Board or designee determines that the student's presence in the regular classroom:

1. Does not threaten the safety of other students or teachers;
2. Will not be detrimental to the educational process; and
3. Is not contrary to the best interests of the District's students.

If the Board or designee determines that the student should remain in an alternative education program, the Board or designee shall reconvene the committee before the beginning of each school year to review the student's placement in an alternative education program.

*Education Code 37.306*

APPEAL

A student or the student's parent or guardian may appeal a decision by the Board or designee to place the student in an alternative education program by requesting a conference among the Board or designee, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62.

If the Board or designee determines at the conclusion of the conference that the student is required to register as a sex offender, the student is subject to placement in an alternative education program.

The decision of the Board or designee is final and may not be appealed.

*Education Code 37.311*

LIABILITY

The above provisions regarding placement of a student who is a registered sex offender do not:

1. Waive any liability or immunity of a governmental entity or its officers or employees; or
2. Create any liability for or a cause of action against a governmental entity or its officers or employees.

*Education Code 37.312*

SPECIAL  
EDUCATION  
STUDENT

The placement of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

The review of the student's placement may be made only by a duly constituted ARD committee [see EHBAB]. The ARD committee

STUDENT DISCIPLINE  
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE  
(LEGAL)

may request that the Board or designee convene a review committee to assist in conducting the review.

*Education Code 37.306*

TRANSFER  
STUDENTS

Except where a student under court supervision transfers during a mandatory placement, the District shall determine whether to place a transfer student who is a registered sex offender in the appropriate alternative education program or in a regular classroom. The District shall follow the procedures at REVIEW, above, in making the determination. *Education Code 37.308*

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

GBA  
(LEGAL)

PUBLIC INFORMATION      “Public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the Board or for the Board and to which the Board has a right of access. *Gov’t Code 552.002(a)*

AVAILABILITY            Public information is available, at a minimum, to the public during the District’s normal business hours. *Gov’t Code 552.021*

Unless they are expressly confidential under other law, categories of public information that are not excepted from required disclosure under this policy include:

1. A completed report, audit, evaluation, or investigation made of, for, or by the Board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the District.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of the Board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.
6. A description of the District’s organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which the District’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.
10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

GBA  
(LEGAL)

12. A policy statement or interpretation adopted or issued by the Board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the District's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law.
16. Information that is also contained in a public court record.
17. A settlement agreement to which the Board is a party.

A court in this state may not order the Board or the District's officer for public information to withhold from public inspection any category of public information described above or to not produce the information for inspection or duplication, unless the information is expressly made confidential under other law.

*Gov't Code 552.022*

INVESTMENT  
INFORMATION

Certain District investment information, as specified by Government Code 551.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

PERSONAL  
INFORMATION

EMPLOYEE / BOARD  
MEMBER

Each District employee, other than peace officers, and Board member and each former employee and Board member shall choose whether to allow public access to District-held information relating to the person's home address, telephone number, or social security number, or any other information that reveals whether the person has family members. Employees and Board members shall state their choice to the District's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the District ends. If an employee or Board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or Board member may make a written request at any time to the personnel officer to open or close the information relating to the person's home address, telephone number, social security number, or any other information that reveals whether the person has family members. *Gov't Code 552.024*

PEACE OFFICERS /  
SECURITY  
OFFICERS

District-held information relating to the home address, home telephone number, or social security number of peace officers or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

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whether the person has family members, is confidential and may not be disclosed if the person chooses to restrict public access to the information and notifies the District on a form provided by the District, accompanied by evidence of the individual's status. *Gov't Code 551.1175*

EVALUATIONS

An evaluation of the performance of a teacher or administrator is confidential. *Education Code 21.355*

EDUCATOR  
CERTIFICATION EXAM

The results of an educator certification examination are confidential and are not subject to disclosure, unless:

1. The disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057; or
2. The educator has failed the examination more than five times.

*Education Code 21.048(c-1)*

CREDIT CARD, DEBIT  
CARD, CHARGE CARD,  
AND ACCESS DEVICE  
NUMBERS

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for the District is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

*Gov't Code 552.136*

E-MAIL ADDRESSES  
CONFIDENTIAL

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the District is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

EXCEPTIONS

This confidentiality does not apply to an e-mail address:

1. Provided to the District by a person who has a contractual relationship with the District or by the contractor's agent;
2. Provided to the District by a vendor who seeks to contract with the District or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

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(LEGAL)

or information relating to a potential contract, or provided to the District in the course of negotiating the terms of a contract or potential contract; or

4. Provided to the District on a letterhead, coversheet, printed document, or other document made available to the public.

The District may also disclose an e-mail address for any reason to another governmental body or to a federal agency.

*Gov't Code 552.137*

VICTIM OF ABUSE OR  
IMPROPER  
RELATIONSHIP

The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Penal Code 21.12(a) may not be released to the public and is not public information subject to disclosure. *Penal Code 21.12(d)*

The name of a student or minor who is the victim of abuse or unlawful conduct by an educator is not public information subject to disclosure. *Education Code 21.006(h)*

PARTICIPANT IN  
ADDRESS  
CONFIDENTIALITY  
PROGRAM

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

VICTIMS OF CERTAIN  
CRIMES

A District employee who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B may elect whether to allow public access to information held by the District that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the District, be signed by the employee, and be filed with the District before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.



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ACCESS TO PUBLIC INFORMATION

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*Gov't Code 552.132*

INFORMATION  
EXCEPTED FROM  
PUBLIC DISCLOSURE

The Board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Categories of information that are excepted from disclosure to the public include:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
3. Information relating to litigation of a civil or criminal nature to which the District is, or may be, a party or to which an officer or employee of the District, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the District's public information officer receives the request. *Gov't Code 552.103*
4. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*
5. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
6. Drafts and working papers involved in the preparation of proposed policies. *Gov't Code 552.106*
7. Information the District's attorney is prohibited from disclosing because of a duty to the District under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Con-

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duct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*

8. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
  - a. Information that deals with detection, investigation, or prosecution of crime; and
  - b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.

*Gov't Code 552.108*

9. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov't Code 552.109*
10. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
11. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. *Gov't Code 552.110(b)*
12. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the District. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000)*
13. An audit working paper of an audit of the District auditor, including any audit relating to the criminal history background check of a public school employee. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*
14. Student records, except to District personnel, the student, or the student's parents, guardian, or spouse. The District is not required to release student records, except in conformity with FERPA. *Gov't Code 552.114, 552.026 [See FL]*
15. Information that relates to the home address, home telephone number, or social security number of the following persons, or that reveals whether the person has family members:
  - a. A current or former District employee or Board member, except as provided by Section 552.024; or

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- b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

*Gov't Code 552.117*

- 16. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:
  - a. The officer is under indictment or charged with an offense by information;
  - b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
  - c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

*Gov't Code 552.119*

- 17. Test items developed by a state-funded educational institution. *Gov't Code 552.122*
- 18. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov't Code 551.104(c)*
- 19. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
  - a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
  - b. To a person with a special right of access under Government Code 552.023; or
  - c. To a law enforcement agency or prosecutor under a court order or subpoena.

*Gov't Code 552.124*

- 20. The name of an applicant for Superintendent, except the Board must give public notice of the name or names of the fi-

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nalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126* [See BJB]

21. Motor vehicle record information that relates to:
- a. A motor vehicle operator's or driver's license or permit issued by an agency of this state;
  - b. A motor vehicle title or registration issued by an agency of this state; or
  - c. A personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

*Gov't Code 552.130*

22. An informer's name or information that would substantially reveal the identity of an informer, unless:
- a. The informer or the informer's spouse consents to disclosure of the informer's name.
  - b. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of the District who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the District or the proper regulatory enforcement authority.

*Gov't Code 552.135*

23. Information in a commercial book or publication purchased or acquired by the District for research purposes, if the book or publication is commercially available to the public. The District is not required to make copies of commercially available information, but the District shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the District.
- Gov't Code 552.027*

24. Information that relates to economic development negotiations involving the Board and a business prospect that the

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Board seeks to have locate, stay, or expand in or near the District, if that information relates to:

- a. A trade secret of the business prospect; or
- b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

25. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by the Board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

- a. By the Board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the District or a reduction in revenue received by the District from any source.

*Gov't Code 552.131*

26. Information that relates to computer network security or to the design, operation, or defense of a computer network. The following information is confidential:

- a. A computer network vulnerability report; and
- b. Any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or software of the District or of a contractor of the District is vulnerable to unauthorized access or harm, including an assessment of the extent to which the District's or contractor's electronically stored information is vulnerable to alteration, damage, or erasure.

*Gov't Code 552.136*

MILITARY DISCHARGE  
RECORDS

27. A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the District on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of the District in accordance with

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Government Code Section 552.140. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

SOCIAL SECURITY  
NUMBERS

28. The Social Security number of a living person. The Social Security number is not confidential, however. The District may redact the Social Security number of a living person from any information the District discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

INVESTMENT  
INFORMATION

29. Certain District investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. *Gov't Code 552.143*

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OFFICER FOR PUBLIC  
INFORMATION

The Superintendent shall be the District's officer for public information. Each department head shall be an agent of the officer for public information for the purposes of complying with the public information laws and the District's policy on public records. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer for public information is responsible for the release of public information as required by Government Code Chapter 552. The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record.

*Gov't Code 552.201–552.204*

SIGN

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of the Board, and the procedures for inspecting or obtaining a copy of public information under Government Code Chapter 552. The officer shall display the sign at one or more places in the administrative offices of the District where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Employees of the District whose duties include receiving or responding to public information requests.

*Gov't Code 552.205*

ACCESS TO PUBLIC  
INFORMATION

The District may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of Government Code Chapter 552. *Gov't Code 552.230*

The Superintendent or designee shall promptly produce public information for inspection, duplication, or both, in District offices on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

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The Superintendent or designee complies with such a request by providing the information for inspection or duplication in the District's offices or by sending copies of the information by first class mail, if the requestor requests that the copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Chapter 552, Subchapter F.

TIME FOR RESPONSE

If the requested information is unavailable because it is in storage or active use, the Superintendent or designee shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication. If the Superintendent or designee cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the Superintendent or designee shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication. An original copy of public information shall not be removed from District offices by a requestor.

*Gov't Code 552.221, 552.226; Tex. Atty. Gen. ORD-664 (2000)*

The officer for public information shall not make an inquiry of any requestor, except to establish proper identification or to ask the requestor to clarify the request. If a large amount of information has been requested, the officer may discuss with the requestor how the scope of the request might be narrowed, but the officer may not inquire into the purpose for which the information will be used. All reasonable comfort and facility shall be extended to the requestor.

A written request for clarification or discussion or for additional information must include a statement as to the consequences of the failure by the requestor to timely respond. The request must be sent to the address provided by the requestor. If the requestor does not respond by the 61st day, the underlying request for public information is considered to have been withdrawn by the requestor.

*Gov't Code 552.222, 552.224*

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. *Gov't Code 552.223*

EXAMINATION

A requestor shall complete the examination of the information not later than the tenth business day after the date the officer for public information makes it available. If the requestor does not complete the examination of the information within ten business days after



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the date the information is made available and does not file a request for additional time, the requestor is considered to have withdrawn the request. The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall permit a second additional ten business day examination period if, within the first additional period, the requestor files with the officer a second written request for time. The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the Board. The period of interruption is not considered to be a part of the time during which the person may examine the information.  
*Gov't Code 552.225*

PROVIDING SUITABLE  
COPY

The officer for public information shall provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

SPECIFIC MEDIUM

If public information exists in an electronic or magnetic medium, the requestor may request a copy either on paper or in an electronic medium, such as on diskette or on magnetic tape. The officer for public information shall provide a copy in the requested medium if the District has the technological ability to produce the information in the requested medium and is not required to purchase any software or hardware to accommodate the request, and providing the copy will not violate any copyright agreement between the District and a third party.

If the officer is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the District shall provide either a paper copy or a copy in another medium that is acceptable to the requestor. The officer is not required to copy information onto a diskette or other material provided by the requestor but may use District supplies.

*Gov't Code 552.228*

REQUESTS  
REQUIRING  
PROGRAMMING OR  
MANIPULATION

If the officer determines that responding to a request for information will require programming or manipulation of data and that compliance with the request is not feasible or will result in substantial interference with operations or the information could be made available in the requested form only at a cost that covers the programming and manipulation of data, it shall provide to the requestor a written statement that includes all of the following information:

1. A statement that the information is not available in the requested form.

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2. A description of the form in which the information is available.
3. A description of any contract or services that would be required to provide the information in the requested form.
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general. [See GBAA (EXHIBIT)]
5. A statement of the anticipated time required to provide the information in the requested form.

RESPONSE TIME  
WHEN  
PROGRAMMING  
OR  
MANIPULATION  
IS REQUIRED

The officer shall provide the written statement to the requestor within 20 days after the date the officer receives the request. The officer has an additional ten days to provide the statement if the officer gives written notice to the requestor within 20 days after receiving the request that additional time is needed.

FURTHER  
ACTION

After providing the written statement described above, the officer has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor writes to the officer stating that the requestor wants the information in the requested form according to the time and cost parameters set out in the officer's statement or that the requestor wants the information in the form in which it is available. If a requestor does not make a timely written response, the requestor is considered to have withdrawn the request for information.

PROCESSING OF  
REQUESTS

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. The Board shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

*Gov't Code 552.231*

REPETITIOUS OR  
REDUNDANT  
REQUESTS

If the officer determines that a requestor has made a request for information for which the District has previously furnished or made copies available to the requestor on payment of applicable charges, the officer shall respond to the request for information for which copies have been already furnished or made available, except that:

1. The District is not prohibited from furnishing the information or making the information available to the requestor again in accordance with the request; and

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2. The District is not required to comply with the procedures described below in relation to information that the District simply furnishes or makes available to the requestor again in accordance with the request.

Information for which the District has not previously furnished copies or made copies available to the requestor on payment of applicable charges, information that was redacted from information provided earlier, or that did not exist at the time of an earlier request, shall be treated in the same manner as any other request.

PROCEDURES

The officer shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor on payment of applicable charges. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor.
2. The date that the District received the requestor's original request for that information.
3. The date that the District previously furnished copies of or made available copies of the information to the requestor.
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or the officer's agent making the certification.

*Gov't Code 552.232*

ATTORNEY GENERAL  
DECISIONS

If the District receives a written request, including a request that is sent by electronic mail or facsimile transmission if that request is sent to the Superintendent or designee, for information it wishes to withhold from public disclosure and that it considers to be within one of the exceptions to required disclosure, but for which there has been no previous determination that it falls within one of the exceptions, the District, not later than the tenth business day after receiving the written request, shall ask for a decision from the attorney general about whether the information is within one of the exceptions and state the exception that applies. If a decision from the attorney general is not so requested or the District fails to provide the requestor with the statement and a copy of the District's communications to the attorney general, as described below, the information is presumed to be public information and must be released unless there is a compelling reason to withhold it. *Gov't Code 552.301(a), (b), (c), 552.302; Tex. Atty. Gen. ORD-673 (2000)*

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The District may not request an open records decision from the attorney general if the District reasonably believes that the requested information is not excepted from required disclosure. The District must promptly produce the requested information to the requestor. *Tex. Att'y. Gen. ORD-665 (2000)*

The District shall release the requested information and may not ask for an attorney general decision if the District has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is public information that is not within one of the exceptions. *Gov't Code 552.301(f); Tex. Att'y. Gen. ORD-673 (2000)*

The District must promptly release public information not excepted from required disclosure. The prompt release of information requires release as soon as possible under the circumstances and within a reasonable time, without delay. The District may not automatically withhold for ten business days public information not excepted from disclosure. *Tex. Att'y. Gen. ORD-664 (2000)*

STATEMENT TO  
REQUESTOR

If the District requests an attorney general decision, it must provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the District wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure.
2. A copy of the District's written communication to the attorney general asking for the decision. If the District's written communication to the attorney general discloses the requested information, the District shall provide a redacted copy of that written communication to the requestor.

*Gov't Code 552.301(d)*

SUBMISSION TO  
ATTORNEY  
GENERAL

When the District requests a decision, it shall, within a reasonable time but not later than the 15th business day after the date of receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld.
2. A copy of the written request for information.

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3. A signed statement as to the date on which the written request for information was received by the District or evidence sufficient to establish that date.
4. A copy of the specific information requested, or representative samples of the information, if a voluminous amount of information was requested. These copies must be labeled to indicate which exceptions apply to which parts of the copy.

Unless the information is confidential by law, the officer may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction.

ADDITIONAL  
INFORMATION

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the District and the requestor written notice of that fact. Upon receipt of such notice, the officer shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the officer does not comply with the attorney general's request for additional information, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.

*Gov't Code 552.301(d), (e), 552.303*

A district that submits written comments to the attorney general stating the reasons why the stated exceptions apply shall send a copy of those comments to the person who requested the information from the district. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor must be a redacted copy. *Gov't Code 552.301(e-1)*

SPECIAL  
INTERESTS

In a case in which information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101, 552.104, and 552.114 (see pages 2–3 of this policy), the District may decline to release the information for the purpose of requesting a decision from the attorney general. The District may, but is not required to, submit its reasons why the information should be withheld or released.

NOTICE TO  
OWNER OF  
PROPRIETARY  
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101, 552.110, 552.113, or 552.131, a district that requests an attorney general decision shall make a good faith attempt to notify that person of its request for the attorney general decision. The notice must include a copy of any written request the District received for the information and a

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statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

*Gov't Code 552.305*

COSTS AND CHARGES

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not connected with each other or a remote storage facility. If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or the officer's agent, and the officer or the officer's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor. The District shall also charge for the cost of materials, labor, and overhead when the request is for any number of copies of information that is not readily available. Charges for providing a copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges. *Gov't Code 552.261*

The District shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available. The District may determine its own charges for producing public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection, but may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless it requests an exemption. *Gov't Code 552.261, 552.262; 1 TAC 70.1(b)* [See also GBAA(EXHIBIT)]

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EXEMPTIONS

The District may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges for providing copies of public information or the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The request must be made in writing to the attorney general and must state the reason for the exemption. If the attorney general determines that good cause exists, the attorney general shall grant the exemption by giving written notice of the determination within 90 days of the request. When it receives the notification, the District may amend its charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the terms of the attorney general's determination. *Gov't Code 552.262(c)*

COPIES FOR  
PARENTS

The District may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

STATEMENT OF  
ESTIMATED  
CHARGES

If a request for a copy of public information or a request to inspect a paper record will result in the imposition of a charge that exceeds \$40, the District shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the District regarding the alternative method. The District must inform the requestor of the responsibilities imposed on the requestor by this section and the rights granted by this entire section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after the District provides the requestor the itemized statement but before it makes the copy or the paper record available, the District determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the District shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

REQUESTOR'S  
RESPONSE

A request for which the District is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the District within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges.

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2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

ACTUAL  
CHARGES

If the actual charges that the District imposes for a copy or inspection of public information exceed \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

TIMING OF  
DEADLINES

An original or updated itemized statement is considered to have been sent by the District, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing the required statement of estimated charges do not affect the application of a time deadline imposed on the District for requesting a decision by the attorney general under Government Code 552, Subchapter G.

*Gov't Code 552.2615*

DEPOSIT OR BOND

The officer for public information or his or her agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if the officer for public information or the officer's agent has provided the requestor with the required written itemized statement detailing the estimated charge for providing the copy and if the charge for providing the copy of the public information specifically requested by the requestor is estimated by the District to exceed \$100, if the District has more than 15 full-time employees; or \$50, if the District has fewer than 16 full-time employees. The officer for public information or the officer's agent may not require a deposit or bond be paid as a down payment for copies of future information that the requestor may request in the future. *Gov't Code 552.263(a), (b); 1 TAC 70.7(d)*

The officer for public information or the officer's agent may require a deposit or bond for payment of unpaid amounts the requestor



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owes the District in relation to previous public information requests before preparing a copy of public information in response to a new request if those unpaid amounts exceed \$100. The officer for public information or the officer's agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

The District must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond under this section. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, if the District requires a deposit or bond from the requestor, a request for a copy of public information is considered to have been received by the District on the date it receives the deposit or bond for payment of anticipated costs or unpaid amounts. A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(e), (f)*

WAIVERS

If the cost to the District of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the Board may waive the charge. If the District determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public, the District may waive or reduce the charge for a copy of public information. *Gov't Code 552.267*

GOVERNMENT  
PUBLICATION

The cost provisions described above do not apply to a publication that is compiled and printed by or for the District for public dissemination. If the cost of the publication is not determined by state law, the District may determine the charge for providing the publication, or it may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

INSPECTION OF  
PUBLIC INFORMATION

If the requestor does not request a copy of public information, the District may not impose a charge for making available for inspection any public information that exists in a paper record. If a page contains confidential information that must be edited from the record before the information can be made available for inspection, however, the District may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(a), (b)*

PAYMENT, OR  
DEPOSIT OR BOND

The officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

payment of, anticipated personnel costs for making available for inspection public information that exists in paper records only if:

1. The public information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and
2. The officer for public information or the officer's agent estimates that more than five hours will be required to make the public information available for inspection.

*Gov't Code 552.271(c)*

CERTAIN SMALL  
DISTRICTS

If the District has fewer than 16 full-time employees, the payment, or deposit or bond may be required only if:

1. The public information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or the officer's agent estimates that more than two hours will be required to make the public information available for inspection.

*Gov't Code 552.271(d)*

ELECTRONIC  
RECORDS

If the District receives a request to inspect information that exists in an electronic medium and the information is not available directly on-line to the requestor, a charge may not be imposed for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the Board shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by the District, and the public has access to that information through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the District's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, the Board may impose charges.

If the District creates or keeps information in an electronic form, it is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

*Gov't Code 552.272*

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

LARGE OR FREQUENT REQUESTS	The District may establish a reasonable limit on the amount of time that employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. The time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to the District's fiscal year.
PERSONNEL TIME	
REQUEST BY MINOR	Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.
EXCEPTION	<p>This section does not apply if the requestor is:</p> <ol style="list-style-type: none"><li>1. A representative of a radio or television station that holds a license issued by the Federal Communications Commission;</li><li>2. A representative of a newspaper that is qualified under Government Code 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;</li><li>3. An elected official of the United States, this state, or a political subdivision of this state; or</li><li>4. A representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.</li></ol>
WRITTEN STATEMENT OF PERSONNEL TIME	If the District establishes a time limit, each time the District complies with a request for public information, the District shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement.
WRITTEN ESTIMATE OF CHARGES	If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the time limit established under this section, the District shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request on or before the tenth day after

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

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the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

ADDITIONAL TIME

If the District provides the requestor with written notice that additional time is required to prepare the written estimate, the District must provide the requestor with the written estimate as soon as practicable, but on or before the tenth day after the date the District provided the notice that additional time was required.

ACCEPTANCE OF  
CHARGES

The District is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the District provided the written estimate, the requestor submits a written statement to the District in which the requestor commits to pay the lesser of:

1. The actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead; or
2. The amount stated in the written estimate.

If the requestor fails or refuses to respond, the requestor is considered to have withdrawn the request.

WAIVED OR  
REDUCED  
CHARGES

This section does not prohibit the District from providing a copy of public information without charge or at a reduced rate under Government Code 552.267 or from waiving a charge for providing a copy of public information under Government Code 552.267. [See WAIVERS, above]

*Gov't Code 552.275*

FILING SUIT TO  
WITHHOLD  
INFORMATION

The Board or officer for public information may, within the time lines provided for in Government Code 552.324(b) and 552.353(b)(3), file suit seeking to withhold information, but the requestor may not be named as a party to that action. The Board or officer for public information must demonstrate to the court that the Board or officer made a timely good faith effort to inform the requestor, by certified mail or other method of written notice that requires the return of a receipt, of:

1. The existence of the suit, including the subject matter, the cause number, and the court in which the suit is filed.
2. The requestor's right to intervene in the suit or to choose not to participate.
3. The fact that the suit is against the attorney general.

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4. The address and phone number of the office of the attorney general.

*Gov't Code 552.324, 552.325*

PARENT'S REQUEST  
FOR INFORMATION

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under Chapter 552, Government Code, and that files suit as described by Government Code 552.324 to challenge a decision by the attorney general must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution of the subject matter of the suit. Notwithstanding any other law, the District may not appeal the decision of a court in such a suit challenging a ruling of the attorney general. This prohibition does not affect the right of a parent to appeal the decision. If the District does not bring suit within the period established, the District shall comply with the decision of the attorney general.

A district that receives a request from a parent for public information relating to the parent's child shall comply with Chapter 552, Government Code. If an earlier deadline for bringing suit is established under Chapter 552, Government Code, this rule does not apply.

*Education Code 26.0085*

FAILURE TO RAISE  
EXCEPTIONS  
BEFORE ATTORNEY  
GENERAL

A district that files suit seeking to withhold information may raise only those exceptions to required disclosure that the district properly raised before the attorney general in connection with a request for a decision by the attorney general, unless the exceptions raised by the district in its suit seeking to withhold information are required by federal law or involve property or privacy interests of another person. *Gov't Code 552.326*



COMMUNITY RELATIONS  
VISITORS TO THE SCHOOLS

GKC  
(LEGAL)

IDENTIFICATION	The District may require a person who enters a District campus to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity.
VISITOR DATABASE	The District may establish an electronic database for the purpose of storing information concerning visitors to District campuses. Information stored in the electronic database may be used only for the purpose of District security and may not be sold or otherwise disseminated to a third party for any purpose.
SEX OFFENDERS	<p>The District may verify whether a visitor to a District campus is a sex offender registered with the computerized central database maintained by the Department of Public Safety as provided by Code of Criminal Procedure 62.005 or any other database accessible by the District.</p> <p>The Board shall adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.</p> <p><i>Education Code 38.022</i></p>
MILITARY RECRUITERS' ACCESS TO STUDENTS	Each district receiving assistance under the ESEA shall provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students. <i>20 U.S.C. 7908</i>





COMMUNITY RELATIONS  
VISITORS TO THE SCHOOLS

GKC  
(LOCAL)

Prominent notices shall be posted at each campus requiring all visitors to first report to the campus administrative office. This shall apply to parents, Board members, volunteers, social service workers, invited speakers, maintenance and repair persons not employed by the District, vendors, representatives of the news media, former students, and any other visitors.

Visits to individual classrooms during instructional time shall be permitted only with the principal's and teacher's approval, and such visits shall not be permitted if their duration or frequency interferes with the delivery of instruction or disrupts the normal school environment.

REGISTERED SEX  
OFFENDERS ON  
DISTRICT PREMISES

The Superintendent, working with campus administrators, shall develop and implement procedures regarding campus visitors who are identified as sex offenders. These procedures shall address:

1. Parental rights;
2. Escort by District personnel;
3. Access to common areas of the campus;
4. Access to classrooms;
5. Drop off and release of students;
6. Eligibility to serve as volunteers; and
7. Any other relevant issues.



COMMUNITY RELATIONS  
SCHOOL VOLUNTEER PROGRAM

GKG  
(LEGAL)

The District shall develop a volunteer program. In developing the program, the District shall consider volunteers a resource that requires advance planning and preparation for effective use. If practicable, the District shall include volunteers in addition to paid staff in planning the implementation of the program. *Gov't Code 2109.003*

PROGRAM  
REQUIREMENTS AND  
GUIDELINES

A volunteer program shall include:

1. An effective training program for paid staff and prospective volunteers.
2. The use of paid staff to plan and implement the volunteer program.
3. An evaluation mechanism to assess the performance of volunteers, the cooperation of paid staff with the volunteers, and the overall volunteer program.
4. Follow-up studies to ensure the effectiveness of the program.

*Gov't Code 2109.004(a)*

A volunteer program may:

1. Establish a program to reimburse volunteers for actual and necessary expenses incurred in the performance of volunteer services.
2. Establish an insurance program to protect volunteers in the performance of volunteer services.
3. Cooperate with private organizations that provide services similar to those provided by the District.
4. Purchase engraved certificates, plaques, pins, and/or other awards of a similar nature that do not exceed \$75 per person in value to recognize special achievement and outstanding service of volunteers.

*Gov't Code 2109.004(b)*

CRIMINAL HISTORY  
RECORD

APPLICABILITY

This section applies to a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the District or shared services arrangement. [See DBAA regarding criminal history record checks of employees]

EXCEPTION

This section does not apply to a person who volunteers or is applying to volunteer with the District or shared services arrangement if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in the District or school for which the person volunteers or is applying to volunteer;

COMMUNITY RELATIONS  
SCHOOL VOLUNTEER PROGRAM

GKG  
(LEGAL)

2. Will be accompanied by a District employee while on a school campus; or
3. Is volunteering for a single event on the school campus.

The District may obtain all criminal history record information that relates to an individual listed in this subsection, however.

CRIMINAL HISTORY

A volunteer may not perform any volunteer duties until:

1. The volunteer 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 the Texas Department of Public Safety and may obtain from any other law enforcement agency, criminal justice agency, or private consumer reporting agency all criminal history record information that relates to a volunteer.

COSTS

The District may require a volunteer or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.

*Education Code 22.0835*

VOLUNTEER  
IMMUNITY

A volunteer who is serving as a direct service volunteer in the District is immune from civil liability to the same extent as a District employee under Education Code 22.0511. However, this section of law does not limit the liability of a person for intentional misconduct or gross negligence.

A "volunteer" is a person rendering services for or on behalf of the District on District premises or at a school-sponsored or school-related activity on or off school property who does not receive compensation in excess of reimbursement for expenses.

*Education Code 22.053*