

Update 98 contains (LOCAL) policies that require board action before we can incorporate Update 98 into your district's Policy On Line manual.

Please notify Loretta Jeschke of your policy adoption by **faxing this form to 512-467-3618**, or by **e-mailing your notification to pol-support@tasb.org**, or by **completing the form electronically through Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>)** using your myTASB login and clicking the "Notify TASB of Policy Adoption" link.

181906 West Orange-Cove CISD

Your Name: _____

Your E-mail: _____

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

Previous Updates

- I confirm that all updates prior to Update 98 have been adopted. (Visit <http://www.tasb.org/apps/policyUpdates/index.aspx> to see updates pending adoption. Your Local Manual Updates will remain available through myTASB until your district notifies us of adoption.)

Update 98 Adoption Date: _____

Status (please check one):

- Adopted as presented by TASB—place online immediately
- Adopted with further changes, described below*

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

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

**Update
98**

**Policy On Line®
Adoption Notification Form**

TASB Policy Service

Fax: 512-467-3618



Localized Policy Manual

Update 98

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

West Orange-Cove CISD

Update 98 represents the first of two post-legislative updates and encompasses changes in law from the 83rd Legislative Session that have an immediate effect on the governance and management of the district. Please note that significant changes to the graduation programs from HB 5 will be included in later updates based on the effective dates of most of these provisions. Local policies included in Update 98 address several topics, such as board member authority, employee grievances and records, employee standards of conduct, reductions in force, teacher evaluations, school day interruptions, grading, and student attendance.

Update 99 will be issued in spring 2014 and will address remaining legislative changes from the 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 98 packet contains:

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

Vantage Points—A Board Member's Guide to Update 98 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 98 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, Elvia Garcia, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 98 . . .

- Board action on Localized Update 98 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 98, affecting (LOCAL) policies (see attached list of codes).” Policy On Line districts have access to a list of the (LOCAL) policies included in the update through the Local Manual Updates application in myTASB. Other districts may generate a list of the (LOCAL) policy codes added, revised, or deleted (and the titles/subtitles of those policies) using the Instruction Sheet as a guide and attach that list to the posting. BoardBook compilers should use “Policy Update 98, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.
- A suggested motion for board action on Localized Update 98 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 98 [with the following changes:]”
- The board’s action on Localized Update 98 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 *Administrator’s Guide to Policy Management* available in the myTASB Policy Service Resource Library at http://www.tasb.org/services/policy/mytasb/admin_guide/index.aspx.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. If the district uses Policy On Line, you will need to notify us of the board’s action on Update 98 so that your district’s Localized Policy Manual as it appears on TASB’s Web server can be updated. Policy On Line staff may be reached by phone (800-580-7529 or 512-467-0222), by fax (512-467-3618, using the Update 98 Adoption Notification Form enclosed), by e-mail (pol-support@tasb.org), or through the Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 98 policy changes should be inspected and revised by the district as needed.

PLEASE NOTE: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

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Instruction Sheet

TASB Localized Policy Manual Update 98

District West Orange-Cove CISD

Code	Action To Be Taken	Note
ATTN (LOCAL)	No policy enclosed	See explanatory note
AIA (LEGAL)	Replace policy	Revised policy
AIB (LEGAL)	Replace policy	Revised policy
AID (LEGAL)	Replace policy	Revised policy
BBB (LEGAL)	Replace policy	Revised policy
BBC (LEGAL)	Replace policy	Revised policy
BBE (LEGAL)	Replace policy	Revised policy
BBE (LOCAL)	Replace policy	Revised policy
BBI (LEGAL)	ADD policy	See explanatory note
BDF (LEGAL)	Replace policy	Revised policy
BE (LEGAL)	Replace policy	Revised policy
BEC (LEGAL)	Replace policy	Revised policy
BR (LEGAL)	Replace policy	Revised policy
C (LEGAL)	Replace table of contents	Revised table of contents
CCA (LEGAL)	Replace policy	Revised policy
CCB (LEGAL)	Replace policy	Revised policy
CCF (LEGAL)	Replace policy	Revised policy
CCG (LEGAL)	Replace policy	Revised policy
CCH (LEGAL)	Replace policy	Revised policy
CDB (LEGAL)	Replace policy	Revised policy
CDBA (LEGAL)	Replace policy	Revised policy
CE (LEGAL)	Replace policy	Revised policy
CH (LEGAL)	Replace policy	Revised policy
CI (LEGAL)	Replace policy	Revised policy
CKE (LEGAL)	Replace policy	Revised policy
CL (LEGAL)	Replace policy	Revised policy
CMD (LEGAL)	Replace policy	Revised policy
CNC (LEGAL)	Replace policy	Revised policy
CO (LEGAL)	Replace policy	Revised policy
CPAB (LEGAL)	Replace policy	Revised policy
CPC (LEGAL)	Replace policy	Revised policy
CR (LEGAL)	Replace policy	Revised policy

Instruction Sheet

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CS	(LEGAL)	Replace policy	Revised policy
CV	(LEGAL)	Replace policy	Revised policy
CVA	(LEGAL)	Replace policy	Revised policy
CVC	(LEGAL)	Replace policy	Revised policy
CVD	(LEGAL)	Replace policy	Revised policy
CVF	(LEGAL)	Replace policy	Revised policy
DBA	(LEGAL)	Replace policy	Revised policy
DBA	(LOCAL)	Replace policy	Revised policy
DC	(LEGAL)	Replace policy	Revised policy
DEAA	(LEGAL)	Replace policy	Revised policy
DEAB	(LEGAL)	Replace policy	Revised policy
DEC	(LEGAL)	Replace policy	Revised policy
DFBB	(LEGAL)	Replace policy	Revised policy
DFFA	(LOCAL)	Replace policy	Revised policy
DFFB	(LOCAL)	Replace policy	Revised policy
DGBA	(LEGAL)	Replace policy	Revised policy
DGBA	(LOCAL)	Replace policy	Revised policy
DGC	(LEGAL)	Replace policy	Revised policy
DH	(LOCAL)	Replace policy	Revised policy
DMA	(LEGAL)	Replace policy	Revised policy
DNA	(LEGAL)	Replace policy	Revised policy
DNA	(LOCAL)	Replace policy	Revised policy
EC	(LEGAL)	Replace policy	Revised policy
EC	(LOCAL)	ADD policy	See explanatory note
EHAA	(LEGAL)	Replace policy	Revised policy
EHAC	(LEGAL)	Replace policy	Revised policy
EHBAA	(LEGAL)	Replace policy	Revised policy
EHBAB	(LEGAL)	Replace policy	Revised policy
EHBC	(LEGAL)	Replace policy	Revised policy
EHBK	(LEGAL)	Replace policy	Revised policy
EHDC	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy
EHDE	(LEGAL)	Replace policy	Revised policy
EI	(LEGAL)	Replace policy	Revised policy

Instruction Sheet

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EIA	(LEGAL)	Replace policy	Revised policy
EIA	(LOCAL)	Replace policy	Revised policy
EIC	(LEGAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EK	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
EKBA	(LEGAL)	Replace policy	Revised policy
EKC	(LEGAL)	Replace policy	Revised policy
EL	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents
FD	(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
FED	(LEGAL)	Replace policy	Revised policy
FFAB	(LEGAL)	Replace policy	Revised policy
FFB	(LEGAL)	Replace policy	Revised policy
FFC	(LEGAL)	Replace policy	Revised policy
FFG	(LEGAL)	Replace policy	Revised policy
FFG	(EXHIBIT)	Replace exhibit	Revised exhibit
FM	(LEGAL)	Replace policy	Revised policy
FNA	(LEGAL)	Replace policy	Revised policy
FNCG	(LEGAL)	Replace policy	Revised policy
FNCI	(LEGAL)	Replace policy	Revised policy
FNG	(LEGAL)	Replace policy	Revised policy
FO	(LEGAL)	Replace policy	Revised policy
FOA	(LEGAL)	Replace policy	Revised policy
GKA	(LEGAL)	Replace policy	Revised policy
GRC	(LEGAL)	Replace policy	Revised policy

Explanatory Notes

TASB Localized Policy Manual Update 98

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

Please note: Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to bills from the 83rd Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted. Throughout the explanatory notes, House Bill is abbreviated as HB and Senate Bill is abbreviated as SB.

SB 715 makes amendments throughout the Texas Education Code to clarify that the terms “counselor,” “guidance counselor,” and “high school counselor” refer to a *school* counselor. We have adjusted the terminology throughout the affected legally referenced policies as a result. Adjustments to the local policies that are not included in this update will be made at future updates.

AIA (LEGAL) ACCOUNTABILITY
ACCREDITATION AND PERFORMANCE INDICATORS

An obsolete note regarding the effective dates of this legally referenced material on accreditation and performance indicators has been deleted from the beginning of the policy.

New STUDENT ACHIEVEMENT INDICATORS as added by HB 5 are reflected on page 2. The new indicators include the percentage of students completing the distinguished level of achievement; the percentage of students completing an endorsement; and at least three additional indicators, which must include either the percentage of students who satisfy the college readiness benchmarks in reading, writing, or math; or the number of students who earn at least 12 hours of postsecondary credit, at least 30 hours of postsecondary credit, an associate’s degree, or an industry certification.

SB 1538 defines when the Commissioner must designate a school district or campus as a DROPOUT RECOVERY SCHOOL on page 3 and includes specific accountability provisions for these schools on page 5 at PERFORMANCE RATINGS.

As required by HB 5, DISTRICT AND CAMPUS DISTINCTION DESIGNATIONS must be referenced in connection with the district or campus performance rating and made publicly available with the performance rating. HB 5 also requires the Commissioner to establish academic distinction designations relating to postsecondary readiness.

CAMPUS DESIGNATIONS were also modified by HB 5 to recognize outstanding performance in improvement in student achievement; closing student achievement differentials; academic achievement in English, math, science, or social studies; and advanced middle or junior high school student achievement. The designations in fine arts, physical education, 21st Century Workforce Development, and second language acquisition were eliminated by HB 5.

AIB (LEGAL) ACCOUNTABILITY
PERFORMANCE REPORTING

An obsolete note regarding the effective dates of this legally referenced material on performance reporting has been deleted from the beginning of the policy.

HB 5 requires a district to use criteria developed by a local committee to evaluate and assign a performance rating for the district and each campus on specific categories of community and student engagement and compliance with statutory reporting and policy requirements. See PERFORMANCE AND COMPLIANCE REPORTING on page 3. The district must report the ratings to TEA annually by August 8.

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AID (LEGAL) ACCOUNTABILITY FEDERAL ACCOUNTABILITY STANDARDS

When a school is identified for improvement, corrective action, or restructuring, the district must provide an ANNUAL NOTICE to parents about supplemental educational services. See page 4. HB 753 requires the notice to include a statement provided by TEA that: (1) identifies characteristics of supplemental educational services that have been demonstrated to be more likely to foster academic improvement, and (2) for each subject, sorts the service providers according to level of effectiveness.

TEA must notify affected districts if it revokes approval of a provider, and districts must inform parents of the revocation.

BBB (LEGAL) BOARD MEMBERS ELECTIONS

We have deleted obsolete provisions about adjustments to terms and changing to a November election date.

The recent U.S. Supreme Court case, *Shelby County, Alabama v. Holder*, held that the provision in the Voting Rights Act that includes the formulas to determine which political subdivisions are subject to preclearance is unconstitutional. As a result, we have deleted provisions requiring preclearance.

A procedural provision requiring the secretary of state to develop a notice of voting rights hotline has been deleted.

A general reference to retention requirements for ELECTION RECORDS replaces several more detailed provisions throughout.

SB 910 permits the DELIVERY OR SUBMISSION OF ELECTION DOCUMENTS by facsimile, changes the deadline to file an application for a SPECIAL ELECTION, and eliminates the option for a district to set a date by which a candidate's application must be filed for a special election.

Details regarding the order of names on the BALLOT have been deleted in lieu of a reference to Chapter 52 of the Election Code.

A new provision from HB 506 has been added requiring certain districts conducting a November election to designate as a POLLING PLACE FOR EARLY VOTING any early polling place established by the county and located in the district. A polling place that is designated as a main early voting polling place must be open for voting for all political subdivisions served by the polling place for at least the days and hours required of a main early voting polling place for the entity making the designation.

HB 259 defines ELECTIONEERING and restricts a district that owns or controls a public building where voting occurs from prohibiting electioneering on the building's premises outside of the 100 foot marker prescribed by law. The district may, however, enact reasonable regulations regarding the time, place, and manner of electioneering.

Detailed provisions about the use of wireless communication devices have been deleted.

The canvass deadline for November elections was modified by HB 985. The time for the district to canvass early voting results may occur not later than the 14th day after election day. See EARLY VOTING CANVASS-NOVEMBER ELECTION.

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BBC (LEGAL) BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

SB 910 requires a special election to fill a vacancy to be held on the first uniform election date occurring on or after the 45th, rather than the 30th, day after the election is ordered. See ORDERING ELECTION.

The recent U.S. Supreme Court case, *Shelby County, Alabama v. Holder*, held unconstitutional the provision in the Voting Rights Act that includes the formulas to determine which political subdivisions are subject to preclearance. As a result, we have deleted provisions requiring preclearance.

BBE (LEGAL) BOARD MEMBERS
AUTHORITY

Revisions to this legally referenced policy addressing board member ACCESS TO INFORMATION are from HB 628. This bill grants a school board member, when acting in the member's official capacity, access to information, documents, and records maintained by the district. The district must provide the information requested without requiring the board member to submit a Public Information Act (PIA) request and regardless of whether the requested items are the subject of or relate to an item listed on the agenda for an upcoming meeting.

The district may withhold or redact information, a document, or a record that is excepted from disclosure or is confidential under the PIA or other law. This bill also does not require the district to provide information that is not subject to disclosure under FERPA.

The district must post, in a place convenient to the public, the cost of responding to one or more requests submitted by a board member if the requests are for 200 or more pages of material in a 90-day period. And the district must report annually to TEA the number of requests submitted by a board member during the preceding school year and the total cost to the district of responding to requests during that school year.

BBE (LOCAL) BOARD MEMBERS
AUTHORITY

As a result of HB 628 addressing board member access to information, described above, recommended revisions to this local policy clarify existing practice and broaden the scope of the current provisions addressing LIMITATIONS on an individual board member's access to information beyond student records. New provisions apply to any type of information and specify that if a board member is not acting in his or her official capacity, the board member has no greater access to district records than a member of the public. Access to confidential student records remains limited to situations where the board member is acting in his or her official capacity and has a legitimate educational interest in the records.

We have retained unchanged your unique language at REQUESTS FOR RECORDS AND REPORTS. However, we recommend adding a reminder of the district's legal obligations to track and report requests from board members, including the cost of responding to one or more requests by any individual board member for 200 or more pages of material in a 90-day period.

This policy has been updated throughout for consistency with policy style.

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**BBI (LEGAL) BOARD MEMBERS
TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS**

This new legally referenced policy was added to include provisions from HB 2414 regarding WRITTEN ELECTRONIC COMMUNICATIONS. This bill provides that a communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation under the Open Meetings Act (OMA) if:

- The communication is in writing;
- The writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and
- The communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

A board may have only one online message board for this purpose, must own or control the message board, and must prominently display the message board on the district's primary Internet Web page.

The online message board may only be used by board members or district staff who have received specific authorization from a member of the board. Staff members must post their name and title when posting on the message board on behalf of a board member.

If the district removes a communication from the online message board, the district must maintain the posting for six years. This communication is public information and must be disclosed in accordance with the Public Information Act (PIA).

The board is prohibited from voting or taking any action that is required to be taken at a meeting by posting a communication to the online message board. Communications or postings shall not be construed as an action of the board.

**BDF (LEGAL) BOARD INTERNAL ORGANIZATION
CITIZEN ADVISORY COMMITTEES**

HB 1018 requires the school health advisory council (SHAC) to establish a PHYSICAL ACTIVITY AND FITNESS PLANNING SUBCOMMITTEE to consider issues and make policy recommendations related to students' physical activity and fitness.

BE (LEGAL) BOARD MEETINGS

Definitions of "RECORDING" and "VIDEOCONFERENCE CALL" have been moved to the beginning of this legally referenced policy to be grouped with the other definitions.

The definition of "MEETING" was amended by HB 2414, as reflected in full at BBI(LEGAL), above. A communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation under the OMA if:

- The communication is in writing;
- The writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and

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- The communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

At MINUTES beginning on page 2, SB 471 updates language regarding recording of board meetings to delete references to *tape* recordings.

Extensive revisions to MEETING BY VIDEOCONFERENCE CALL beginning on page 7 are from SB 984 and HB 2414:

- A board member or district employee may participate by videoconference call if the video and audio feed is broadcast live at the meeting and complies with the requirements described in the policy. A board member who participates by videoconference call shall be counted as present at the meeting for all purposes.
- A board may hold a meeting by videoconference call if (1) the board makes available to the public a physical space located in the district's geographic jurisdiction that is equipped with appropriate equipment so that a member of the public can provide testimony or participate in the meeting, (2) the presiding board member is present at that physical space, and (3) any member of the public at the physical space has the opportunity to participate in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call.
- The physical space at which the presiding officer is present must be open to the public during the open portions of the meeting.
- The NOTICE of a meeting to be held by videoconference call must specify as a location of the meeting the location where the presiding officer will be physically present.
- The district must meet specific requirements regarding the QUALITY OF AUDIO AND VIDEO SIGNALS.
- The board is required to make an audio RECORDING of any meeting held by videoconference call and must make the recording available to the public.

BEC (LEGAL) BOARD MEETINGS CLOSED MEETINGS

Revisions throughout this legally referenced policy on closed meetings are a result of SB 471, which updates language regarding recording of board meetings to delete references to *tape* recordings. Also from SB 471 is a definition of "recording," at the bottom of page 3.

BR (LEGAL) REPORTS

Two new reports have been added at REPORTS BY DISTRICT:

- At item 5, HB 5 requires a district to report to TEA its ratings on community and student engagement and on compliance with statutory reporting and policy requirements. See AIB(LEGAL) above for more information.
- At item 9, HB 628 requires, by September 1 of each year, a district to report to TEA regarding the number of individual board member requests during the preceding school year for information, documents, and records and the total cost to the district of responding to such requests. See BBE(LEGAL) above for more information.

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C (LEGAL) BUSINESS AND SUPPORT SERVICES

We have revised the C Section table of contents to reflect the new subtitle for CKE, Security Personnel.

CCA (LEGAL) LOCAL REVENUE SOURCES BOND ISSUES

As reflected beginning on page 3, SB 637 changes the ELECTION ORDER for a bond election by requiring the order to include the nine items listed in statute and specifying the POSTING requirements.

As a result of the recent U.S. Supreme Court case, *Shelby County, Alabama v. Holder*, holding unconstitutional the provision in the Voting Rights Act that includes the formulas to determine which political subdivisions are subject to preclearance, we have deleted the provisions requiring preclearance.

CCB (LEGAL) LOCAL REVENUE SOURCES TIME WARRANTS

HB 2610 clarifies that a school district may issue interest-bearing time warrants to refund previously issued warrants if the refunding warrants are coterminous with the refunded obligation. The bill increases the time a school district has to pay off a time warrant, from five to fifteen years, and increases the cap on the value of outstanding warrants, from \$500,000 to \$1 million.

CCF (LEGAL) LOCAL REVENUE SOURCES LOANS AND NOTES

HB 2610 permits districts to evidence LOANS FOR CURRENT MAINTENANCE EXPENSES through the use of nonnegotiable notes on the same terms as negotiable notes as long as the loans do not exceed 75 percent of the previous year's income. "Maintenance expenses or expenditures" include expenditures relating to notes issued to refund notes previously issued if the refunding notes are coterminous with the refunded obligation.

CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

The text at PERFORMING SERVICES IN LIEU OF PAYING TAXES on page 7 has been revised to better reflect the statutory provisions.

On page 8, the provisions on INSTALLMENT PAYMENTS were amended by HBs 97, 709, and 1597. An individual who qualifies for a disabled veteran exemption is now eligible to pay taxes on the residence homestead in installments without penalty or interest. Payments must be made in four equal installments by the dates listed. If an individual fails to make a scheduled payment, the unpaid amount is delinquent and incurs a penalty and interest.

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A change on page 12 from HB 585 permits the board to authorize the reappraisal of any damaged property if the district is located partly or entirely inside an area declared by the governor to be a DISASTER AREA. Previous law referred to a *natural disaster area*.

On page 15, changes to the text at TEXAS ECONOMIC DEVELOPMENT ACT are from HB 3390, which made extensive revisions to the Act.

The recent U.S. Supreme Court case, *Shelby County, Alabama v. Holder*, held unconstitutional the provision in the Voting Rights Act that includes the formulas to determine which political subdivisions are subject to preclearance. As a result, we have deleted provisions requiring preclearance.

CCH (LEGAL) LOCAL REVENUE SOURCES APPRAISAL DISTRICT

As reflected at FORMER PROPERTY APPRAISER OR OWNER REPRESENTATIVE, on page 2, HB 585 prohibits a person from serving on an appraisal district board of directors if the person has been paid during the prior five years either to appraise property for use in appraisal district proceedings or to represent property owners in the proceedings.

The EXCEPTION in law that required the local administrative district judge to appoint the appraisal review board members only in Harris and Fort Bend counties was revised by HB 585 to require the local administrative district judge to appoint the appraisal review board members in any county with a population of 120,000 or more. See page 5.

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

A new provision from SB 2 requires a district intending to sell, lease, or allow the non-district use of an unused or underused district facility to give each open-enrollment charter school located within the district an opportunity to make an offer to purchase, lease, or use the facility before offering the facility to another entity. Such offer must be in response to the terms set out by the school board. The school board is not required to accept the offer made by a charter school. See OPEN-ENROLLMENT CHARTER SCHOOL OFFER on page 1.

CDBA (LEGAL) SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY REVENUE BONDS FROM PROCEEDS

At JUNIOR COLLEGE BRANCH CAMPUS, HB 2474 provides that, if a county or school district issues bonds payable from revenue to finance the purchase of land or the construction of a branch campus, center, or extension facility for a community college, the bonds may be secured by a trust indenture, a deed of trust, or a mortgage granting a security interest in the land or facility. This allows districts to provide additional security for the bonds as sometimes requested by municipal bond rating agencies.

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CE (LEGAL) ANNUAL OPERATING BUDGET

HB 5 requires a district that must provide accelerated instruction to separately budget sufficient funds, including compensatory education funds, for that purpose. Compensatory education funds may not be budgeted for any other purpose until the district sets a budget for accelerated instruction. See FUNDS FOR ACCELERATED INSTRUCTION.

SB 1536 permits a district to donate funds or other property or service to the Texas State Guard, in addition to the existing provision allowing such donations to the adjutant general's department and the Texas National Guard. See CERTAIN DONATIONS.

CH (LEGAL) PURCHASING AND ACQUISITION

Current law prohibits a school district from awarding a contract to an OUT-OF-STATE BIDDER unless the nonresident bidder underbids the lowest bid submitted by a Texas bidder by a certain amount, which is based on the state law in which the nonresident bidder's principal place of business is located. HBs 1050 and 3648 also permit a district to calculate that amount by looking to the law of the state in which a majority of the manufacturing relating to the contract will be performed. See page 3.

HB 1050 also addresses INTERLOCAL AGREEMENTS, beginning on page 7. A new provision prohibits a school district from entering into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the district certifies in writing that: (1) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under the Texas Engineering Practice Act or the Texas Board of Architectural Examiners, or (2) required plans and specifications have been prepared. The bill also includes a definition of "purchasing cooperative."

CI (LEGAL) SCHOOL PROPERTIES DISPOSAL

A new provision from SB 211 restricts a school district's ability to dispose of surplus or salvage property acquired from the Texas Facilities Commission for two years from the date it was acquired.

CKE (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT SECURITY PERSONNEL

As a result of SB 686, we have changed the name of the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to the Texas Commission on Law Enforcement (TCLE) throughout this legally referenced policy.

Revisions to the SCOPE OF POWERS AND DUTIES of a commissioned peace officer are from SBs 393 and 1114. SB 1114 allows a peace officer to arrest a student in accordance with Texas Code of Criminal Procedure, article 45.058, which allows arrest of a child under non-secure custody (i.e., an unlocked, multipurpose area). SB 393 allows a peace officer to dispose of cases without referral to juvenile court or under a first offender program.

SB 1114 removes administrative functions from the duties of a school peace officer and requires the CHIEF OF POLICE of a school district police department to be held accountable and report to the superintendent only. Previous law also allowed the chief to report to the superintendent's designee.

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A new provision on page 6 from HB 1016 requires a school district to provide a district peace officer free LEGAL REPRESENTATION to defend the employee against a suit for damages by a party other than a governmental entity. The district is only required to provide counsel if the employee requests legal counsel and the suit involves an official act of the employee within the scope of the employee's authority. If the district fails to provide representation, the employee may recover reasonable attorney's fees from the district in certain circumstances.

CL (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

SB 1093 redesignated Chapter 2267 of the Government Code as Chapter 2269 of the Government Code. The reference on page 3 has been changed accordingly.

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

Changes at FUNDING, beginning on page 1, are from HB 5. As early as practicable each fiscal year the Commissioner shall provide each district an estimate of instructional material (IM) funding for the next fiscal year. Districts can place an IM order before the next fiscal year for up to 80 percent of the estimate. The Commissioner will prioritize payment of these pre-orders. A publisher may decline such an order.

We have also deleted an obsolete provision dictating the order in which instructional materials could be purchased during the 2011–13 biennium.

CNC (LEGAL) TRANSPORTATION MANAGEMENT TRANSPORTATION SAFETY

HB 347 extends the prohibition against using WIRELESS COMMUNICATION DEVICES while operating a vehicle in a school crossing zone to include school property. A person may not use a wireless communication device while operating a vehicle on the property of a school that has a school crossing zone during the time a reduced speed limit is in effect unless the vehicle is stopped or a hands-free device is being used.

The offense of DISRUPTION OF TRANSPORTATION on page 3 was amended by SBs 393 and 1114. SB 1114 provides that a primary or secondary student cannot commit the offense. SB 393 provides that it is an exception to the application of the offense that a person was younger than 12 years of age at the time the person engaged in the prohibited conduct.

CO (LEGAL) FOOD SERVICES MANAGEMENT

HB 1781 imposes LIMITATIONS ON SANCTIONS that the Texas Department of Agriculture (TDA) can apply to a district. TDA may not sanction a school district, including disallowing meal reimbursement, for selling food of minimal nutritional value to high school students if the school approves the sale in advance and the sale is made:

- Outside of a school area designated for food service or food consumption or not during a school meal service period; and
- For student organization fundraising or an activity sponsored or sanctioned by the school or the school district.

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CPAB (LEGAL) OFFICE COMMUNICATIONS
MAIL AND DELIVERY

Amended rules from the Texas Ethics Commission change the definition of POLITICAL ADVERTISING to exclude an individual communication by e-mail and include mass e-mails involving an expenditure of funds beyond the cost of hardware, messaging software, and bandwidth.

CPC (LEGAL) OFFICE MANAGEMENT
RECORDS MANAGEMENT

SB 471 now requires the board to preserve the *recording* rather than *tape recording* of the certified agenda. See PRESERVATION OF RECORDS on page 4.

CR (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT

In accordance with SB 531, a district may purchase reinsurance for a risk covered through a self-insurance fund and may satisfy a law or regulation requiring insurance by coverage provided through the fund. See SELF-INSURANCE FUND on page 1.

CS (LEGAL) FACILITY STANDARDS

SB 1556 repeals the statutory provision requiring the Texas School Safety Center to develop SECURITY CRITERIA for school districts to use in the design of instructional facilities. Districts must now consider *appropriate* security criteria in the design of new instructional facilities or major renovations of existing facilities. See page 3.

CV (LEGAL) FACILITIES CONSTRUCTION

SB 1093 redesignated Chapter 2267 of the Government Code as Chapter 2269 of the Government Code. References throughout this legally referenced policy have been changed accordingly.

Current law prohibits a school district from awarding a contract to an OUT-OF-STATE BIDDER unless the nonresident bidder underbids the lowest bid submitted by a Texas bidder by a certain amount, which is based on the state law in which the nonresident bidder's principal place of business is located. HBs 1050 and 3648 also permit a district to calculate that amount by looking to the law of the state in which a majority of the manufacturing relating to the contract will be performed. See page 3.

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HB 1050 addresses CERTIFICATION FOR PURCHASES THROUGH PURCHASING COOPERATIVES, beginning on page 5. A new provision prohibits a school district from entering into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the district certifies in writing that: (1) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under the Texas Engineering Practice Act or the Texas Board of Architectural Examiners, or (2) required plans and specifications have been prepared. The bill also includes a definition of “purchasing cooperative.”

CVA (LEGAL) FACILITIES CONSTRUCTION
COMPETITIVE BIDDING

SB 1093 redesignated Chapter 2267 of the Government Code as Chapter 2269 of the Government Code. References throughout this legally referenced policy have been changed accordingly.

CVC (LEGAL) FACILITIES CONSTRUCTION
CONSTRUCTION MANAGER-AGENT

SB 1093 redesignated Chapter 2267 of the Government Code as Chapter 2269 of the Government Code. References throughout this legally referenced policy have been changed accordingly.

CVD (LEGAL) FACILITIES CONSTRUCTION
CONSTRUCTION MANAGER-AT-RISK

SB 1093 redesignated Chapter 2267 of the Government Code as Chapter 2269 of the Government Code. References throughout this legally referenced policy have been changed accordingly.

CVF (LEGAL) FACILITIES CONSTRUCTION
JOB ORDER CONTRACTS

SB 1093 redesignated Chapter 2267 of the Government Code as Chapter 2269 of the Government Code. References throughout this legally referenced policy have been changed accordingly.

DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

SB 715 adds a requirement that licensed professional counselors have a LICENSE from the state agency that licenses that profession to be employed by the district. See pages 1–2.

On page 9 at ACCESS TO EMPLOYEE RECORDS, HB 2961 clarifies that a social security number in the district’s custody is confidential. The district cannot require an employee or former employee to choose whether to allow public access to his or her social security number.

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DBA (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CREDENTIALS AND RECORDS

To comply with the policy requirement from HB 2961 [see DC(LEGAL) below], we recommend a new provision stating that the district will not use an employee's SOCIAL SECURITY NUMBER as an employee identifier, except for tax purposes as allowed by the new law, and will keep the social security numbers confidential.

DC (LEGAL) EMPLOYMENT PRACTICES

The board is required by HB 2961 to adopt a policy prohibiting the use of an employee social security number as an employee identifier other than for tax purposes. See page 1 at TAX IDENTIFIER and page 5 at SOCIAL SECURITY NUMBERS. This new provision resulted in a minor change at EXCEPTIONS on page 5 to clarify when the federal versus state law provisions on social security numbers apply.

See also DBA(LOCAL), above.

DEAA (LEGAL) COMPENSATION AND BENEFITS INCENTIVES AND STIPENDS

In addition to current law providing scheduled release time for MENTOR TEACHERS, HB 2012 permits a district to use funds from a mentor teacher program to provide release time to the classroom teachers who are assigned to the mentor.

DEAB (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

HB 483 adds a new provision at PUBLIC HEARING–CONTRACT EMPLOYEES on page 2 that prohibits a district from paying an employee or former employee more than the person is owed under an employment contract unless the district holds a public hearing on the matter. At the public hearing, the board must state: the source and exact amount of the payment; the reason for the payment, including the public purpose that will be served by making the payment; and the terms for distribution of the payment that effect and maintain the public purpose.

DEC (LEGAL) COMPENSATION AND BENEFITS LEAVES AND ABSENCES

To better track legal authority, we have adjusted the text on page 4 addressing employee absences for RELIGIOUS OBSERVANCES.

Citations at ABSENCE CONTROL on page 5 have been adjusted to delete references to workers' compensation discrimination cases, as districts are immune from liability for workers' compensation retaliation cases based on current case law.

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DFBB (LEGAL) TERM CONTRACTS
NONRENEWAL

For classroom teachers, HB 2012 requires a district to use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions. See EVALUATIONS on page 1.

DFFA (LOCAL) REDUCTION IN FORCE
FINANCIAL EXIGENCY

The recommended revision at CRITERIA FOR DECISION is based on HB 2012, which requires a district to use a classroom teacher's consecutive appraisals from more than one year, if available, in making employment decisions. A reduction in force based on a financial exigency is an employment decision that would fall within the scope of this requirement.

Previously this local policy only required a district to look at the most recent formal appraisal when applying the performance criterion. The revised policy language additionally requires the district to look at consecutive formal appraisals from more than one year, if available. The new policy language applies to all employees being evaluated under the performance criterion, not just classroom teachers as required by law, so that the criterion is applied consistently to all employees.

DFFB (LOCAL) REDUCTION IN FORCE
PROGRAM CHANGE

As at DFFA (Financial Exigency) and based on HB 2012, a recommended change to this local policy on reduction in force based on a program change requires the district to look at consecutive formal appraisals from more than one year, if available, in addition to the most recent formal appraisal, when applying the performance criterion. The new policy language applies to all employees being evaluated under the performance criterion, not just classroom teachers as required by law, so that the criterion is applied consistently to all employees. See CRITERIA FOR DECISION.

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

At TELEPHONE REPRESENTATION, HB 2607 requires a school district grievance policy to permit a person representing a district employee in a grievance against the employee's supervisor alleging a violation of law in the workplace or unlawful harassment to represent the employee through a telephone conference call. The requirement applies only if the district has the equipment necessary for a telephone conference call and applies at any formal grievance proceeding, hearing, or conference at which the district employee is entitled to representation according to the district's grievance policy.

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

This policy is recommended for revision to reflect HB 2607, which requires the district's grievance policy to permit an employee REPRESENTATIVE to participate by telephone conference call in a grievance against the employee's supervisor alleging a violation of law in the workplace or unlawful harassment and when the district's policy entitles the employee to representation. See DGBA(LEGAL), above.

Because current provisions in the district's policy permit representation at any level of the grievance process, the recommended revision permits telephone conference calls at all levels of the process. For ease in administering this new requirement, the recommended policy text does not limit its application, as permitted by law, to grievances against the employee's supervisor alleging a violation of law in the workplace or unlawful harassment. Rather, telephone conference calls are permitted regardless of the subject of the grievance.

If your district chooses to only allow a representative to participate by telephone conference call in the specific types of grievances required by law, please contact your policy consultant for adjustments to your policy.

No other changes have been made to your extensive locally developed text reflecting a four-level complaint process.

DGC (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES IMMUNITY

A new provision from HB 3793 is reflected at IMMUNITY FOR MENTAL HEALTH FIRST AID beginning on page 3. A person who has completed mental health first aid training and who in good faith assists someone experiencing a mental health crisis is not liable for civil damages for acts performed in assisting the individual unless the act was willfully or wantonly negligent.

DH (LOCAL) EMPLOYEE STANDARDS OF CONDUCT

To clarify employees' responsibilities and to comply with policy requirements, we recommend adding a statement to this local policy on employee standards of conduct requiring an employee to report child abuse and neglect as required by law. The new text at HARASSMENT OR ABUSE includes a cross-reference to FFG, which includes an exhibit with more detailed reporting instructions that should be distributed to employees.

See FFG(LEGAL) and (EXHIBIT), below, for recent changes in reporting requirements.

DMA (LEGAL) PROFESSIONAL DEVELOPMENT REQUIRED STAFF DEVELOPMENT

In accordance with SB 939, training on awareness of CHILD ABUSE AND MALTREATMENT of children must be provided during employee orientation to all new employees and to existing employees on a schedule developed by TEA until all district employees have taken the training.

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HB 1952 requires every principal or other appropriate administrator who oversees STUDENT DISCIPLINE to attend professional development training at least once every three years regarding alternative settings for behavior management, which shall include training regarding the distinction between a principal's use of discipline management techniques when a student is sent to the principal's office in order to maintain effective discipline in a classroom and a teacher's discretion to remove an unruly student from class and not have the student return without the consent of the teacher.

DNA (LEGAL) PERFORMANCE APPRAISAL EVALUATION OF TEACHERS

Changes to this legally referenced policy on teacher evaluation are from HB 2012:

- At INTERIM EVALUATIONS AND GUIDANCE, beginning on page 1, a new provision requires a district to conduct appropriate components of the appraisal process, such as classroom observations and walk-throughs, more frequently than the full appraisal is completed and as necessary to ensure that a teacher receives adequate evaluation and guidance. A district must give priority to conducting appropriate components more frequently for inexperienced teachers and for experienced teachers with identified areas of deficiency.
- At NOTICE AND USE OF EVALUATIONS, on page 2, a district must use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions and developing career recommendations for the teacher. The district must give the teacher timely notice of the results of an appraisal so that the district and teacher can use the appraisal to improve the teacher's performance.
- At ACCESS TO EVALUATIONS, also on page 2, a teacher is entitled to receive a copy of his or her evaluation *promptly* after its completion.

DNA (LOCAL) PERFORMANCE APPRAISAL EVALUATION OF TEACHERS

As a result of HB 2012, described above, we recommend an addition at GENERAL REQUIREMENTS to reflect the requirement for a district to conduct components of the appraisal process, such as classroom observations and walk-throughs, more frequently than when the full appraisal is completed and as necessary to ensure that a teacher receives appropriate guidance.

Text addressing the days on which the district prohibits observations is recommended for deletion. The district must establish an appraisal calendar, which should take into account any prohibited days.

Recommended changes at FORMAL OBSERVATION and SECOND APPRAISAL are for clarification.

Provisions addressing consideration of evaluative information in employment decisions are no longer accurate in light of the new requirement from HB 2012 to use a teacher's consecutive appraisals from more than one year in making employment decisions. We recommended deletion of these provisions.

Other nonsubstantive changes are for consistency with policy style.

Please note: If the district uses an appraisal system other than PDAS for any of the district's teachers, please contact your policy consultant for an adjustment to the district's policy.

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EC (LEGAL) SCHOOL DAY

Changes from HB 5 require the board to adopt and strictly enforce a policy limiting LOSS OF CLASS TIME for remedial tutoring or test preparation to no more than ten percent of days on which the class is offered, although a parent can consent to additional removals.

EC (LOCAL) SCHOOL DAY

This policy is recommended for inclusion in the district's policy manual to comply with the local policy requirements in Education Code 25.083, as amended by HB 5. See EC(LEGAL) above.

At LOSS OF CLASS TIME, the recommended text limits removals from regularly scheduled classes for tutoring or test preparation to no more than 10 percent of the days on which the class is offered without a parent's written consent.

Education Code 25.083 also requires the district to limit specific types of class INTERRUPTIONS. Accordingly, the new text limits nonacademic activities that interrupt the academic process and requires the district to restrict announcements made over the public address system to once a day and prohibits selling or solicitation during class time.

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

Multiple bills affect the required instructional program:

- Personal financial literacy has been added to the ENRICHMENT CURRICULUM by HB 2662.
- SB 1474 adds a requirement that the district follow a specific process, including obtaining input from employees and the public, before adopting MAJOR CURRICULUM INITIATIVES.
- HB 462 prohibits a district from using the COMMON CORE STATE STANDARDS.
- HB 2483 includes oral health education as part of the COORDINATED HEALTH PROGRAM.
- Two bills revised the DUTIES of the school health advisory council (SHAC), beginning on page 5. SB 460 expands the scope of the SHAC's duties to include recommending policies, procedures, and strategies in addition to the existing duty of recommending curriculum, and adds duties related to mental health concerns. HB 1018 adds a duty for the SHAC to recommend, if feasible, joint use agreements or strategies for collaborating with community organizations.

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

Districts must now offer a half-credit elective course in personal financial literacy in accordance with HB 2662. Instruction in personal financial literacy has been removed from the requirements for economics. See item number 11 at GRADES 9–12 COURSE OFFERINGS.

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

SB 816 sets a deadline for the district to reply to a parent request for an initial evaluation, at REFERRALS, and moves the TIME FRAME for completing the written report of an initial evaluation for special education services from the 60th *calendar* day to the 45th *school* day after the receipt of parental consent, with some exceptions.

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

As reflected on page 6, a BEHAVIORAL INTERVENTION PLAN that the ARD committee determines is appropriate must be included in the student's IEP and provided to each of the student's teachers in accordance with SB 914.

EHBC (LEGAL) SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

This legally referenced policy has been extensively revised as a result of new legislation.

- The DEFINITION OF AT-RISK STUDENT was revised by HB 5 to include students under 26 years of age instead of the previous 21 years of age.
- HB 5 clarifies the district's obligations to provide ACCELERATED INSTRUCTION to students who fail an end-of-course assessment. The district may require the student to participate before or after normal school hours or at times of the year outside normal school operations, but note that this accelerated instruction is not subject to compulsory attendance requirements. In addition, the district must evaluate the effectiveness of its accelerated instruction and annually hold a public hearing to consider the results.
- In addition to current requirements, an INTENSIVE PROGRAM OF INSTRUCTION must be offered to a student who is not likely to receive a diploma within 4 years following enrollment in grade 9, per SB 1404.
- HB 5 requires each district to partner with at least one institution of higher education to provide COLLEGE PREPARATORY COURSES in math and English language arts. The courses are for students in grade 12 whose end-of-course assessment scores do not meet college readiness standards or whose coursework, college entrance exam scores, or higher education assessment scores show that the student is not ready for entry-level college coursework. Additional provisions address student NOTICES, CREDIT EARNED, and purchase of INSTRUCTIONAL MATERIALS.

EHBK (LEGAL) SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

Two new mandatory RECOGNITION DATES were added in the 83rd Legislative Session:

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- HB 1501 requires districts to commemorate SEPTEMBER 11, 2001, each year the date falls on a regular school day, with a minute of silence.
- HB 174 requires districts to observe, by appropriate ceremonies, activities, and programs, the historic, cultural, and social contributions that American Indians have made to Texas. See AMERICAN INDIAN HERITAGE DAY on page 1.

EHDC (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

Extensive revisions to credit by examination (CBE) without prior instruction were made by companion bills HB 2694 and SB 1365.

Based on SBOE guidelines, the school board must approve the exams available for CBE and, to the extent available, must approve at least four exams in each subject. These exams must include AP and CLEP exams.

The passing standard on the exams is now 80 rather than 90 percent, and a student is not required to take an end-of-course assessment in a subject if the student is awarded CBE.

Exam dates, of at least four times a year, will be determined by the SBOE. New limitations prohibit a student from attempting CBE more than twice in the same subject and require the student to enroll in the relevant course if the student fails to obtain credit through CBE before the beginning of the year in which the student would normally enroll in the course according to the district's prescribed course sequence.

Please note: Revisions to EHDC(LOCAL) will be recommended after the SBOE publishes rules.

EHDD (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT COLLEGE COURSE WORK/DUAL CREDIT

A district may implement a career and technical (CTE) program under the required COLLEGE CREDIT PROGRAM allowing students to earn 12 semester credit hours of college credit in accordance with HB 842. The CTE program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours, that:

- Satisfies a requirement to obtain an industry-recognized credential or associate degree and is approved by the higher education coordinating board, and
- For which the student may earn dual credit.

The district must report certain information about its college credit program to TEA.

HB 5 removes a limitation at COMMUNITY COLLEGE JURISDICTION. Previously, a district outside of a college district's service area could only enter into an agreement with that college district to offer a course if the community college district that serves the area where the high school is located was unable to provide the requested course. Revisions now permit a district to enter into agreements with community college districts regardless of whether the high school is located within the college district's service area.

HB 5 also limits a student's enrollment in more than three dual credit courses in a community college that does not serve the student's high school. See LIMIT ON ENROLLMENT on page 3.

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EHDE (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT DISTANCE LEARNING

Revisions to this legally referenced policy are a result of HB 1926:

- Beginning on page 6, the requirement for districts to adopt a LOCAL POLICY providing students information about the opportunity to enroll in TxVSN courses has been revised to require a *written* policy. At least once each year, districts must now send a copy of the policy to parents of middle and high school students.
- A district may now deny REQUESTS TO ENROLL in TxVSN courses if the district offers a substantially similar course. A district may also deny a request if the TxVSN course is inconsistent with requirements for college admission or an industry certificate, in addition to the current ability to deny enrollment if the course is inconsistent with the student's high school graduation plan. Upon receiving a request, a district may select a course provider based on certain factors. See page 7.
- Course providers may not provide inducements for a student to enroll in a TxVSN course. See INDUCEMENTS FOR ENROLLMENT PROHIBITED on page 8.
- If the student successfully completes the course, the district receives FUNDING. However, funding is limited to three TxVSN courses a year for each student, and a district may decline to pay a student's tuition for more than three yearlong electronic courses, or the equivalent, during a school year. A district may charge the student the COURSE COST when a student enrolls in more than three courses in a year.

EI (LEGAL) ACADEMIC ACHIEVEMENT

A provision from HB 5 clarifies that the requirement for a student to attend class 90 percent of the days the class is offered applies to students in all grades, including kindergarten, and applies to award of credit or a final grade. See ATTENDANCE FOR CREDIT OR FINAL GRADE.

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

HB 5 removed the provisions requiring a student's score on an end-of-course assessment to count for 15 percent of a student's final grade for the course. As a result, relevant provisions have been deleted from this legally referenced policy.

The provision allowing students who serve as STUDENT ELECTION CLERKS to apply the time served toward certain academic requirements was broadened to include service as an early voting clerk per SB 553.

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

As a result of changes from HB 5 deleting the requirement to count end-of-course assessment scores as 15 percent of the student's final grade, we recommend deleting the provisions in the district's grading policy addressing end-of-course assessments, including how the district would count retake scores and calculate final grades.

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We recommend deletion of the specific, detailed provisions in the policy regarding grading guidelines. This level of detail is more appropriate for administrative regulations and is already referenced at **GUIDELINES FOR GRADING**. Administrative regulations provide more flexibility and can be amended more quickly.

EIC (LEGAL) ACADEMIC ACHIEVEMENT
CLASS RANKING

As a result of HB 5, a district is prohibited from using a student's performance on an **END-OF-COURSE ASSESSMENT** to determine class rank for any purpose, including automatic admission to college.

EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION

A provision from HB 5 has been added at **EXCEPTION** on page 5. This provision allows a student on any of the current graduation programs who is a senior during 2013–14 and who does not satisfy the curriculum requirements of the student's high school program to graduate under the new foundation high school program if the student satisfies the requirements for that program.

On page 11 at **GRADUATION OF STUDENT IN CONSERVATORSHIP OF DFPS** is a new provision from SB 1404 that if a student in the conservatorship of the state transfers in grades 11 or 12 and would be eligible to graduate from the student's previous district but not the receiving district, the previous district must award a diploma on the student's request.

EK (LEGAL) TESTING PROGRAMS

A district is prohibited from administering more than two **BENCHMARK ASSESSMENT INSTRUMENTS** to prepare students for a state-mandated assessment. However, a parent of a special needs student may request that his or her child be administered more than the two.

EKB (LEGAL) TESTING PROGRAMS
STATE ASSESSMENT

There are numerous changes to this legally referenced policy on state assessments:

- From HB 5, as reflected on pages 1 and 2 at **SPECIAL EDUCATION**, TEA must develop alternative assessments for special education that measure growth, and these assessments must, to the extent allowed under federal law, provide districts with options for the assessment of these students. From SB 906, TEA may not adopt a performance standard that indicates a student's performance does not meet standards if the lowest level of the assessment represents the student's developmental level as determined by the ARD committee. From HB 5, the student's ARD committee shall determine whether a student is required to achieve satisfactory performance on an end-of-course assessment to graduate.
- On page 4 at **EXCEPTION**, HB 5 adds the phrase "except as required by federal law" to the provisions exempting students from administration of a grade-level assessment when a student is enrolled and tested in a course or subject above his or her enrolled grade level.

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- Provisions addressing the use of an end-of-course assessment in a student's final grade, cumulative and minimum scores for end-of-course assessments, and references to obsolete end-of-course assessments were deleted.
- New provisions from HB 5 addressing COLLEGE PREPARATORY COURSES require a district to partner with an institution of higher education to create college preparatory courses in math and English language arts for students at the 12th grade level whose scores on end-of-course or college entrance assessments indicate that the student is not ready to perform entry-level college coursework. The purpose of the courses is to prepare students for entry-level college courses.

EKBA (LEGAL) STATE ASSESSMENT ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

A new provision from HB 5 on page 3 clarifies the MINIMUM DAYS FOR ENROLLMENT related to eligibility for a LEP student to take an alternate assessment or be exempted from a state assessment. Regardless of the date on which a student originally enrolled in a U.S. school, a student is considered enrolled in a U.S. school for a year if the student was enrolled in a school in the U.S. for at least 60 consecutive days.

EKC (LEGAL) TESTING PROGRAMS READING ASSESSMENT

As reflected on page 1 at ADOPTION OF READING INSTRUMENTS, SB 172 requires the Commissioner to adopt at least two multidimensional tools that districts may choose to use with kindergarten students to diagnose reading development and comprehension.

EL (LEGAL) CHARTER CAMPUS OR PROGRAM

The changes to this legally referenced policy on charter campuses or programs are from SB 2:

- At CREATION BY PETITION, the board must hold a public vote to grant or deny a qualifying petition for a campus or charter program on a district campus.
- At CONTENT OF CHARTER, beginning on page 2, each charter must provide that continuation of the charter is contingent on satisfactory financial performance, but no longer must specify the reasons for which the charter may be placed on probation.
- Charter campuses or programs are now subject to Subchapters D (Financial Accountability) and F (Procedures for Challenge of Accountability Determination, Intervention, or Sanction) of the EDUCATION CODE.
- If a district contracts with another district or open-enrollment charter holder for services, an employee of the contracting district or open-enrollment charter holder is eligible for membership in the TEACHER RETIREMENT SYSTEM (TRS) if the employee would be eligible for TRS at the contracting district or open-enrollment charter holder. Employees of the campus charter or program are eligible for the same TRS benefits as a qualified employee in a regular school district.

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F (LEGAL) STUDENTS

We have revised the F Section table of contents to reflect the new subtitle for FOA: Removal by Teacher or Bus Driver.

FD (LEGAL) ADMISSIONS

Several bills resulted in changes to this legally referenced policy on student admissions:

- HB 2619 provides that a student in any grade who is placed in the conservatorship of the state at a residence outside the attendance zone of the school the student previously attended is entitled to continue to attend that school through the successful completion of the highest grade served at that campus without paying tuition. See STUDENTS IN FOSTER CARE.
- As reflected at STUDENTS HOLDING F1 STUDENT VISAS, SB 453 requires a district that chooses to enroll students with an F1 visa to accept payment of tuition for such students to attend public school.
- HB 2137 requires a district to enroll in the district's summer school program a student who is eligible to enroll in the district but who is not currently enrolled. The student must satisfy any course eligibility requirements and pay authorized course fees. See SUMMER SCHOOL ENROLLMENT.
- In accordance with SB 1142, a district will receive funding for students enrolled in an adult high school diploma and industry certification charter school pilot program. See FOUNDATION SCHOOL PROGRAM.

FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

There are several new provisions relating to EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS, beginning on page 3:

- At item number 6, HB 2619 provides that CHILDREN IN CONSERVATORSHIP OF DFPS must be excused for attending a mental health or therapy appointment or family visitation as ordered by a court. At item number 7, SB 1404 provides that a child in the conservatorship of the state must be excused for an activity ordered by a court, provided that it is not practicable to schedule the participation outside of school hours.
- At item number 8, HB 455 provides for an excused absence if a student is attending a health-care appointment for the student's child.
- SB 553 permits a district to adopt a policy excusing a student for serving as an early voting clerk. However, the total excused absences for this purpose and service as an election clerk are limited to two days per school year. If a district excuses a student's absence for this purpose the student shall be counted for ADA and, if the student makes up the work missed, the absences shall be counted as days of attendance for compulsory attendance.

Explanatory Notes

TASB Localized Policy Manual Update 98

- SB 260 requires a district to excuse a student for up to five days in a school year to visit with his or her parent, stepparent, or legal guardian who is an active duty member of the military services and has been called to duty for, is on leave from, or immediately returned from a continuous deployment of at least four months. An absence may be taken not earlier than 60 days before the deployment date or later than 30 days after the return deployment date. See MILITARY DEPENDENTS on page 5. Less specific provisions addressing absences for military dependents from the Interstate Compact on Educational Opportunity For Military Children have been deleted.

Per SB 393, a complaint filed for failure to attend school shall be dismissed by a court if the complaint or referral does not include certification about the use of truancy prevention measures and specify whether the student is eligible for or receives special education services. See FILING REQUIREMENTS.

FEA (LOCAL) ATTENDANCE
COMPULSORY ATTENDANCE

Recommended language excuses a student for up to two days a year to serve as an EARLY VOTING OR ELECTION CLERK in light of SB 553, which permits a district to adopt such a policy. The policy requires students to submit appropriate documentation.

We also recommend a nonsubstantive editorial change at HIGHER EDUCATION VISITS.

FEB (LEGAL) ATTENDANCE
ATTENDANCE ACCOUNTING

New compulsory attendance exemptions as mentioned above at FEA(LEGAL) have also been added to this legally referenced policy on attendance accounting. A district will receive funding if a student is not on campus when attendance is taken if the student is:

- Serving as a student early voting clerk in an election;
- In the conservatorship of the state and is absent for specified reasons;
- Absent for a health-care appointment of the student's child; or
- Absent to visit with a parent, stepparent, or guardian who is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has returned from a four-month or longer deployment.

FEC (LEGAL) ATTENDANCE
ATTENDANCE FOR CREDIT

A provision from HB 2694 has been added clarifying that a student who earns credit by examination is not subject to the 90 PERCENT RULE for attendance.

A provision from HB 5 clarifies that the requirement for a student to attend class 90 percent of the days the class is offered applies to students in kindergarten through grade 12 and applies to award of credit or a final grade.

Explanatory Notes

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FEC (LOCAL) ATTENDANCE ATTENDANCE FOR CREDIT

Throughout this policy are recommended changes to comply with HB 5, which applies the 90 percent attendance requirements to the award of a final grade in addition to award of credit.

At GUIDELINES ON EXTENUATING CIRCUMSTANCES, we have replaced the growing list of statutorily excused absences with a cross-reference to FEA, Compulsory Attendance. The policy continues to provide that if makeup work is completed satisfactorily, excused absences that are allowed under compulsory attendance requirements shall be considered days of attendance.

FED (LEGAL) ATTENDANCE ATTENDANCE ENFORCEMENT

Provisions regarding JUVENILE CASE MANAGERS have been amended as a result of SBs 393 and 1419. A district may employ or jointly employ a case manager:

- To provide services to juveniles a school administrator refers to court for misconduct that would otherwise be within the court's jurisdiction prior to a case being filed and with the consent of the juvenile and the juvenile's parents; or
- To assist with administering the court's juvenile docket, to provide prevention services to a child at risk of entering the juvenile justice system, and to provide intervention services to juveniles engaged in misconduct before cases are filed.

FFAB (LEGAL) WELLNESS AND HEALTH SERVICES IMMUNIZATIONS

SB 63 permits a child to consent to his or her own immunization if the child is pregnant or has custody of his or her child. See CONSENT BY CHILD on page 5.

FFB (LEGAL) STUDENT WELFARE CRISIS INTERVENTION

SB 831 adds ESCs to the list of entities that must provide and update annually a list of best-practice RECOMMENDED PROGRAMS for implementation in public schools, which now must include programs in mental health promotion and positive youth development and substance abuse prevention and intervention.

As added by SB 460, each district must provide employees TRAINING as described in the programs, which now include training on recognizing students who need substance abuse intervention and providing notice to parents of students who may need substance abuse services. A district may implement one of the recommended programs to satisfy this training requirement. If the district provides the training, teachers, counselors, principals, and all other appropriate personnel must participate in the training at least one time, and the district must maintain records that include the name of each district employee who participated in the training.

Explanatory Notes

TASB Localized Policy Manual Update 98

Adopting a local POLICY is still optional, but SB 831 adds mental health promotion and substance abuse prevention and intervention to the optional policy. As a result, references to substance abuse have been added throughout the policy provisions.

SB 460 provides that the above training requirements do not waive any IMMUNITY from liability of a district or of district officers or employees. Nor do they create any liability for a cause of action against a district or against district officers or employees. They also do not waive any immunity from liability under the Texas Civil Practice and Remedies Code section 74.151, which governs liability for emergency care.

Please note: If your district would like to see sample language addressing these issues, please contact your policy consultant.

FFC (LEGAL) STUDENT WELFARE
STUDENT SUPPORT SERVICES

SB 832 requires each district to send TEA the name of and contact information for the district's LIAISON FOR CHILDREN IN THE CONSERVATORSHIP OF THE STATE in a format and on a schedule determined by TEA. TEA shall provide training for school district liaisons.

FFG (LEGAL) STUDENT WELFARE
CHILD ABUSE AND NEGLECT

SB 152 adds new reporting requirements regarding ADULT VICTIMS OF ABUSE: an employee is required to make a report if the employee has cause to believe that an adult was a victim of abuse or neglect as a child and the employee determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

From HB 1205, the penalty for FAILURE TO REPORT child abuse or neglect by a professional is a class A misdemeanor if the professional was required to make a report and knowingly failed to make a report. If the professional intended to conceal the abuse or neglect, the penalty rises to a state jail felony. See page 3.

HB 1648 makes certain information created by the Department of Family and Protective Services (DFPS) in the course of an investigation confidential. See CONFIDENTIALITY on page 4.

As reflected at POSTING CHILD ABUSE HOTLINE TELEPHONE NUMBER on page 6, each school is required by SB 939 to post in a public area of the school that is accessible to students a sign in English and Spanish that has the toll-free DFPS phone number for reporting child abuse or neglect.

FFG (EXHIBIT) STUDENT WELFARE
CHILD ABUSE AND NEGLECT

The new child abuse and neglect reporting requirement from SB 152 has been added to this exhibit. An employee is required to make a report if he or she has cause to believe that an adult was a victim of abuse or neglect as a child and the employee determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

Please note: Please review in this exhibit the information regarding the district official individuals should contact if they have questions about the policies on child abuse or neglect and the contact information for the local law enforcement agency. Contact Policy Service if this information needs updating.

Explanatory Notes

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FM (LEGAL) STUDENT ACTIVITIES

The provision allowing students who serve as student election clerks to apply time served toward a service requirement for participation in a school-sponsored extracurricular activity was broadened to include service as an early voting clerk per SB 553. See STUDENT ELECTION CLERKS on page 12.

FNA (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES STUDENT EXPRESSION

From HB 308, a district may educate students about the history of traditional WINTER CELEBRATIONS and may allow students and staff to exchange traditional greetings such as “Merry Christmas,” “Happy Hanukkah,” and “happy holidays.” A district may also display symbols associated with winter celebrations if the display includes a scene or symbol of more than one religion or one religion and a secular symbol. Displays may not include a message encouraging adherence to a particular religious belief.

FNCG (LEGAL) STUDENT CONDUCT WEAPONS

HB 1862 removes switchblade knives from the list of OTHER PROHIBITED WEAPONS under the Penal Code.

FNCI (LEGAL) STUDENT CONDUCT DISRUPTIONS

Two bills affect the offense of DISRUPTION OF CLASSES. SB 1114 provides that a primary or secondary student enrolled in the school cannot commit the offense. SB 393 provides that it is an exception to the application of the offense that a person was younger than 12 years of age at the time the person engaged in the prohibited conduct.

FNG (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES STUDENT AND PARENT COMPLAINTS/GRIEVANCES

A provision from HB 5 clarifies that the requirement for a student to attend class 90 percent of the days the class is offered applies to the award of credit or a final grade. See DENIAL OF CLASS CREDIT OR FINAL GRADE.

Explanatory Notes

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FO (LEGAL) STUDENT DISCIPLINE

Two bills affect item number 1 at STUDENT CODE OF CONDUCT. A district's student code of conduct must specify the circumstances under which a student may be removed from a *school bus* per SB 1541 and a *vehicle owned or operated by the district* per SB 1114. At item number 8, SB 1114 also requires the student code of conduct to include options for managing students on a vehicle owned or operated by the district.

FOA (LEGAL) STUDENT DISCIPLINE REMOVAL BY TEACHER OR BUS DRIVER

A new provision from SB 1541 has been added at REMOVAL BY SCHOOL BUS DRIVER. A school bus driver transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office in order to maintain discipline on the bus. The principal is required to respond by employing appropriate discipline management techniques consistent with the student code of conduct.

GKA (LEGAL) COMMUNITY RELATIONS CONDUCT ON SCHOOL PREMISES

Several existing statutory provisions have been added to this legally referenced policy addressing conduct on school premises:

- At APPLICABILITY OF CRIMINAL LAWS on page 1, newly added text explains that the criminal laws of the state apply to areas under the board's jurisdiction. This statement provides a basis for the other provisions in the policy.
- At TRESPASS we have added the full text of Education Code 37.107, stating that it is a Class C misdemeanor for a person to trespass on school district grounds.
- Also reflected on page 1, the Education Code gives the board the authority to bar or suspend a person from driving or parking VEHICLES ON SCHOOL PROPERTY if the person violates a board rule or regulation or a rule or regulation from Chapter 37 of the Education Code.
- The offense of DISRUPTION OF TRANSPORTATION has been added on page 2. Although a primary or secondary student can no longer commit the offense per SB 1114, the offense is still applicable to non-students.
- At EXCEPTED PERSONS beginning on page 4, existing statutory provisions have been added listing the persons to whom the general prohibitions against weapons do not apply. HB 3370 expanded this list at item number 5 to include qualified retired law enforcement officers and former reserve law enforcement officers.

Changes at DISRUPTION OF CLASSES on page 2 are from SBs 393 and 1114. SB 1114 provides that a primary or secondary student enrolled in the school cannot commit the offense. SB 393 provides that it is an exception to the application of the offense that a person was younger than 12 years of age at the time the person engaged in the prohibited conduct.

Adjustments were made throughout the policy to better match statutory language, and some provisions were moved within the policy for better placement.

Explanatory Notes

TASB Localized Policy Manual Update 98

GRC (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES EMERGENCY MANAGEMENT

If a district makes a verbal REQUEST FOR ASSISTANCE for mutual aid, the district must confirm the request in writing. HB 3178 deletes the requirement that the district confirm the request within 30 days of the verbal request.

HB 3178 also amends provisions on REIMBURSEMENT OF COSTS on page 3. A local government entity that requests mutual aid assistance from a district is only required to reimburse the district for the costs of the assistance if the assistance exceeds 12 consecutive hours.

We have also deleted an obsolete provision regarding deadlines for completing emergency management training.

ACCOUNTABILITY
ACCREDITATION AND PERFORMANCE INDICATORS

AIA
(LEGAL)

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

ACCREDITATION STATUSES The Commissioner shall determine criteria for the following accreditation statuses:

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

Education Code 39.051

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

The Commissioner may also consider:

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

The District's accreditation status may be raised or lowered based on the District's performance. The District's accreditation status may be lowered based on the performance of one or more campuses in the District that is below a standard required by Education Code Chapter 39, Subchapter F.

Education Code 39.052(b)

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

1. The results of state assessments, including the results of assessments required for graduation and retaken by students;
2. Dropout rates;
3. High school graduation rates;
4. The percentage of students who successfully completed the requirements for the distinguished level of achievement under the foundation high school program;
5. The percentage of students who successfully completed the requirements for an endorsement; and
6. At least three additional indicators of student achievement, which must include either:
 - a. The percentage of students who satisfy the college readiness benchmarks on an assessment instrument in reading, writing, or mathematics; or
 - b. The number of students who earn:
 - (1) At least 12 hours of postsecondary credit required for the foundation high school program or to earn an endorsement;
 - (2) At least 30 hours of postsecondary credit required for the foundation high school program or to earn an endorsement;
 - (3) An associate's degree; or
 - (4) An industry certification.

An indicator adopted that would measure improvements in student achievement cannot negatively affect the Commissioner's review of a district or campus if that district or campus is already achieving at the highest level for that indicator.

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

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

Education Code 39.053

ACCOUNTABILITY
ACCREDITATION AND PERFORMANCE INDICATORS

AIA
(LEGAL)

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

DROPOUT RECOVERY SCHOOLS The Commissioner shall designate as a dropout recovery school a district or a campus that:

1. Serves students in grades 9 through 12;
2. Has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year; and
3. Meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the Commissioner.

The Commissioner shall use the alternative completion rate at Education Code 39.0545 to determine the student achievement indicator for a dropout recovery school.

Education Code 39.0545

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

1. The percentage of graduating students who meet the course requirements for the Minimum High School Program, the Recommended High School Program, and the Advanced/Distinguished Achievement High School Program;
2. The results of the SAT, ACT, articulated postsecondary degree programs, and certified workforce training programs;
3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;
4. For each campus, the number of students, disaggregated by major student subpopulations, who agree to take courses under the Minimum High School Program;
5. The percentage of students provided accelerated instruction after unsatisfactory performance on a state assessment, the subject of the assessment on which each student failed to

perform satisfactorily, the results of second and third administrations of the assessment, the percentage of such students promoted through the grade placement committee process, and the performance of those students in the following school year on the state assessments;

6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;
10. The percentage of students who are not educationally disadvantaged;
11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and
12. The percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

Education Code 39.301

PERFORMANCE
RATINGS

Each year, the Commissioner shall assign each district and campus a performance rating of either acceptable or unacceptable performance. The Commissioner shall evaluate against state standards and consider the performance of each campus in the District on the basis of the campus performance on the student achievement indicators other than, to the greatest extent possible, the student achievement indicator related to results of state assessments.

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

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

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

1. Performs satisfactorily on 85 percent of the measures the Commissioner determines appropriate with respect to the

student achievement indicators. The Commissioner may grant an exception from this criterion only in special circumstances; and

2. Does not fail to perform satisfactorily on the same measure for two consecutive school years.

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

Education Code 39.053(c)(1), .054

In determining the performance rating of a dropout recovery school [see DROPOUT RECOVERY SCHOOLS, above]:

1. Any student described by Education Code 39.053(g-1) who graduates or receives a high school equivalency certificate shall be included; and
2. Only the best result from the primary administration and any retake of an assessment instrument administered to a student in the school year evaluated under the accountability procedures adopted by the Commissioner may be considered.

Education Code 39.0545

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

DISTRICT AND
CAMPUS DISTINCTION
DESIGNATIONS

The Commissioner shall award distinction designations to districts and campuses. A distinction designation shall be referenced directly in connection with the performance rating assigned to the District or campus and made publicly available together with the District or campus performance ratings.

The District or campus may not be awarded a distinction designation unless the District or campus has acceptable performance on the student achievement indicators.

Education Code 39.201

The Commissioner shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness. *Education Code 39.202*

ACCOUNTABILITY
ACCREDITATION AND PERFORMANCE INDICATORS

AIA
(LEGAL)

CAMPUS
DESIGNATIONS

The Commissioner shall award campus distinction designations for outstanding performance in improvement in student achievement, closing student achievement differentials, academic achievement in English language arts, mathematics, science, or social studies, and advanced middle or junior high school student achievement.
Education Code 39.203

EXCELLENCE
EXEMPTIONS

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

An exemplary campus or district is not exempt from:

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

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

Education Code 39.232

ACCOUNTABILITY
PERFORMANCE REPORTING

AIB
(LEGAL)

DISTRICT
PERFORMANCE
REPORT

REQUIRED
CONTENTS

The Board shall publish an annual report describing the educational performance of the District and of each campus in the District. The report shall include uniform student performance and descriptive information as determined under rules adopted by the Commissioner. The annual performance report must also include:

1. Campus performance objectives and the progress of each campus toward those objectives, which shall be available to the public;
2. The District's accreditation status and each campus awarded a distinction designation or considered an unacceptable campus;
3. The District's current special education compliance status with TEA;
4. The number, rate, and type of violent or criminal incidents that occurred on each District campus, to the extent permitted under the Family Educational Rights and Privacy Act [see FL];
5. Information concerning school violence prevention and violence intervention policies and procedures that the District is using to protect students;
6. The findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.); and
7. Information received under Education Code 51.403(e) (student performance reports from institutions of higher education) for each high school campus in the District, presented in a form determined by the Commissioner.

The report must include a statement of the amount, if any, of the District's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

The annual performance report must also include a comparison provided by TEA of:

1. The performance of each campus to its previous performance and to state-established standards; and
2. The performance of each district to its previous performance and to state-established standards.

Performance information on the student achievement and quality of learning indicators and descriptive information shall be provided by TEA.

ACCOUNTABILITY
PERFORMANCE REPORTING

AIB
(LEGAL)

OPTIONAL
CONTENTS

The report may include the following information:

1. Student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;
2. Financial information, including revenues and expenditures;
3. Staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;
4. Program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and
5. The number of students placed in a disciplinary alternative education program under Education Code Chapter 37.

Supplemental information to be included in the reports shall be determined by the Board.

Education Code 39.306(a)–(b), (d)–(e), (g)

PUBLIC HEARING

The Board shall hold a hearing for public discussion of the annual performance report. The Board shall give notice of the hearing to property owners in the District and parents of and other persons standing in parental relation to a District student. The notice of hearing must include notice to a newspaper of general circulation in the District and notice to electronic media serving the District.

After the hearing the report shall be widely disseminated within the District in a manner to be determined under Commissioner rules.

Education Code 39.306(c)

REPORT USES

The information in the annual performance report shall be a primary consideration in District and campus planning. It shall also be a primary consideration of the Board in the evaluation of the performance of the Superintendent and of the Superintendent in the evaluation of the performance of campus principals. *Education Code 39.307*

CAMPUS
PERFORMANCE
REPORT

Each school year, TEA shall distribute to each district a report card for each campus. Annually, the District shall distribute the following information from each campus report card to the parent, guardian, conservator, or other person having lawful control of each student at the campus:

1. The District's instructional expenditures ratio and instructional employees ratio, and the statewide average of those ratios;

ACCOUNTABILITY
PERFORMANCE REPORTING

AIB
(LEGAL)

2. Appropriate class size information; and
3. Appropriate student performance information.

On written request, the District shall provide a copy of a campus report card to any other party.

Education Code 39.305

WEB SITE NOTICES

Not later than the tenth day after the first day of instruction of each school year, a district that maintains an Internet Web site shall make the following information available:

1. The information in the most recent campus report card for each campus in the District;
2. The information contained in the most recent performance report for the District;
3. The most recent accreditation status and performance rating of the District; and
4. A definition and explanation of each accreditation status, based on Commissioner rule.

Education Code 39.362

PERFORMANCE AND
COMPLIANCE
REPORTING

The District shall use criteria developed by a local committee to evaluate the performance of the District and each campus in:

1. Community and student engagement; and
2. Compliance with statutory reporting requirements and policy requirements.

Annually, by August 8, the District shall report each rating to TEA and shall make the ratings publicly available as provided by Commissioner rule.

COMMUNITY AND
STUDENT
ENGAGEMENT
CRITERIA

For purposes of the community and student engagement ratings, the District shall assign the District and each campus a performance rating of exemplary, recognized, acceptable, or unacceptable for both overall performance and each of the following individual evaluation factors:

1. Fine arts;
2. Wellness and physical education;
3. Community and parental involvement, such as opportunities for parents to assist students in preparing for state assessments, tutoring programs that support students taking state

assessments, and opportunities for students to participate in community service projects;

4. The 21st Century Workforce Development program;
5. The second language acquisition program;
6. The digital learning environment;
7. Dropout prevention strategies; and
8. Educational programs for gifted and talented students.

COMPLIANCE
CRITERIA

The District shall assign the District and each campus a performance rating of exemplary, recognized, acceptable, or unacceptable regarding compliance with statutory reporting and policy requirements.

Education Code 39.0545

STUDENT
PERFORMANCE
REPORT

Each year, TEA shall report to the District whether each student fell below, met, or exceeded the necessary target for improvement necessary to be prepared to perform satisfactorily on, as applicable, the grade five assessments, the grade eight assessments, and the end-of-course assessments required for graduation. *Education Code 39.034, .302*

NOTICE TO
PARENTS

The district a student attends shall provide a record of the annual improvement information from TEA in a written notice to the student's parent or other person standing in parental relationship. If a student failed to perform satisfactorily on a state assessment, the District shall include specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources and assessment instrument questions and released answers. *Education Code 39.303*

NOTICE TO
TEACHERS AND
STUDENTS

The District shall prepare a report of the annual improvement information and provide the report at the beginning of the school year to:

1. Each teacher for all students, including incoming students, who took a state assessment; and
2. All students who were provided instruction by that teacher in the subject for which the assessment instrument was administered.

The report shall indicate whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement.

Education Code 39.304

Note: The following contains basic requirements under the No Child Left Behind Act (NCLB) for districts and schools receiving Title I, Part A funds, but does not represent a complete list of legal obligations of such districts and schools. Those districts and schools that receive Title I, Part A funds should carefully review federal and state requirements concerning use of those funds.

DISTRICT PLAN

The District may receive a subgrant under Title I, Part A for any fiscal year only if the District has on file a plan approved by TEA. The plan shall include the items listed at 20 U.S.C. 6312(b) and the required assurances under 20 U.S.C. 6312(c). The plan may be submitted as part of a consolidated application. *20 U.S.C 6312(a)-(c)*

The District shall develop its plan in consultation with teachers, principals, administrators, and other appropriate school personnel, and with parents of children in schools served under Title I, Part A. The plan shall remain in effect for the duration of the District's participation under Title I, Part A. The District shall periodically review and, as necessary, revise its plan. *20 U.S.C. 6312(d)(3)*

ANNUAL REVIEW

A district receiving federal funds under Title I, Part A shall:

1. Use the state academic assessments and other academic indicators described in the state plan to review annually the progress of each school served under Title I, Part A to determine whether the school is making adequate yearly progress (AYP).
2. At the District's discretion, use any assessments or any other academic indicators described in the District plan to review annually the progress of each school served under Title I, Part A to determine whether the school is making AYP.
3. Publicize and disseminate the results of the local annual review to parents, teachers, principals, schools, and the community.
4. Review the effectiveness of the actions and activities with respect to parental involvement, professional development, and other activities assisted under Title I, Part A.

20 U.S.C. 6316(a)

"AYP" DEFINED

All public school campuses and districts are required to meet AYP criteria on three measures: reading/English language arts, mathematics, and either graduation rate (for high schools and districts) or attendance rate (for elementary and middle/junior high schools).

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	<p>The performance of the District or a campus is reported through indicators of AYP status established by the Commissioner. The specific criteria and calculations used in AYP are established annually by the Commissioner and communicated to all school districts. <i>19 TAC 97.1004</i></p>
TRANSFER OF DISCIPLINARY RECORDS	<p>The state shall provide an assurance to the United States Secretary of Education that the state has a procedure in place to facilitate the transfer by districts of disciplinary records, with respect to a suspension or expulsion, to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school. <i>20 U.S.C. 7165(b)</i></p>
CAMPUS-LEVEL INTERVENTIONS AND SANCTIONS	<p>A school that fails to make AYP is subject to identification by the District for improvement, corrective action, or alternative governance, as described below. <i>20 U.S.C. 6316(b)(1), (b)(5), (b)(7), (b)(8)</i></p>
PRE-IDENTIFICATION REVIEW	<p>Before identifying a school for improvement, corrective action, or restructuring, the District shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.</p> <p>If the principal of a school proposed for identification believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the District, which shall consider that evidence before making a final determination.</p> <p>Not later than 30 days after the District provides the school with the opportunity to review such school-level data, the District shall make public a final determination on the status of the school with respect to the identification.</p> <p><i>20 U.S.C. 6316(b)(2)</i></p>
DURATION	<p>If a school identified for improvement, corrective action, or restructuring makes AYP for two consecutive school years, the District shall no longer subject the school to the requirements of improvement, corrective action, or restructuring, or identify the school for improvement for the succeeding school year. <i>20 U.S.C. 6316(b)(12)</i></p>
GENERAL REQUIREMENTS	<p>If a school is identified for improvement, corrective action, or restructuring, the District shall:</p> <ol style="list-style-type: none">1. Provide notice to parents, as described below;

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2. Provide eligible students with supplemental services; and
3. Provide students enrolled in the school with an option to transfer to a higher performing school [see OPTION TO TRANSFER, below].

NOTICE TO
PARENTS

The District shall promptly provide notice of identification to the parent or parents of each student enrolled in the school. The notice shall be in an understandable and uniform format and, to the extent practicable, in a language the parents can understand. The notice shall provide:

1. An explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the District and TEA.
2. The reasons for the identification.
3. An explanation of what the school identified for improvement is doing to address the problem of low achievement.
4. An explanation of what the District or TEA is doing to help the school address the achievement problem.
5. An explanation of how parents can become involved in addressing the academic issues that caused the school to be identified for improvement.
6. An explanation of the parents' option to transfer their child to another public school or to obtain supplemental educational services for the child.

20 U.S.C. 6316(b)(6), (b)(7)(E)

SUPPLEMENTAL
SERVICES

The District shall arrange for the provision of supplemental educational services to eligible children from a provider with a demonstrated record of effectiveness. The provider shall be selected by the parents and approved for that purpose by TEA. Nothing contained in this provision shall permit the making of any payment for religious worship or instruction.

An "eligible child" means a child from a low-income family, as determined by the District for purposes of allocating funds to schools under 20 U.S.C. 6313(c).

"Supplemental educational services" means tutoring and other supplemental academic enrichment services that are:

1. In addition to instruction provided during the school day; and

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2. High quality, research-based, and specifically designed to increase the academic achievement of eligible children on academic assessments and attain proficiency in meeting the state's academic achievement standards.

The District shall continue to provide supplemental educational services to a child receiving such services until the end of the school year in which such services were first received.

The District may request that TEA waive, in whole or in part, the requirement to provide supplemental educational services.

20 U.S.C. 6316(e)

ANNUAL
NOTICE

If a school is identified for improvement, corrective action, or restructuring, the district shall provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of:

1. The availability of supplemental services;
2. The identity of approved providers of those services that are within the district or whose services are reasonably available in neighboring districts; and
3. A brief description of the services, qualifications, and demonstrated effectiveness of each such provider.

20 U.S.C. 6316(e)(2)(A)

The notice shall include information provided by TEA that identifies characteristics of supplemental services that have been demonstrated to be more likely to foster improvement in student academic performance and sorts, for each subject for which supplemental services are provided, supplemental service providers serving district students according to the provider's level of effectiveness in improving student performance in the applicable subject area.

TEA shall notify each appropriate district if it removes a supplemental services provider from its list of approved providers. Each district shall provide notice of the removal to parents of appropriate students.

Education Code 26.0082

OPTION TO
TRANSFER

Not later than the first day of the school year following identification, the District shall provide all students enrolled in the school with the option to transfer to another public school in the District that has not been identified for improvement. *20 U.S.C. 6316(b)(1)(E)* [See CNA and FDB]

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FAILURE TO MAKE AYP FOR TWO YEARS	<p>The District shall identify for improvement any elementary or secondary school served under Title I, Part A that fails, for two consecutive years, to make AYP. The identification shall take place before the beginning of the school year following such failure to make AYP. <i>20 U.S.C. 6316(b)(1)(A)–(B)</i></p>
SCHOOL PLAN	<p>After the resolution of any pre-identification review, the school shall, not later than three months after being identified for improvement, develop or revise a school plan in consultation with parents, school staff, the District, and outside experts. The school plan shall cover a two-year period and address the items at <i>20 U.S.C. 6316(b)(3)(A)</i>.</p> <p>The school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification for improvement. If a plan is not approved before the beginning of a school year, such plan shall be implemented immediately upon approval.</p> <p>Within 45 days of receiving a school plan, the District shall:</p> <ol style="list-style-type: none">1. Establish a peer review process to assist with review of the school plan; and2. Promptly review the school plan, work with the school as necessary, and approve the plan if it meets requirements. <p><i>20 U.S.C. 6316(b)(3)(E)</i></p>
TECHNICAL ASSISTANCE	<p>For each school identified for improvement, the District shall ensure the provision of technical assistance as the school develops and implements the school plan. Such technical assistance shall include the items listed at <i>20 U.S.C. 6316(b)(4)(B)</i> and shall be based on scientifically based research. <i>20 U.S.C. 6316(b)(4)</i></p>
FAILURE TO MAKE AYP FOR THREE YEARS	<p>If the school fails to make AYP by the end of the first full school year after identification, the District shall:</p> <ol style="list-style-type: none">1. Continue to provide students with the option to transfer to another school served by the District;2. Make supplemental educational services available; and3. Continue to provide technical assistance. <p><i>20 U.S.C. 6316(b)(5)</i></p>
FAILURE TO MAKE AYP FOR FOUR YEARS	<p>If the school fails to make AYP by the end of the second full school year after identification, the District shall identify the school for corrective action and take at least one of the following corrective actions:</p>

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1. Replace the school staff relevant to the failure to make AYP.
2. Institute and fully implement a new curriculum, including appropriate professional development, for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make AYP.
3. Significantly decrease management authority at the school level.
4. Appoint an outside expert to advise the school on its progress toward making AYP.
5. Extend the school year or school day for the school.
6. Restructure the internal organizational structure of the school.

20 U.S.C. 6316(b)(7)(C)

FAILURE TO MAKE
AYP FOR FIVE
YEARS

If, after one full school year of corrective action, a school continues to fail to make AYP, the District shall prepare a plan and make necessary arrangements to carry out alternative governance.

Not later than the beginning of the school year following the year in which the District implements restructuring, the District shall implement one of the following alternative governance arrangements for the school consistent with state law:

1. Reopen the school as a public charter school.
2. Replace all or most of the school staff (which may include the principal) who are relevant to the failure to make AYP.
3. Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.
4. Turn the operation of the school over to the TEA, if permitted under state law and agreed to by the state.
5. Execute any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make AYP.

20 U.S.C. 6316(b)(8)(B)

NOTICE TO
TEACHERS AND
PARENTS

The District shall provide prompt notice to teachers and parents of the identification for restructuring. The District shall provide the teachers and parents with an adequate opportunity to comment

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	before the District takes action and to participate in developing any restructuring plan.
DISTRICT-LEVEL INTERVENTIONS AND SANCTIONS	A district that fails to make AYP is subject to identification by TEA for district improvement or corrective action. <i>20 U.S.C. 6316(c)</i>
PRE-IDENTIFICATION REVIEW	<p>Before identifying the District for improvement or corrective action, TEA shall provide the District with an opportunity to review the data, including academic assessment data, on which the proposed identification is based. If the District believes that the proposed identification is in error for statistical or other substantive reasons, the District may provide supporting evidence to TEA, which shall consider the evidence before making a final determination not later than 30 days after any pre-identification review.</p> <p>TEA shall promptly provide to the parents of each student enrolled in a school served by a district identified for improvement, the results of any pre-identification review and, if the District is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the District.</p> <p><i>20 U.S.C. 6316(c)(5)</i></p>
DURATION	If the District makes AYP for two consecutive school years beginning after the date of identification for improvement, TEA need no longer identify the District for improvement or subject the District to corrective action for the succeeding school year. <i>20 U.S.C. 6316(c)(11)</i>
IDENTIFICATION FOR IMPROVEMENT	TEA shall identify for improvement a district that, for two consecutive years, fails to make AYP. <i>20 U.S.C. 6316(c)(3)</i>
DISTRICT PLAN	<p>A district identified for improvement shall, not later than three months after being so identified, develop or revise a District plan, in consultation with parents, school staff, and others. The plan shall address the items at 20 U.S.C. 6316(b)(7)(A). The District shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the District was identified for improvement. <i>20 U.S.C. 6316(c)(7)</i></p> <p>TEA shall provide technical or other assistance if requested to better enable the District to develop and implement its plan and work with schools needing improvement. The technical assistance shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing parental involvement and professional development activities. <i>20 U.S.C. 6316(c)(9)</i></p>

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IDENTIFICATION
FOR CORRECTIVE
ACTION

After providing technical assistance, TEA may take corrective action at any time with respect to a district that has been identified for improvement.

TEA shall take corrective action with respect to a district that fails to make AYP by the end of the second full school year after the identification for improvement. TEA shall continue to provide technical assistance while instituting any corrective action.

If the District is identified for corrective action, TEA shall take at least one of the following actions:

1. Defer programmatic funds or reduce administrative funds.
2. Institute and fully implement a new curriculum.
3. Replace District personnel relevant to the failure to make AYP.
4. Remove particular schools from the jurisdiction of the District and establish alternative arrangements for public governance and supervision of such schools.
5. Appoint a receiver or trustee to administer the affairs of the District in place of the Superintendent and Board.
6. Abolish or restructure the District.
7. In conjunction with at least one of the actions listed above, authorize students to transfer to a higher-performing public school operated by another district.

20 U.S.C. 6316(c)(10)

TEA may delay, for a period not to exceed one year, implementation of corrective action if the District makes AYP for one year or its failure to make AYP is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the District. No such period shall be taken into account in determining the number of consecutive years of failure to make AYP.

HEARING

Before implementing any corrective action, TEA shall provide notice and a hearing to the affected district, if state law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.
20 U.S.C. 6316(c)(10)(D)

NOTICE TO
PARENTS

TEA shall publish, and disseminate to parents and the public, information on any corrective action TEA takes, through such means as the Internet, the media, and public agencies. *20 U.S.C. 6316(c)(10)(E)*

This introductory page outlines the contents of the elections policy.
See the following sections for statutory provisions on:

SECTION I

Elections Generally

1. Membership and terms
2. General election date
3. Joint elections
4. Method of election
5. Boundary change notice
6. Election records
7. Election documents

SECTION II

Conducting Elections

1. Election services
2. Election order and notices
3. Filing information
4. Election of unopposed candidate
5. Ballot
6. Election judges and clerks
7. Polling places
8. Bilingual materials
9. Voting systems
10. Early voting
11. Conducting elections

SECTION III

Post-Election Procedures

1. Determination of results
2. Canvass returns
3. Certificate of election
4. Officer's statement
5. Oath of office

SECTION I: ELECTIONS GENERALLY

MEMBERSHIP AND
TERMS

The Board consists of seven members serving terms of three years, with elections held annually. The terms of one-third of the Board members, or as near to one-third as possible, expire each year. *Education Code 11.051(b), .059*

Board policy shall state the schedule on which specific terms expire. *Education Code 11.059* [See BBB(LOCAL)]

GENERAL ELECTION
DATE

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

JOINT ELECTIONS
REQUIRED

A District Board member 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;
2. The general election for state and county officers. The general election for state and county officers is the first Tuesday after the first Monday in November in even-numbered years;
3. The election for the members of the governing body of a hospital district, if the District:
 - a. Is wholly or partly located in a county with a population of less than 40,000 that is adjacent to a county with a population of more than three million; and
 - b. Held its election for Board members jointly with the election for the members of the governing body of the hospital district before May 2007; or
4. The election for the members of the governing board of a public junior college district in which the District is wholly or partly located.

The election shall be held as a joint election under Election Code Chapter 271 and the voters shall be served by common polling places consistent with Election Code 271.003(b).

Education Code 11.0581; Election Code 41.002

ADMINISTRATOR

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

METHOD OF
ELECTION

Election of Board members is at large in accordance with Texas law. *Education Code 11.057(b)*

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CHANGING
METHOD OF
ELECTION

The Board may by resolution order that Board members be elected at-large by position or place in accordance with Education Code 11.058. *Education Code 11.058*

In accordance with Education Code 11.052, the Board may decide, on the Board's motion or by voter petition, to change its method of election to single member districts. *Education Code 11.052*

Note: For additional information regarding the legal requirements of changing the method of election, see this policy code in the *TASB Policy Reference Manual*.

BOUNDARY CHANGE
NOTICE

If the District changes its boundaries, it shall not later than the 30th day after the date the change is adopted:

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
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.

Election Code 42.0615

ELECTION RECORDS

Except as otherwise provided by the Election Code, the District shall preserve the precinct election records distributed to it for at least six months after election day. *Election Code 66.058(a)*

DELIVERY OR
SUBMISSION OF
ELECTION
DOCUMENTS

Unless otherwise provided by the Election Code, delivery, submission, or filing of an application, notice, report, or other document or paper with an employee of the District at the District's usual place for conducting official business constitutes filing with the District. The District may accept the document or paper at a place other than the authority's usual place for conducting official business.

A delivery, submission, or filing of a document or paper under the Election Code may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission.

Election Code 1.007(c)

SECTION II: CONDUCTING ELECTIONS

ELECTION SERVICES

If requested to do so by the District, a county elections administrator shall enter into a contract to furnish election services, as set forth at Election Code Chapter 31, Subchapter D. A county elections administrator is not required to enter into a contract to furnish

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	<p>elections services for an election held on the second Saturday in May in an even-numbered year. <i>Election Code 31.093, 41.001(d)</i></p>
ELECTION ORDER	<p>A call for an election shall be made not later than the 71st 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 November uniform election date of even-numbered years), the election shall be called not later than the 78th day before the election day. The Board shall order the election. <i>Election Code 3.004-.005</i></p> <p>Each election order must state the date of the election, the offices or measures to be voted on, the location of the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. <i>Election Code 3.006, .008, 83.010, 85.004, .007</i></p>
FAILURE TO ORDER AN ELECTION	<p>Failure to order a general election does not affect the validity of the election. <i>Election Code 3.007</i></p>
ELECTION NOTICE CONTENTS	<p>Notice of the election shall state:</p> <ol style="list-style-type: none">1. The nature and date of the election;2. The location of each polling place;3. The hours the polls will be open; and4. For early voting:<ol style="list-style-type: none">a. The location of the main early voting place, as determined under Election Code 85.002;b. The dates and hours for early voting, including the dates and hours of any Saturday and Sunday early voting; andc. The early voting clerk's official mailing address. <p><i>Election Code 4.004(a), 83.010, 85.004, .007</i></p>
NOTICE OF SPECIAL ELECTION	<p>The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. <i>Election Code 4.004(b)</i></p>
PUBLICATION	<p>Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within the District's boundaries or in a newspaper of general circulation in the District if none is published within the District's boundaries. <i>Election Code 4.003(a)(1), (c), .005(a)</i></p>

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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 remain posted continuously through election day. 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. <i>Election Code 4.003(b), .005(b)</i>
NOTICE TO COUNTY CLERK AND VOTER REGISTRAR	The Board shall also deliver notice of the election to the county clerk and voter registrar of each county in which the District is located not later than the 60th day before election day. <i>Election Code 4.008(a)</i>
NOTICE TO ELECTION JUDGE	Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the Board shall deliver to the presiding judge of each election precinct in which the election is to be held in the District a written notice of: <ol style="list-style-type: none">1. The nature and date of the election;2. The location of the polling place for the precinct served by the judge;3. The hours that the polls will be open;4. The judge's duty to hold the election in the precinct specified by the notice; and5. The maximum number of clerks that the judge may appoint for the election. <i>Election Code 4.007</i>
FAILURE TO GIVE NOTICE OF ELECTION	Failure to give notice of a general election does not affect the validity of the election. <i>Election Code 4.006</i>
FILING INFORMATION NOTICE TO CANDIDATES	The District shall post notice of the dates of the filing period in a public place in a building where applications are filed not later than the 30th day before the last day on which a candidate may file an application for a place on the ballot. This requirement does not apply to an office to be filled at the general election for state and county officers (the November uniform election date of even-numbered years). <i>Election Code 141.040</i>
GENERAL ELECTION	An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline. An application must be filed not later than 5:00 p.m. of:

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1. The 78th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or
2. The 71st day before election day, if the election is to be held on any other uniform election date.

Education Code 11.055(a), (c); Election Code 144.005

SPECIAL ELECTION

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or
2. 5:00 p.m. of the 45th day before election day, if election day is on or after the 57th day and before the 70th day after the date the election is ordered.

EXCEPTION

For a special election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the day of the filing deadline is the 75th day before election day.

Election Code 201.054(a), (d), (f)

WRITE-IN
CANDIDACY

A declaration of write-in candidacy must be filed no later than 5:00 p.m. of:

1. The 74th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or
2. The 71st day before election day, if the election is to be held on any other uniform election date.

Education Code 11.056(b); Election Code 146.054

APPLICATION

The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law [see BBBB]. *Election Code 31.0021, 141.031, .039*

ELECTION OF
UNOPPOSED
CANDIDATE

The Board may declare each unopposed candidate elected to office if each candidate for an office that is to appear on the ballot is unopposed.

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For purposes of determining whether all offices on a ballot are unopposed, a special election of the District is considered to be a separate election with a separate ballot from:

1. A general election for officers of the District held at the same time as the special election; or
2. Another special election of the District held at the same time as the special election.

Election Code 2.051

PROCEDURE FOR
CANCELING
ELECTION

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. *Election Code 2.052, .053(a), (b)*

If no election is to be held by the District on election day, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

If a Board member election has been canceled but a separate election is to be held by the District on election day, the ballots used at the separate election shall include the offices and names of the candidates declared elected. The offices and names of unopposed candidates shall be listed separately, after the measures or contested races in the separate election, under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053(a), (c)

BALLOT

The ballot shall be printed in the form required by law. *Election Code 52.061-.064, .069, .093-.094; Education Code 11.058(g)*

ELECTION JUDGES
AND CLERKS

The Board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. *Election Code Chapter 32*

The nepotism prohibitions [see DBE] do not apply to appointment of an election clerk under Election Code 32.031 if the clerk is not related in the first degree by consanguinity or affinity to an elected official of the District. *Gov't Code 573.061(8)*

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POLLING PLACES

The Board shall designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handi-capped. *Election Code 43.004, .034*

If the 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), .0621, 43.004(b)*

POLLING PLACES
FOR EARLY VOTING

The following provision applies to a district that:

1. Holds an election on the November uniform election date;
2. Is not holding a joint election with a county; and
3. Has not executed a contract with a county elections officer under which the District and the county share early voting polling places for the election.

The District shall designate as an early voting polling place for the election any early voting polling place, other than a polling place established under Election Code 85.062(e) (temporary branch polling place), established by the county and located in the District.

A shared polling place established under Election Code 85.010 that is designated as a main early voting polling place by any political subdivision must be open for voting for all political subdivisions the polling place serves for at least the days and hours required of a main early voting polling place under Election Code 85.002 for the political subdivision making the designation.

Election Code 85.010

ELECTIONEERING

A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

“Electioneering” includes the posting, use, or distribution of political signs or literature.

“Voting period” means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

“Early voting period” is described at Election Code 85.001.

A district that owns or controls a public building being used as a polling place or early voting polling place may not, at any time dur-

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ing the voting period or early voting periods, as applicable, prohibit electioneering on the building's premises outside of the area described above. The District may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 61.003, 85.036

BILINGUAL MATERIALS
SPANISH

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.

Election Code 272.002

An election precinct may apply for an exemption from the requirement to provide election materials in Spanish 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. *Election Code 272.003*

OTHER
LANGUAGES

If the director of the census determines that the District must provide election materials in a language other than English or Spanish, the District shall provide election materials in that language in the same manner in which the District would be required to provide materials in Spanish, to the extent practicable. *Election Code 272.011; 42 U.S.C. 1973aa-1a*

VOTING SYSTEMS

A voting system shall be selected and utilized in accordance with Election Code Title 8. *Election Code Title 8*

VOTING MACHINES
AND PUNCH-CARD
BALLOTS

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
ACCESSIBLE
VOTING
STATIONS

Each polling place in an election of the District 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. *Election Code 61.012(a)*

ELECTRONIC
VOTING SYSTEM
EXCEPTIONS

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:

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BBB
(LEGAL)

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 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

MULTIPLE
VOTING
SYSTEMS
PERMITTED

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]

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

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ELECTIONS

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malfunction of the District's voting system software or equipment in an election. The notice may be verbal or in writing. *1 TAC 81.64*

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*

CONDUCTING
ELECTIONS

Elections shall be conducted in accordance with Election Code Title 6. *Election Code Title 6*

SECTION III: POST-ELECTION PROCEDURES

DETERMINATION OF
RESULTS

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*

PLURALITY

The candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring. *Education Code 11.057(b)*

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 Board member elections. *Education Code 11.056*

TIE VOTES

In accordance with Election Code 2.002, 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. *Election Code 2.002*

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. *Election Code 67.003(a)*

EARLY VOTING
CANVASS—
NOVEMBER
ELECTION

For an election held on the date of the general election for state and county officers (November of even-numbered years), the time for the canvass of early voting results by the District may be set not later than the 14th day after election day. *Election Code 65.051(a-1), 67.003(c)*

MAY ELECTION

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;

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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.

Election Code 67.003(b)

QUORUM FOR
CANVASS

Two members of the Board constitute a quorum for purposes of canvassing an election. *Election Code 67.004(a)*

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, .017, 212.0331

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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)*

OFFICER'S
STATEMENT

Newly elected and appointed Board members, 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. *Tex. Const. Art. XVI, Sec. 1(b)* [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 Board member shall take the oath or affirmation of office 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 the individuals listed at Government Code 602.002, including:

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 secretary of state or a former secretary of state.
6. The speaker of the house of representatives or a former speaker of the house of representatives.
7. The lieutenant governor or a former lieutenant governor.
8. The governor or a former governor.
9. A legislator or retired legislator.
10. The attorney general or a former attorney general.

Gov't Code 602.002

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

RESIGNATION	A Board member may resign by delivering written notice, signed by the Board member, to the presiding officer of the Board. The Board may not refuse to accept a resignation. <i>Election Code 201.001</i>
EFFECTIVE DATE	If a Board member submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the Board or on the eighth day after the date of its receipt by the Board, whichever is earlier. <i>Election Code 201.023</i>
HOLDOVER DOCTRINE	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 Board member's resignation is filled by a successor, the Board member continues to serve and have the duties and powers of office and continues to be subject to the nepotism provisions. A holdover Board member may not vote on the appointment of his or her successor. <i>Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)</i> [See DBE]
RESIDENCY	A person elected to serve as a Board member must remain a resident of the District throughout the term of office. A Board member who ceases to reside in the District vacates his or her office. <i>Tex. Const., Art. XVI, Sec. 14; Prince v. Inman, 280 S.W.2d 779 (Tex. Civ. App.—Beaumont 1955, no writ); Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. Civ. App.—Houston 1959, no writ)</i>
RESIDENCE DEFINED	"Residence" means domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence. A person does not lose one's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. <i>Election Code 1.015</i>

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dismissed w.o.j)*

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

INVOLUNTARY
REMOVAL FROM
OFFICE
QUO WARRANTO

On his or her own motion, or at the request of an individual, the attorney general or the county district attorney may petition the district court for leave to file an action in quo warranto to remove a Board member. An action in quo warranto is available if:

1. A person usurps, intrudes into, or unlawfully holds or executes a public office; or
2. A public officer does an act or allows an act that by law causes forfeiture of office.

Civ. Prac. & Rem. Code 66.001–.002

REMOVAL BY
PETITION AND
TRIAL

A resident of the state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county may file a petition to remove a public officer from office for one of the reasons listed below. A proceeding for removal is begun by filing a written petition for removal in a district court of the county in which the officer resides. *Local Gov't Code 87.015*

REASONS FOR
REMOVAL

A public officer may be removed from office for:

1. "Incompetency," which means:
 - a. Gross ignorance of official duties;
 - b. Gross carelessness in the discharge of those duties; or
 - c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of election.
2. "Official misconduct," which means intentional, unlawful behavior relating to official duties by a Board member entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a Board member to perform a duty imposed on the Board member by law.
3. Intoxication on or off duty caused by drinking an alcoholic beverage, but not if it was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician.
4. Conviction of a Board member by a jury for any felony or for misdemeanor official misconduct. The conviction of a public officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.

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Tex. Const., Art. V, Sec. 24; Local Gov't Code 87.011, .013, .031; Hendricks v. State, 49 S.W. 705 (1899), Tovar v. Somerset Indep. Sch. Dist., 994 S.W.2d 756 (Tex. App.—Corpus Christi 1999, pet. denied)

REMOVAL FOR PURCHASING VIOLATIONS	A Board member who is convicted of a purchasing offense [see CH(LEGAL), IMPERMISSIBLE PRACTICES] is considered to have committed official misconduct and is subject to removal under Local Government Code Chapter 87. <i>Education Code 44.032</i>
FORMER BOARD MEMBER EMPLOYMENT	A Board member is prohibited from accepting employment with the District until the first anniversary of the date the Board member's membership on the Board ends. <i>Education Code 11.063</i>
FILLING A VACANCY	<p>If a vacancy occurs on the Board, whether by death, resignation, lack of residency or other qualification, or involuntary removal, the remaining Board members may fill the vacancy by appointment until the next Board member election, or may order a special election to fill the vacancy. If more than one year remains in the term of the position vacated, the vacancy shall be filled not later than the 180th day after the date the vacancy occurs. <i>Education Code 11.060</i></p> <p>An election to fill a vacancy shall be to fill the unexpired term only. <i>Tex. Const. Art. XVI, Sec. 27</i></p>
APPOINTMENT	<p>To be eligible to be appointed to the Board, a person must have the qualifications set forth at Election Code 141.001(a). <i>Election Code 141.001(a)</i> [See BBA]</p> <p>An appointment to the Board may be made with the intent to ensure that the Board is representative of the constituency served by the Board. A board that chooses this option shall adopt procedures for its implementation. <i>Local Gov't Code 180.005(b), (c)</i></p>
SPECIAL ELECTION	A special election to fill a vacancy shall be conducted in the same manner as the District's general election, except as provided in the Election Code. <i>Education Code 11.060(c)</i>
DATE OF ELECTION	If a law requires a special election to be held within a particular period after the occurrence of a certain event, the election shall be held on an authorized uniform election date occurring within the period. If no uniform election date affords enough time to hold the election in the manner required by law, the election shall be held on the first authorized uniform election date occurring after the expiration of the period. <i>Election Code 41.001(a), .004(a)</i> [See BBB]
ORDERING ELECTION	If a vacancy is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. The special election shall be held on the first authorized uniform election

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VACANCIES AND REMOVAL FROM OFFICE

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date occurring on or after the 45th day after the date the election is ordered. If the special election is to be held on the date of the general election for state and county officers, the election shall be ordered not later than the 70th day before election day. The general election for state and county officers is the first Tuesday after the first Monday in November in even-numbered years. *Election Code 41.002, 201.051-.052*

TEMPORARY
REPLACEMENT OF
BOARD MEMBER ON
MILITARY ACTIVE
DUTY

A Board member who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the Board may appoint a replacement to serve as a temporary Board member if the elected or appointed Board member will be on active duty for longer than 30 days.

The Board member who is temporarily replaced may recommend to the Board the name of a person to temporarily fill the office. The Board shall appoint the temporary Board member to begin service on the date specified in writing by the Board member being temporarily replaced as the date the Board member will enter active military service.

A temporary Board member has all the powers, privileges, and duties of the office as the Board member who is temporarily replaced. A temporary Board member shall perform the duties of office for the shorter period of:

1. The term of the active military service of the Board member who is temporarily replaced; or
2. The term of office of the Board member who is temporarily replaced.

“Armed forces of the United States” means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

Tex. Const., Art. XVI, Sec. 72

BOARD MEMBERS
AUTHORITY

BBE
(LEGAL)

BOARD AUTHORITY

The Board members as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the District. *Education Code 11.151*

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

ACCESS TO
INFORMATION

When acting in the member's official capacity, a Board member has an inherent right of access to information, documents, and records maintained by the District.

"Official capacity" means all duties of office and includes administrative decisions or actions.

The District shall provide the information, documents, and records to the Board member without requiring the Board member to submit a public information request under Texas Government Code Chapter 552 (Public Information Act) and without regard to whether the requested items are the subject of or relate to an item listed on an agenda for an upcoming meeting.

The District may withhold or redact information, a document, or a record requested by a Board member to the extent that the item is excepted from disclosure or is confidential under the Public Information Act or other law [see GBA]. Education Code 11.1512 does not require the District to provide information, documents, and records that are not subject to disclosure under the Family Educational Rights and Privacy Act of 1974 [see FL].

The District shall post, in a place convenient to the public, the cost of responding to one or more requests submitted by a Board member under Education Code 11.1512(c) if the requests are for 200 or more pages of material in a 90-day period.

The District shall report annually to TEA not later than September 1 of each year:

1. The number of requests submitted by a Board member under Education Code 11.1512(c) during the preceding school year; and
2. The total cost to the District for that school year of responding to the requests.

Education Code 11.1512(c)-(f)

An individual Board member has an inherent right of access to records maintained by the District when the Board member re-

BOARD MEMBERS
AUTHORITY

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(LEGAL)

quests the records in his or her official capacity. *Atty. Gen. Op. No. JM-119 (1983)*

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

ACCESS TO
STUDENT
RECORDS

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

RESPONSIBILITY
FOR RECORDS

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

1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a District record in contravention of Local Government Code Chapter 202. *Local Gov't Code 202.008; Penal Code 37.10*
2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552 (Public Information Act). *Gov't Code 552.351*
3. Distributes information considered confidential under the Public Information Act. *Gov't Code 552.352*

PROTECTIONS FOR
ACTING ON A
LEGISLATIVE
MEASURE

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

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

Gov't Code 572.059

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(LEGAL)

BOARD MEMBER
IMMUNITIES

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

STATE LAW
IMMUNITIES

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

FEDERAL LAW
IMMUNITIES

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

BOARD MEMBERS
AUTHORITY

BBE
(LOCAL)

BOARD AUTHORITY The Board has final authority to determine and interpret the policies that govern the schools and, subject to the mandates and limits imposed by state and federal authorities, has complete and full control of the District. Board action shall be taken only in meetings that comply with the Open Meetings Act. [See BE(LEGAL)]

TRANSACTIONING
BUSINESS When a proposal is presented to the Board, the Board shall hold a discussion and reach a decision. Although there may be dissenting votes, which are a matter of public record, each Board decision shall be an action by the whole Board binding upon each member.

INDIVIDUAL
AUTHORITY FOR
COMMITTING THE
BOARD Board members as individuals shall not exercise authority over the District, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual member may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue. [See BDAA]

INDIVIDUAL ACCESS
TO INFORMATION An individual Board member, acting in his or her official capacity, shall have the right to seek information pertaining to District fiscal affairs, business transactions, governance, and personnel matters, including information that properly may be withheld from members of the general public in accordance with the Public Information Chapter of the Government Code. [See GBA]

LIMITATIONS If a Board member is not acting in his or her official capacity, the Board member has no greater right to District records than a member of the public.

An individual Board member shall not have access to confidential student records unless the member is acting in his or her official capacity and has a legitimate educational interest in the records in accordance with policy FL.

REQUESTS FOR
RECORDS AND
REPORTS In order to ensure a reasonable and orderly access of records by individual Board members, each Board member seeking access to personnel records and information concerning the District or its employees shall submit a written request for the designated information sought to the Board President at least 72 hours in advance of the Board's next called or regularly scheduled monthly meeting. The Board President shall process each such request and ensure that the matter is timely placed on the meeting agenda.

In the event that the request is for compilation or evaluation of information concerning the District, the Board as a whole shall discuss the merits of the request and shall vote on whether the request should be granted, to whom the task should be assigned, and a projected completion date.

BOARD MEMBERS
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(LOCAL)

If the request is for access to personnel records or other records of the District, the Board shall review the requested materials collectively during the closed session of the next called or regularly scheduled meeting unless the records are not exempt from disclosure under the Open Meetings Act, in which case the review shall be held in open session.

In accordance with law, the District shall track and report any requests under this provision, including the cost of responding to one or more requests by any individual Board member for 200 or more pages of material in a 90-day period.

CONFIDENTIALITY

At the time a Board member is provided access to confidential records or to reports compiled from such records, the Superintendent or other District employee shall advise the Board member of the responsibility to comply with confidentiality requirements.

REFERRING
COMPLAINTS

If employees, parents, students, or other members of the public bring concerns or complaints to an individual Board member, he or she shall refer them to the Superintendent or another appropriate administrator, who shall proceed according to the applicable complaint policy. [See (LOCAL) policies at DGBA, FNG, and GF]

When the concern or complaint directly pertains to the Board's own actions or policy, for which there is no administrative remedy, the Board member may request that the issue be placed on the agenda.

Note: For employee and student use of District technology resources, see CQ.

WRITTEN
ELECTRONIC
COMMUNICATIONS

A communication or exchange of information between Board members about public business or public policy over which the Board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if:

1. The communication is in writing;
2. The writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and
3. The communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

The Board may have no more than one online message board or similar Internet application to be used for the purposes described above. The online message board or similar Internet application must be owned or controlled by the Board, prominently displayed on the District's primary Internet Web page, and no more than one click away from the District's primary Internet Web page.

The online message board or similar Internet application may only be used by members of the Board or District staff members who have received specific authorization from a member of the Board. If a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

If the District removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the District shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Government Code Chapter 552 (Public Information Act).

The Board may not vote or take any action that is required to be taken at a meeting under the Texas Open Meetings Act by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the Board.

Gov't Code 551.006

BOARD INTERNAL ORGANIZATION
CITIZEN ADVISORY COMMITTEES

BDF
(LEGAL)

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

1. District policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Education Code 28.002(l) [see EHAB and EHAC];
2. The number of times during the preceding year the SHAC has met;
3. Whether the District has adopted and enforces policies to ensure compliance with TEA's vending machine and food service guidelines for restricting student access to vending machines;
4. Whether the District has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and
5. Notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year [see FFAA].

Education Code 28.004(k)

BOARD MEETINGS

BE
(LEGAL)

The Board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the Board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. *Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009)*

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)

A communication or exchange of information between Board members about public business or public policy over which the Board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if the communication is posted to an online message board or similar Internet application in compliance with Government Code 551.006. *Gov't Code 551.006 [See BBI(LEGAL)]*

'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)*

'RECORDING'

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

'VIDEOCONFERENCE CALL'

"Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and

BOARD MEETINGS

BE
(LEGAL)

video signals transmitted over a telephone network, a data network, or the Internet. *Gov't Code 551.001(7)*

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(b)*

SUPERINTENDENT
PARTICIPATION

The Board shall provide the Superintendent an opportunity to present at a meeting an oral or written recommendation to the Board 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, .084, Ch. 551, Subch. D* [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 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 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 MEETINGS

BE
(LEGAL)

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. <i>Education Code 11.0621</i>
AVAILABILITY	The minutes and recording are public records and shall be available for public inspection and copying on request to the Superintendent or designee. <i>Gov't Code 551.022; Education Code 11.0621</i>
NOTICE REQUIRED	The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. <i>Gov't Code 551.041</i>
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 must give the required written notice of the meeting continued to that other day. <i>Gov't Code 551.0411(a)</i>
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. <i>Gov't Code 551.042</i>
LOCATION	The Board must hold each public meeting within the boundaries of the District, except: <ol style="list-style-type: none">1. As otherwise required by law; or2. 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. <i>Education Code 26.007(b)</i>
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. <i>Gov't Code 551.043(a), .051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)</i>

BOARD MEETINGS

BE
(LEGAL)

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 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 the District made in 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 Indep. Sch. Dist.*, 706 S.W.2d 956 (Tex. 1986); *Point Isabel Indep. Sch. Dist. 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-169 (2000)*

BOARD MEETINGS

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(LEGAL)

The subject of a report or update by District staff or a member of the Board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

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 Government Code 551.047 not later than one hour before the meeting.

Gov't Code 551.045

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

BOARD MEETINGS

BE
(LEGAL)

4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(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, .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.

Gov't Code 418.1102

SECRET BALLOT

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

MEETING BY
TELEPHONE
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

BOARD MEETINGS

BE
(LEGAL)

as the location of the meeting, the location where meetings of the governmental body are usually held.

RECORDING

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

Gov't Code 551.125

MEETING BY
VIDEOCONFERENCE
CALL

A Board member or District employee may participate remotely in a Board meeting by means of a videoconference call if the video and audio feed of the Board member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A Board member who participates by videoconference call shall be counted as present at the meeting for all purposes.

A meeting of the Board may be held by videoconference call only if:

1. The Board makes available to the public at least one suitable physical space located in the District's geographic jurisdiction that is equipped with videoconference equipment that provides an audio and video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting;
2. The Board member presiding over the meeting is present at the physical space; and
3. Any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a Board meeting that is not conducted by videoconference call.

The location where the presiding officer is physically present shall be open to the public during the open portions of the meeting.

Gov't Code 551.001(7), .127

NOTICE

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.

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where the presiding officer will be physically present and specify the intent to have the presiding officer present at that location.

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BE
(LEGAL)

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 the location specified in the notice. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The physical location specified in the notice, and each remote location from which a member of the Board participates, shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by the notice and at any other location of the meeting that is open to the public.

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 audio and video signals perceptible by members of the public at each location of the meeting described by the notice and at any other location of the meeting that is open to the public must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion 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.

REMOTE
PARTICIPATION BY
THE PUBLIC

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-.11

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*

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 pri-

BOARD MEETINGS

BE
(LEGAL)

vate 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, .003

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

EXCEPTIONS FOR
CLOSED MEETINGS

The Board may conduct a closed meeting for the purposes described in the following provisions:

ATTORNEY
CONSULTATION

1. The Board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. *Gov't Code 551.071* [See BE for permissible methods of communication for attorney consultations]

REAL PROPERTY

2. The Board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.072*

PROSPECTIVE GIFT

3. The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.073*

PERSONNEL
MATTERS

4. The Board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*

The closed meeting exception for personnel matters does not apply when the Board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. *Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

EMPLOYEE-
EMPLOYEE
COMPLAINTS

The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. *Gov't Code 551.082*

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

STUDENT
DISCIPLINE

5. The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing. *Gov't Code 551.082*

PERSONALLY
IDENTIFIABLE
STUDENT
INFORMATION

6. The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student or the student if the student has attained 18 years of age, has informed the District that the directory information should not be released without prior consent. [See FL]

This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

Gov't Code 551.0821

MEDICAL OR
PSYCHIATRIC
RECORDS

7. A board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:
- a. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or
 - b. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

Gov't Code 551.0785

SECURITY

8. The Board is not required to conduct an open meeting to deliberate:
- a. The deployment, or specific occasions for implementation, of security personnel or devices; or
 - b. A security audit.

Gov't Code 551.076

ASSESSMENT
INSTRUMENTS

9. The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. *Education Code 39.030(a)*

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

EMERGENCY
MANAGEMENT

10. The Board is not required to conduct an open meeting to deliberate information confidential under Government Code 418.175–418.182, relating to Homeland Security. However, the Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. *Gov't Code 418.183(f)*

ECONOMIC
DEVELOPMENT
NEGOTIATIONS

11. The Board is not required to conduct an open meeting:
- a. To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the District and with which the Board is conducting economic development negotiations; or
 - b. To deliberate the offer of a financial or other incentive to such a business prospect.

Gov't Code 551.087

PROCEDURES FOR
CLOSED MEETINGS

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given [see BE] and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. *Gov't Code 551.101*

VOTE OR FINAL
ACTION

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. *Gov't Code 551.102* [See BE]

CERTIFIED AGENDA
OR RECORDING

The Board shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation with the District's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. *Gov't Code 551.103*

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

BOARD MEETINGS
CLOSED MEETINGS

BEC
(LEGAL)

Closed meetings may not be recorded by an individual Board member against the wishes of a majority of the Board. Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex. App.—San Antonio, 1979, writ ref'd n.r.e.)

PRESERVATION

The Board shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or recording while the action is pending. *Gov't Code 551.104(a)*

PUBLIC ACCESS

A certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(b), (c)*

PROHIBITIONS

No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a recording of the closed meeting is being made. *Gov't Code 551.145*

No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public. *Gov't Code 551.146*

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. *Gov't Code 551.144(a)*

AFFIRMATIVE
DEFENSE

It is an affirmative defense to prosecution under Government Code 551.144(a) that a Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board's attorney. *Gov't Code 551.144(c)*

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

ELECTRONIC
SUBMISSION OF
REPORTS TO TEA

Notwithstanding any other law, the District shall submit only in electronic format all reports required to be submitted to TEA under the Education Code. *Education Code 7.060(c)*

REPORTS BY
DISTRICT

The District shall publish and/or distribute the following reports:

1. A written report to each parent of student performance, under Education Code 39.303. [See AIB]
2. At the beginning of the school year, a report to each teacher of students who took a state assessment, indicating whether each student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
3. At the beginning of the school year, a report to each student who took a state assessment, indicating whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
4. Annually, the Board shall publish a report describing the educational performance of the District and of each campus in the District. [See AIB]
5. Annually, by August 8, the District shall report to TEA its ratings on community and student engagement and on compliance with statutory reporting and policy requirements. The District shall make the ratings publicly available as provided by Commissioner rule. [See AIB]
6. Annually, the District shall distribute information from a campus report card to the parent of each student at the campus, under Education Code 39.305. [See AIB]
7. An end-of year financial report, for distribution to the community under Education Code 11.1511(b)(11). [See BAA]
8. Annually, at the last regular meeting of the Board held during a calendar year, the President shall announce, and the

minutes must reflect, the name of each Board member who has completed the required training, who has exceeded the required hours of training, and who is deficient in the required training as of the date of the meeting. The President shall cause the minutes to reflect the information and shall make this information available to the local media. [See BBD]

9. By September 1 of each year, a report to TEA regarding the number of requests submitted by a member of the Board, during the preceding school year, for information, documents, and records and the total cost to the District of responding to such requests. [See BBE]
10. The annual financial management report, under Education Code 39.083. [See CFA]
11. Annually, a proposed budget shall be submitted to TEA on or before the date established in the *Financial Accountability System Resource Guide*, under Education Code 44.005. [See CE]
12. On or before the date set by the State Board of Education, a report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA, under Education Code 44.007(c), (d). [See CFA]
13. Not later than the 150th day after the date the fiscal year ends, the Board President shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the District, under Local Government Code 140.006. [See CFA]
14. Not later than the 150th day after the end of the fiscal year for which an audit was made, a copy of the annual audit report shall be filed with TEA, under Education Code 44.008(d). [See CFC]
15. At least once every three years, the District shall conduct a safety and security audit of the District's facilities and report the results of the safety and security audit to the Texas School Safety Center, under Education Code 37.108. [See CK]
16. Not later than March 1 of each year, the District police department shall submit a report containing information about motor vehicle stops during the previous calendar year to the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CKE]

17. By September 1, districts involved in a school bus advertising program shall provide to the Texas Department of Public Safety written notification of the number of school buses operated by or for the District that display exterior advertising or another paid announcement, under 37 Administrative Code 14.65(a)(1), (b). [See CNB]
18. Annually, the District shall report to TEA the number of accidents in which its buses were involved in the past year, under Education Code 34.015(b). [See CNC]
19. By March 1 of each even-numbered year, a district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall report its compliance with the comparability requirements to TRS, under Education Code 22.004(d). [See CRD]
20. At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, the District shall report to its natural gas supplier the results of a pressure test of natural gas piping systems in each District facility, under Utilities Code 121.504. [See CS]
21. Each month, a district that employs any retirees shall file a certified statement with TRS, under Government Code 824.6022. [See DC]
22. By April 1 of each year, the District shall transmit a report to TEA listing the instructional materials selected for use in the District, under 19 Administrative Code 66.104(b). [See EFAA]
23. Before November 1 of each year, the Board shall report to TEA the number of limited English proficient (LEP) students on each campus, under Education Code 29.053(b). [See EHBE]
24. Annually, the District shall report to TEA the strategies implemented by the District to increase community awareness of prekindergarten programs offered by the District, under Education Code 29.1534. [See EHBG]
25. Annually, a district that operates a high school equivalency (GED) program shall submit a progress report to TEA, under 19 Administrative Code 89.1417(a). [See EHBL]
26. Annually, the District shall report to TEA the number of students who have participated in a program to earn college credit in high school and the courses in which participating

students have earned high school credit, under Education Code 28.009. [See EHDD]

27. The Superintendent shall report the results of reading instruments to the Commissioner and each student's raw score on the reading instrument to TEA, under Education Code 28.006(d). [See EKC]
28. The District shall use the student attendance accounting standards established by the Commissioner to make reports on student attendance and student participation in special programs, under 19 Administrative Code 129.1023. [See FEB]
29. The District shall compile the results of the annual physical fitness assessment of students and provide summary results to TEA, under Education Code 38.103. [See FFAA]
30. On or before June 30 of each year, the District shall submit to the Texas Department of State Health Services (TDSHS) a report on the vision and hearing screening status of students who were screened during the reporting year, under Health and Safety Code 36.006. [See FFAA]
31. Not later than June 30 of each reporting year, the District shall submit to TDSHS an annual report of spinal screening performed during the school year, under 25 Administrative Code 37.148(n). [See FFAA]
32. A district located in Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, or 20 shall submit to the University of Texas—Pan American Border Health Office an annual report on its students' risk assessment status for Type 2 diabetes, under Health and Safety Code 95.004(e). [See FFAA]
33. Annually, the District shall submit a report of the immunization status of students to TDSHS, under Education Code 38.002(c). [See FFAB]
34. Annually, the District shall report to the Commissioner information regarding each placement in a disciplinary alternative education program (DAEP) and each expulsion, under Education Code 37.020. [See FO]
35. Not later than the 30th day after the contract is executed and again not later than the 30th day after the contract is terminated, the District shall report to the Office of Federal-State Relations any contract between the District and a federal-level government relations consultant, under Government Code 751.016. [See GR]

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

SECTION C: BUSINESS AND SUPPORT SERVICES

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

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SECTION C: BUSINESS AND SUPPORT SERVICES

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

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SECTION C: BUSINESS AND SUPPORT SERVICES

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

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

BONDS AND BOND
TAXES

The Board may obtain funds to construct, acquire, or equip school buildings, to purchase necessary sites, to purchase new school buses, or to acquire or refinance property financed under a contract entered under the Public Property Finance Act by issuing bonds and assessing annual ad valorem taxes sufficient to pay the principal and interest on the bonds as or before they come due. *Education Code 45.001(a)*

All bonds shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

INSTRUCTIONAL
FACILITY
ALLOTMENT

Except as provided by Education Code 46.005 and 46.006, a district that issues bonds to construct, acquire, renovate or improve an instructional facility is guaranteed certain state funding to pay principal and interest on eligible bonds under the Instructional Facilities Allotment program, Education Code Chapter 46, Subchapter A. *Education Code 46.003; 19 TAC 61.1032*

EXISTING DEBT
ALLOTMENT

The District is guaranteed certain state funding to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible if the District made payments on the bonds during the final school year of the preceding state fiscal biennium or taxes levied to pay the principal and interest on the bonds were included in the District's audited debt service collections for that school year, and the District does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032-.033; 19 TAC 61.1035*

POLITICAL
ADVERTISING

No officer or employee of the District shall knowingly expend or authorize the expenditure of District funds for the purpose of political advertising. Funds may be expended, however, for advertising that describes the factual reasons for a measure and does not advocate the passage or defeat of such measure.

No officer or employee of the District shall spend or authorize the expenditure of District funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense that the officer or employee reasonably relied on a court order, or an interpretation in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of a district that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure complies with the section.

Election Code 255.003 [See CPAB]

NEWSLETTERS

A newsletter of a public officer of the District is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
 - a. Is informational rather than self promotional;
 - b. Does not advocate passage or defeat of a measure; and
 - c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

ELECTIONEERING

The Board may not use state or local funds or other resources of the District to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

ELECTIONS

No bonds shall be issued or taxes levied unless approved by a majority of the qualified voters of the District who vote at an election held for such purpose. The election shall be called by Board resolution, which shall set the date, polling places, and propositions to be voted on.

The election shall be held on a uniform election date.

Education Code 45.003(a); Election Code 41.001(a) [See BBB]

CALL FOR
ELECTION

For an election to be held on the date of the general election for state and county officers, the November uniform election date of even-numbered years, the election shall be called not later than the 78th day before the election day.

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

For an election to be held on a uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 71st day before election day.

Election Code 3.003, .005, 41.002 [See BBB]

NOTICE OF
ELECTION

Notice of each election shall be published not earlier than the 30th day or later than the tenth day before election day in a newspaper of general circulation in the District or a newspaper of general circulation in the territory if none is published in the District. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication. *Election Code 4.003(a)(1), (c), .005*

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 [See BBB]*

POSTING

In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day on the bulletin board used for posting notices of Board meetings. 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(a)(1), (b), (c), .004-.005*

ELECTION ORDER

The election order must distinctly state:

1. The proposition language that will appear on the ballot;
2. The purpose for which the bonds are to be authorized;
3. The principal amount of the bonds to be authorized;
4. That taxes sufficient to pay the annual principal of and interest on the bonds may be imposed;
5. The estimated tax rate if the bonds are authorized or the maximum interest rate of the bonds or any series of the bonds, based on the market conditions at the time of the election order;
6. The maximum maturity date of the bonds to be authorized or that the bonds may be issued to mature over a specified number of years not to exceed 40;
7. The aggregate amount of the outstanding principal of the district's debt obligations as of the beginning of the fiscal year in which the election is ordered;

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

8. The aggregate amount of the outstanding interest on the District's debt obligations as of the beginning of the District's fiscal year in which the election is ordered; and
9. The District's ad valorem debt service tax rate at the time the election is ordered, expressed as an amount per \$100 valuation of taxable property.

POSTING

The election order must be posted on election day and during early voting by personal appearance, in a prominent location at each polling place not later than the 21st day before the election; in three public places in the boundaries of the District; and during the 21 days before the election, on the District's Internet Web site, prominently and together with the notice of the election and the contents of the proposition, if the District maintains an Internet Web site.

Election Code 3.009, 4.003(f)

NEW DEBT

Before issuing bonds, the District must demonstrate to the attorney general that, with respect to the proposed issuance, the District has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.

CURRENT TAXABLE
VALUE

The District may demonstrate the ability to comply by using the most recent taxable value of property in the District, combined with state assistance to which the District is entitled under Education Code Chapter 42 or 46 that may be lawfully used for the payment of bonds.

FUTURE TAXABLE
VALUE

The District may demonstrate the ability to comply by using a projected future taxable value of property in the District anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the District is entitled under Education Code Chapter 42 or 46 that may be lawfully used for the payment of bonds.

The District must submit a certification of the projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.

The certification of the District's projected taxable value must be signed by the Superintendent. The attorney general must base a

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

determination of whether the District has complied on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

PROPOSITIONS

Each proposition submitted to authorize the issuance of bonds shall include the question of whether the Board may levy ad valorem taxes either:

1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or
2. Sufficient to pay the principal of and interest on said bonds, provided that the annual aggregate bond taxes in the District shall never exceed the rate stated in the proposition.

Education Code 45.003(b)

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the issuance of bonds shall specifically state:

1. The total principal amount of the bonds to be authorized, if approved; and
2. A general description of the purposes for which the bonds are to be authorized, if approved.

Election Code 52.072(e)

REFUNDING BONDS
AUTHORITY

The Board is authorized to refund or refinance all or any part of any of its outstanding bonds and interest thereon, payable from ad valorem taxes, by issuing refunding bonds payable from ad valorem taxes in accordance with legal requirements for the issuance. *Education Code 45.004; Gov't Code 1207*

INSTRUCTIONAL
FACILITIES
REFUNDING BONDS

The District may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:

1. Are issued to refund bonds eligible under Section 46.003;
2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded;
4. Result in a present value savings as defined in Education Code 46.007.

Education Code 46.007

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

AUTHORIZED
UNISSUED BONDS

If the District has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, the Board may call an election [see BBB] to determine whether the authorized bonds may be issued or sold for a different purpose or purposes specified in the election order. If a majority of those voting at the election favor the sale of the unissued bonds, the Board is authorized to issue the bonds and use the proceeds for the purpose or purposes stated in the election order. *Education Code 45.110*

GUARANTEED BONDS

The District may apply to the Commissioner of Education for approval to guarantee bonds issued in accordance with the provisions above or bonds issued under Government Code Chapter 1207, by the corpus and income of the permanent school fund. The application shall include:

1. The name of the District and the principal amount of the bonds to be issued;
2. The name and address of the financial institution designated by the District as its agent for payment of principal and interest for guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

Education Code 45.051-.052, .054-.055

An application must be accompanied by a fee set by rule of the State Board in an amount designed to cover the costs of administering the program to provide the guarantee of eligible bonds. *Education Code 45.055(c)*

If approved, the guarantee of the bonds remains in effect until the date those bonds mature or are defeased in accordance with state law. *Education Code 45.052*

CREDIT
ENHANCEMENT
PROGRAM

If the District's application for guarantee of District bonds is rejected, the District may, in accordance with Education Code Chapter 45, Subchapter C and 19 Administrative Code 61.1038, apply for credit enhancement of bonds described by Education Code 45.054 by money appropriated for the Foundation School Program, other than money that is appropriated to school districts specifically:

1. As required under the Texas Constitution; or
2. For assistance in paying debt service.

The credit enhancement remains in effect until the date the bonds mature or are defeased in accordance with state law.

Education Code 45.252

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

ELIGIBILITY

To be eligible for approval by the Commissioner for credit enhancement:

1. Bonds must be issued in the manner provided by Education Code 45.054;
2. Payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year;
3. The District's lowest credit rating from any credit rating agency may not be the same as or higher than that of the School District Bond Enhancement Program;
4. The bonded debt for which the credit enhancement is sought must be structured so that no single annual debt service payment exceeds two times the quotient produced by dividing the total proposed annual debt service, as defined in 19 Administrative Code 61.1038(b)(10), for the term of the bonds by the number of years in the amortization schedule; and
5. The District must agree in its application that the total annual debt service on bonds approved for the credit enhancement will be paid on or before August 15 of each state fiscal year.

Education Code 45.254; 19 TAC 61.1038(f)

APPLICATION

A district seeking credit enhancement of eligible bonds shall apply to the Commissioner using a form adopted by the Commissioner for the purpose. The application must:

1. Include the information required by Education Code 45.055(b) and 19 Administrative Code 61.1038; and
2. Be accompanied by a fee set by State Board rule in an amount designed to cover the costs of administering the program to provide the credit enhancement of eligible bonds.

The District may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

If the District does not receive a credit enhancement or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the District may reapply in a subsequent month.

Education Code 45.255; 19 TAC 61.1038(d), (e)(1), (8)

USE OF BOND
PROCEEDS FOR
UTILITIES

The proceeds of bonds issued by the District for the construction and equipment of school buildings in the District and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing

pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the District may provide its public school buildings the water, sewer, or gas services.
Education Code 45.101

LOCAL REVENUE SOURCES
TIME WARRANTS

CCB
(LEGAL)

PURPOSES

The Board may issue interest-bearing time warrants in amounts sufficient to construct, repair, or renovate school buildings; to purchase school buildings and equipment; to equip school property with necessary utilities; or to pay all or part of the compensation of the person to compile taxation data when the District's funds are insufficient to cover these items.

The District may also issue interest-bearing time warrants to refund previously issued warrants if the refunding warrants are coterminous with the refunded obligations.

Warrants shall mature in serial installments of not more than 15 years from date of issue. Upon maturity, and in the order of their maturity dates, the warrants shall be entitled to first payment out of any available funds of the District.

Education Code 45.103(a), (a-1)

An interest-bearing time warrant includes a promissory note or other evidence of indebtedness issued under Chapter 45 of the Education Code. *Education Code 45.103(g)*

The maximum rate of interest for any issue or series of public securities shall be a net effective interest rate of 15 percent. *Gov't Code 1204.006*

LIMITATIONS

Warrants may be issued and sold for not less than face value, and proceeds derived shall be used only for the purposes for which the warrants were issued. *Education Code 45.103(a)*

The Board may not issue warrants in excess of five percent of the assessed valuation of the District for the year in which the warrants are issued. Also, the payment of the warrants in any given year shall not exceed the anticipated surplus income of the District for the year based on the District's budget for that year and exclusive of bond taxes. Finally, the District shall not have outstanding at any one time warrants exceeding \$1 million. *Education Code 45.103(c)*

PROCEDURES

Time warrants shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

LOCAL REVENUE SOURCES
LOANS AND NOTES

CCF
(LEGAL)

LOAN SECURED BY
DELINQUENT TAX
PLEDGE

The Board may pledge its delinquent taxes levied for maintenance purposes for specific past, current, and future school years as security for a loan, and may evidence any such loan with negotiable notes, and the delinquent taxes pledged shall be applied against the principal and interest of the loan. Negotiable notes issued under this subsection must mature not more than 20 years from their date.

The District may not pledge delinquent taxes levied for school bonds as security for a loan.

Funds secured through loans secured by delinquent taxes may be employed for any legal maintenance expenditure or purpose of the District, including all costs incurred in connection with: (1) environmental cleanup and asbestos removal programs implemented by districts; or (2) maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.

Education Code 45.104

LOANS FOR CURRENT
MAINTENANCE
EXPENSES

The Board may, when deemed necessary, borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable or nonnegotiable notes, except that the loans may not at any time exceed 75 percent of the previous year's income. The notes may be payable from and secured by a lien on and pledge of any available funds of the District, including proceeds of a maintenance tax. The term "maintenance expenses" or "maintenance expenditures" as used in this policy means any lawful expenditure of the District other than payment of principal of and interest on bonds. The term includes expenditures relating to notes issued to refund notes previously issued if the refunding notes are coterminous with the refunded obligation. The term also includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by the District or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties. Notes issued pursuant to this policy may be issued to mature in not more than 20 years from their date. Notes issued for a term longer than one year shall be treated as "debt" as defined in Section 26.012(7), Tax Code, as amended.

Such notes may be issued only after a budget has been adopted for the current school year. Notes shall be authorized by resolution adopted by a majority of the Board, signed by the President or Vice President, and attested to by the Secretary.

Education Code 45.108

LOCAL REVENUE SOURCES
LOANS AND NOTES

CCF
(LEGAL)

SHORT-TERM
OBLIGATIONS AND
CREDIT AGREEMENTS

The District may issue, sell, and deliver certain obligations under Government Code Chapter 1371 to the extent authorized by Education Code 45.003 if the District:

1. Has an average daily attendance of 50,000 or more; or
2. Has:
 - a. In a principal amount of at least \$100 million in outstanding long-term indebtedness, proposed indebtedness or a combination thereof; and
 - b. Some amount of long-term indebtedness outstanding or proposed to be issued that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Gov't Code 1371.001(4)(L), (P), .0521

Subject to the restrictions of Education Code 45.011(c) and (d), a district with an average daily attendance of at least 2,000 or a combined aggregate principal of at least \$50 million in outstanding and voted but unissued bonds may, in the issuance of negotiable coupon bonds for which voters have authorized the District to levy taxes without limit as to rate or amount, issue obligations and execute credit agreements as described in Government Code Chapter 1371. *Education Code 45.0011*

The maximum rate of interest for any issue or series of public securities shall be a net effective interest rate of 15 percent. *Gov't Code 1204.006*

Short-term notes shall be issued in accordance with the Public Security Procedures Act. *Gov't Code Ch. 1201*

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

MAINTENANCE TAX	<p>The Board may levy, assess, and collect annual ad valorem taxes for the maintenance of the District's schools. <i>Education Code 45.002</i></p>
TAX RATE CAP	<p>If authorized by a majority of qualified voters of the District voting at an election held for that purpose, the District may impose a maintenance tax rate at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per \$100 of taxable value adopted by the District may not exceed the rate equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by \$1.50.</p> <p>A rate that exceeds this maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.</p> <p>Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than \$1.50 per \$100 of taxable value in the District as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per \$100 of taxable value that is equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by the rate of the maintenance tax levied by the District for the 2005 tax year.</p> <p><i>Education Code 45.003(a), (d)–(f)</i></p>
APPRAISAL ROLL	<p>By August 1 or as soon thereafter as practicable, the District's tax assessor shall submit to the Board the District's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.</p> <hr/> <p>Note: The Texas comptroller of public accounts annually publishes <i>Truth in Taxation: A Guide for Setting School District Tax Rates</i>. School districts should consult the <i>Truth in Taxation</i> guide, available in print form or through the comptroller's Web site at http://www.window.state.tx.us/taxinfo/proptax/tnt/pdf/96-1212.pdf, for detailed guidance on setting local property tax rates.</p> <hr/> <p>By August 1 or as soon thereafter as practicable, the District's tax collector shall certify to the Board the estimates and amounts required by law.</p> <p><i>Tax Code 26.04(b)</i></p>

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

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

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

DECREASE IN DEBT
SERVICE RATE

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

Education Code 44.004

TAX RATE

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

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

EXCEPTION

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

EFFECTIVE TAX RATE

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

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

MAINTENANCE AND
OPERATIONS TAX
RATE

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

INTERNET POSTING

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

Tax Code 26.05(b)

ELECTION TO RATIFY
SCHOOL TAXES

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

Tax Code 26.08(a)

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

PROPOSITION

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

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	<p>proposition submitted to the voters for approval of the imposition or increase of a tax shall specifically state the amount of or maximum tax rate of the tax or tax increase for which approval is sought. <i>Education Code 52.072(e)</i></p>
APPROVAL OF PROPOSITION	<p>If a majority of votes cast in the District favor the proposition, the tax rate for the current year is the rate that was adopted by the Board. If the proposition is not approved, the Board may not adopt a tax rate for the current year that exceeds the District's rollback tax rate. <i>Tax Code 26.08(c)-(d)</i></p>
CALL FOR ELECTION	<p>A call for an election shall be made not later than the 62nd day before election day.</p>
EXCEPTIONS	<p>For an election to be held on the date of the general election for state and county officers, the November uniform election date of even-numbered years, the election shall be called not later than the 78th day before the election day.</p> <p>For an election to be held on a uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 71st day before election day.</p> <p>An election under Tax Code 26.08 to ratify a tax rate adopted by the Board under Tax Code 26.05(g) shall be ordered not later than the 30th day before election day.</p> <p><i>Election Code 3.003, .005, 41.002 [See BBB]</i></p>
NOTICE TO COUNTY CLERK	<p>The Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day.</p>
EXCEPTION	<p>If the Board orders an election under Tax Code 26.08 to ratify a tax rate adopted by the Board under Tax Code 26.05(g), the Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 30th day before election day.</p> <p><i>Election Code 4.008</i></p>
TAX INFORMATION TO COUNTY	<p>The District shall provide to the county assessor-collector for each county in which all or part of District territory is located the District's adopted tax rate, maintenance and operations rate, debt rate, effective tax rate, effective maintenance and operations rate, and rollback tax rate for posting on the county's Internet Web site. The District shall provide the information annually following the adoption of a tax rate by the District for the current tax year. <i>Tax Code 26.16(a)-(b)</i></p>

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DISCOUNTS	The Board may adopt one or both of the following discount options for early payment of District taxes. <i>Tax Code 31.05(a)</i>
OPTION 1	<p>If the Board adopts Option 1, the following apply regardless of the date on which the District mails its tax bills.</p> <ol style="list-style-type: none">1. Three percent if the tax is paid in October or earlier.2. Two percent if the tax is paid in November.3. One percent if the tax is paid in December. <p><i>Tax Code 31.05(b)</i></p> <p>This discount does not apply to taxes that are calculated too late for it to be available. <i>Tax Code 31.04(c)</i></p>
OPTION 2	<p>If the Board adopts Option 2, the following discounts apply only when the District mails its tax bills after September 30:</p> <ol style="list-style-type: none">1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed. <p><i>Tax Code 31.05(c)</i></p>
BOTH OPTIONS	If the Board adopts both discount options, the discounts described at Option 1 apply unless the District mails its tax bills after September 30, in which case only the discounts described at Option 2 apply. <i>Tax Code 31.05(a)</i>
RESCISSION	The Board may rescind a discount lawfully adopted by the Board. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded. <i>Tax Code 31.05(d)</i>
SPLIT PAYMENT	The Board may provide for split payment of taxes. If a person pays one-half of the taxes before December 1, he or she may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year. This payment option does not apply to taxes that are calculated too late for it to be available. <i>Tax Code 31.03, .04(c)</i>
DISASTER AREA	<p>Owners of certain property in a disaster area are permitted to pay taxes in installment payments. This option applies to:</p> <ol style="list-style-type: none">1. Real property that:

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

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

Tax Code 31.032(a)-(b)

PERFORMING
SERVICES IN LIEU OF
PAYING TAXES

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

PERSONS 65 AND
OVER

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

Tax Code 31.035

TEACHING
SERVICES BY
INDIVIDUAL

Subject to the requirements contained in Tax Code 31.036, the Board by resolution may permit qualified individuals, who are not employed by the District, to perform teaching services for the District at a junior high school or high school of the District in lieu of paying taxes imposed by the District on property owned and occupied by the individual as a residence homestead. *Tax Code 31.036*

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TEACHING SERVICES BY EMPLOYEE OF BUSINESS ENTITY	Subject to the requirements contained in Tax Code 31.037, the Board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the District in lieu of paying taxes imposed by the District on property owned by the business entity. <i>Tax Code 31.037</i>
INSTALLMENT PAYMENTS CERTAIN HOMESTEADS	An individual who is disabled or at least 65 and qualifies for a homestead exemption under Tax Code 11.13(c), or an individual who qualifies for a disabled veteran exemption under Tax Code 11.22 or 11.132, may pay taxes on the residence homestead property in installments without penalty or interest. To do so, the individual must pay in four equal installments, with the first installment paid before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in three equal installments. The second installment must be paid before April 1, the third before June 1, and the fourth before August 1. An individual may also pay the taxes in four equal installments if the first installment is paid and the required notice is provided before March 1. If the individual fails to make a payment, including the first payment, before the applicable date, the unpaid amount is delinquent and incurs a penalty and interest as provided by law. <i>Tax Code 31.031</i>
PARTIAL PAYMENTS	The tax collector may decide to accept partial payments of District property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of District taxes. <i>Tax Code 31.07(c)</i>
DELINQUENCY DATE	Taxes are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below: <ol style="list-style-type: none">1. The District has provided for split payments. <i>Tax Code 31.03</i>2. The District's tax bills are mailed after January 10. <i>Tax Code 31.04(a)</i>3. The District's tax bills are mailed after September 30 and the Board has adopted discounts provided by Tax Code 31.05(c). <i>Tax Code 31.04(d)</i> <i>Tax Code 31.02</i>
DELINQUENT TAX COLLECTION	The Board may contract with any competent attorney to represent the District to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of

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

ADDITIONAL
PENALTIES

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

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

HOMESTEAD
EXEMPTIONS

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

APPLICATION FOR
EXEMPTION

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

PERSONS 65
AND OVER OR
DISABLED
PERSONS

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

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

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

SURVIVING
SPOUSE

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

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

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

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

PRORATED
EXEMPTION

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

Tax Code 11.131, .42(e)

ADDITIONAL
EXEMPTIONS

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

NOTICE OF OPTIONAL
EXEMPTION

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

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

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

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

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

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

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

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

GOODS-IN-TRANSIT

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

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

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

EXCEPTION

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

Tax Code 11.253(b), (j)–(j-2)

REINVESTMENT
ZONES
TAX ABATEMENT

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

DISTRICT
DESIGNATED

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

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

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

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

Tax Code 312.0025

TEXAS ECONOMIC
DEVELOPMENT ACT

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

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

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and
4. Advance the economic development goals of Texas.

Tax Code 313.004(3)

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

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

CCH
(LEGAL)

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

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

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

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

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

Tax Code 6.03(a)

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

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

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

Tax Code 6.035(a)

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

CCH
(LEGAL)

FORMER PROPERTY APPRAISER OR OWNER REPRESENTATIVE	An individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under Title I of the Tax Code or of representing property owners for compensation in proceedings under Title I of the Tax Code in the appraisal district at any time during the preceding five years. <i>Tax Code 6.035(a-1)</i>
CONFLICT OF INTEREST	<p>An individual is not eligible to be appointed to or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:</p> <ol style="list-style-type: none">1. The appraisal district; or2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity relating to property taxes. <p>An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or shares of the business entity or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.</p> <p>"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.</p> <p><i>Tax Code 6.036</i></p>
RECALL	The Board, by resolution submitted to the county clerk, may call for the recall of a member of the board of directors of an appraisal district for whom the Board cast any of its votes in the appointment of the appraisal district board in accordance with Tax Code 6.033. <i>Tax Code 6.033(a)</i>
TERMS	The taxing units participating in an appraisal district may provide that the terms of the appointed members of the appraisal district board of directors be staggered in accordance with Tax Code 6.034. <i>Tax Code 6.034(a)</i>
APPRAISAL OFFICE	The board of directors of an appraisal district may contract with a taxing unit in the appraisal district to perform the duties of the appraisal office for the appraisal district. <i>Tax Code 6.05(b)</i>
OWNERSHIP OR LEASE OF REAL PROPERTY	The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of appraisal district board members.

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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The appraisal district board of directors by resolution may propose a property transaction or other action for approval of the taxing units. The chief appraiser shall notify the Board President by delivering a copy of the appraisal district board's resolution, together with information showing the costs of other available alternatives to the proposal.

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

PROCEEDS

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

Tax Code 6.051(b)-(c)

BUDGET AND
FINANCING

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

PUBLIC POSTING

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

BUDGET ADOPTION

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

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

AMENDMENTS

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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district not later than the 30th day before the date the board acts on it.

ALLOCATION

Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget and must pay its allocation as provided by Tax Code 6.06.

Tax Code 6.06(a)–(d)

CHANGES IN
METHOD OF
FINANCING

The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the appraisal district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit that participates in the appraisal district adopts a resolution opposing the different method, and files it with the appraisal district board of directors before September 1. If an appraisal district board proposal is rejected, the appraisal district board shall notify, in writing, each taxing unit participating in the appraisal district before September 15.

The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the district in accordance with Tax Code 6.061.

Tax Code 6.061(a)–(b)

DISAPPROVAL OF
APPRAISAL DISTRICT
BOARD ACTIONS

If the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. *Tax Code 6.10*

APPRAISAL REVIEW
BOARD

An appraisal review board is established for each appraisal district, unless the boards of directors of two or more adjoining appraisal districts provide for the operation of a consolidated appraisal review board by interlocal contract. Members of the appraisal review board are appointed by the appraisal district board of directors.

Members of the appraisal review board are subject to the eligibility restrictions described in Tax Code 6.412, including prohibitions on service by school district board members, officers, and employees, and Tax Code 6.413, including prohibitions on service by individuals who are parties to certain contracts.

Tax Code 6.41, .412–.413

LOCAL REVENUE SOURCES
APPRAISAL DISTRICT

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EXCEPTION	In a county with a population of 120,000 or more, the members of the appraisal review board are appointed in accordance with Tax Code 6.41 by the local administrative district judge under Subchapter D, Chapter 74, Government Code, in the county in which the appraisal district is established. <i>Tax Code 6.41(d-1)</i>
PROHIBITION ON CONTRACTS	The District may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the District participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413. <i>Tax Code 6.413</i>
AUXILIARY APPRAISAL REVIEW BOARD MEMBERS	<p>The board of directors of an appraisal district by resolution of a majority of the members may provide for a number of auxiliary appraisal review board members that the appraisal district board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the appraisal district board in performing its duties. <i>Tax Code 6.414(a)</i></p> <p>An auxiliary board member is appointed in the same manner and for the same term as an appraisal review board member and is subject to the same eligibility requirements. <i>Tax Code 6.414(b)</i></p> <p>An auxiliary board member may:</p> <ol style="list-style-type: none">1. Attend meetings of the appraisal review board but may not vote in a determination made by the board or serve as chairman or secretary of the board. An auxiliary board member is not included in determining what constitutes a quorum of the board or whether a quorum is present at any meeting of the board.2. Hear taxpayer protests before the appraisal review board. If one or more auxiliary board members sit on a panel established under Tax Code 41.45 to conduct a protest hearing, the number of regular appraisal review board members required to constitute the panel is reduced by the number of auxiliary board members sitting. An auxiliary board member sitting on a panel is considered a regular board member for all purposes related to the conduct of the hearing.3. Make a recommendation to the appraisal review board regarding a protest heard by the member but is not entitled to vote on the determination of the protest by the board. <p><i>Tax Code 6.414(c), (d), (e)</i></p>

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

SALE OR EXCHANGE
OF REAL PROPERTY

The Board may authorize the sale of any property, other than minerals, held in trust for free school purposes, by means of a Board resolution. The Board President shall execute a deed to the purchaser reciting the Board resolution authorizing the sale. The District may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property. *Education Code 11.154*

PUBLICATION OF
NOTICE AND
BIDDING
REQUIREMENTS

Except for the types of land and interests described below, before land owned by the District may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication. *Local Gov't Code 272.001(a)*

OPEN-
ENROLLMENT
CHARTER SCHOOL
OFFER

If the Board intends to sell, lease, or allow use for a purpose other than a District purpose of an unused or underused District facility, it must give each open-enrollment charter school located wholly or partly within the boundaries of the District the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the Board, before offering the facility for sale or lease or to any other specific entity. The Board is not required to accept an offer made by an open-enrollment charter school. *Education Code 11.1542*

EXCEPTIONS
GENERALLY

The notice and bidding requirements set out above do not apply to the types of land and real property interests described below and owned by the District. The land and those interests described below may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the property outright. The fair market value is determined by an appraisal obtained by the district that owns the land or interest. The appraisal price is conclusive of the fair market value of the land or interest. This applies to:

1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned outright or used by easement;

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SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
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3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;
4. Land that the District wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2 above may be sold to:
 - a. Abutting property owners in the same subdivision if the land has been subdivided; or
 - b. Abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

This section does not require the Board to accept any bid or offer or to complete a sale or exchange.

Local Gov't Code 272.001(b)–(d)

HIGHER
EDUCATION
INSTITUTIONS

The District may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property to an institution of higher education for less than its fair market value and without complying with the notice and bidding requirements in order to promote a public purpose related to higher education. The District shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. *Local Gov't Code 272.001(j)*

OTHER POLITICAL
SUBDIVISIONS

The District may donate or sell for less than fair market value and without complying with the notice and bidding requirements a designated parcel of land or an interest in real property to another political subdivision if:

1. The land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling district;
2. The donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and
3. The title and right to possession of the land or interest revert to the donating or selling district if the acquiring political sub-

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

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division ceases to use the land or interest in carrying out the public purpose.

Local Gov't Code 272.001(l)

SALE OF
INSTRUCTIONAL
FACILITY FINANCED
WITH STATE
ALLOTMENT

If an instructional facility financed by bonds paid with state and local funds under Chapter 46 of the Education Code is sold before the bonds are fully paid, the District shall send to the comptroller a percentage of the District's net proceeds as required by statute. *Education Code 46.011* [See also CCA]

LEASE OF PROPERTY
TO A GOVERNMENTAL
ENTITY

To promote a public purpose of the District, the District may:

1. Lease property owned by the District to another political subdivision or an agency of the state or federal government; or
2. Make an agreement to provide office space in property owned by the District to the other political subdivision or agency.

The District:

1. Shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
2. May provide for the lease of the property or provision of the office space at less than fair market value; and
3. Is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by this chapter or other law.

Local Gov't Code 272.005

SALE OR LEASE OF
MINERALS

Sale or lease of minerals in land belonging to the District shall be authorized by a resolution adopted by a majority of the Board. *Education Code 11.153; Natural Resources Code 71.005*

PUBLICATION OF
NOTICE — MINERAL
LEASES

The Board must give notice of its intention to lease the land. The notice must be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county, and shall:

1. Describe the land to be leased; and
2. Designate the time and place at which the Board will receive and consider bids for the lease.

Natural Resources Code 71.005

When the sale or lease of minerals has been authorized by the Board, the Board President may execute a lease or may sell or exchange the minerals in accordance with the terms authorized by

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
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the Board. The mineral lease or deed shall recite the approval of the Board. *Education Code 11.153*

DONATION OF
FORMER SCHOOL
CAMPUS

The Board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization if:

1. Before adopting the resolution, the Board holds a public hearing concerning the donation and, in addition to any other notice required, gives notice of the hearing by publishing the subject matter, location, date, and time of the hearing in a newspaper having general circulation in the territory of the District;
2. The Board determines that:
 - a. The improvements have historical significance;
 - b. The transfer will further the preservation of the improvements; and
 - c. At the time of the transfer, the District does not need the real property or improvements for educational purposes; and
3. The entity to whom the transfer is made has shown, to the satisfaction of the Board, that the entity intends to continue to use the real property and improvements for public purposes.

The Board President shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization. The deed must:

1. Recite the resolution of the Board authorizing the donation; and
2. Provide that ownership of the real property and improvements revert to the District if the municipality, county, state agency, or nonprofit organization:
 - a. Discontinues use of the real property and improvements for public purposes; or
 - b. Executes a document that purports to convey the property.

Education Code 11.1541(a)–(b)

Note: Regarding disposal of school buses, see CNB. Regarding disposal of school-owned personal property, see CI. Regarding geospatial data products, see CQA.

SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY
REVENUE BONDS FROM PROCEEDS

CDBA
(LEGAL)

	The Board may sell real property owned by the District and issue revenue bonds payable from the proceeds of the sale in accordance with applicable state law. <i>Education Code 45.081-.084</i>
PROCEDURES	These revenue bonds shall be issued in accordance with the Public Security Procedures Act. <i>Gov't Code Ch. 1201</i>
REFUNDING BONDS	The Board may issue refunding bonds for these revenue bonds in accordance with Government Code Chapter 1207. <i>Education Code 45.085(h)</i>
MAXIMUM INTEREST	The maximum rate of interest for these revenue bonds shall be a net effective interest rate of 15 percent. <i>Gov't Code 1204.006</i>
JUNIOR COLLEGE BRANCH CAMPUS	Bonds payable from revenue and issued by the Board to finance the purchase of land or the construction of a facility to be used for a junior college branch campus, center, or extension facility authorized under Education Code 130.086 may be secured by a trust indenture, a deed of trust, or a mortgage granting a security interest in the applicable land or facility. <i>Education Code 130.0865</i>

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AUTHORIZED
EXPENDITURES

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)*

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. Nor shall the District pay or authorize the payment of any claim against the District under any agreement or contract made without authority of law. *Tex. Const. Art. III, Sec. 53; Harlingen Indep. Sch. Dist. v. C.H. Page and Bro., 48 S.W.2d 983 (Comm. App. 1932)*

The state and county available funds disbursed to the District shall be used exclusively for salaries of professional certified staff and for interest on money borrowed on short time to pay such salaries, when salaries become due before school funds for the current year become available. Loans for paying professional certified staff salaries may not be paid out of funds other than those for the current year. *Education Code 45.105(b)*

Local funds from District taxes, tuition fees, other local sources, and state funds not designated for a specific purpose may be used for salaries of any personnel and for purchasing appliances and supplies; for the payment of insurance premiums; for buying school sites; for buying, building, repairing, and renting school buildings, including acquisition of school buildings and sites by leasing through annual payments with an ultimate option to purchase [see CHG]; and for other purposes necessary in the conduct of the public schools to be determined by the Board. *Education Code 45.105(c)*

No public funds of the District may be spent in any manner other than as provided for in the budget adopted by the Board. *Education Code 44.006(a)*

USE OF DISTRICT
RESOURCES

IMPROVEMENTS TO
REAL PROPERTY

Except as provided below or by Education Code 45.109(a-1) or (a-2) [see CX], the Board shall not enter into an agreement authorizing the use of District employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the District.

This section does not prohibit the Board from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the District if the improvements benefit real property owned or leased by the District. Benefits to real property owned or leased by the District include the

ANNUAL OPERATING BUDGET

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design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the District.

Education Code 11.168

HOTELS

The Board may not impose taxes, issue bonds, use or authorize the use of District employees, use or authorize the use of District property, money, or other resources, or acquire property for the design, construction, renovation, or operation of a hotel. The Board may not enter into a lease, contract, or other agreement that obligates the Board to engage in an activity prohibited by this section or obligates the use of District employees or resources in a manner prohibited by this section.

“Hotel” means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a motel.

Education Code 11.178

ELECTIONEERING

The Board may not use state or local funds or other resources of the District to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

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

FISCAL YEAR

The Board may determine if the District’s fiscal year begins on July 1 or September 1 of each year. *Education Code 44.0011*

BUDGET
PREPARATION

The Superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of the District for the following fiscal year. *Education Code 44.002*

FUNDS FOR
ACCELERATED
INSTRUCTION

A district that is required to provide accelerated instruction under Education Code 29.081(b-1) [see EHBC] shall separately budget sufficient funds, including funds under Education Code 42.152, for that purpose. The District may not budget funds received under

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Education Code 42.152 for any other purpose until the District adopts a budget to support additional accelerated instruction.
Education Code 29.081(b-2)

DEADLINES

The proposed budget shall be prepared on or before a date set by the State Board of Education, currently August 20 (June 19 if the District uses a July 1 fiscal year start date). *Education Code 44.002(a); 19 TAC 109.1(a), .41*

The adopted budget must be filed with the Texas Education Agency on or before the date established in the *Financial Accountability System Resource Guide*. *Education Code 44.005; 19 TAC 109.1(a)*

PUBLIC MEETING ON
BUDGET AND
PROPOSED TAX RATE

After the proposed budget has been prepared, the Board President shall call a Board meeting for the purpose of adopting a budget for the succeeding fiscal year. Any taxpayer of the District may be present and participate in the meeting. *Education Code 44.004(a), (f)* [See CCG for provisions governing tax rate adoption]

The meeting must comply with the notice requirements of the Open Meetings Act. *Gov't Code 551.041, .043*

PUBLISHED NOTICE

The Board President shall also provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or bi-weekly newspaper published in the District. If no daily, weekly, or biweekly newspaper is published in the District, the President shall provide for publication of notice in at least one newspaper of general circulation in the county in which the District's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.

FORM OF NOTICE

The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law.

The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.

TAXPAYER
INJUNCTION

If the District has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the District is entitled to an injunction restraining the collection of taxes by the District. An action to enjoin the collection of taxes must be filed before the date the District delivers substantially all of its tax bills.

Education Code 44.004(b)-(e)

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PUBLICATION OF PROPOSED BUDGET SUMMARY	<p>Concurrently with the publication of notice of the budget under Education Code 44.004, the District shall post a summary of the proposed budget on the District's Internet Web site or, if the District has no Internet Web site, in the District's central administrative office.</p> <p>The budget summary must include a comparison to the previous year's actual spending and information relating to per student and aggregate spending on:</p> <ol style="list-style-type: none">1. Instruction;2. Instructional support;3. Central administration;4. District operations;5. Debt service; and6. Any other category designated by the Commissioner.
DECREASE IN DEBT SERVICE RATE	<p>If the debt service rate calculated under Education Code 44.004(c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the Board President is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate. <i>Education Code 44.004(g-1)</i></p>
BUDGET ADOPTION	<p>The Board shall adopt a budget to cover all expenditures for the succeeding fiscal year at the meeting called for that purpose and before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. <i>Education Code 44.004(f)-(g)</i></p>
CERTIFIED ESTIMATE	<p>By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of District property. <i>Tax Code 26.01(e)</i></p>
DISTRICTS WITH JULY 1 FISCAL YEAR	<p>A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of District property in preparing the published notice if the District does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the District may not adopt a tax rate before the District receives the certified appraisal roll for the District. <i>Education Code 44.004(h)-(i)</i></p>

ANNUAL OPERATING BUDGET

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BUDGET ADOPTION AFTER TAX RATE ADOPTION	Notwithstanding Education Code 44.004(g), (h), and (i), above, the District may adopt a budget after the District adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the District elects to adopt a tax rate before receiving the certified appraisal roll for the District as provided by Tax Code 26.05(g). Following adoption of the tax rate [see CCG], the District must publish notice and hold a public meeting before the District may adopt a budget. The comptroller shall prescribe the language and format to be used in the notice. The District may use the certified estimate of taxable value in preparing the notice. <i>Education Code 44.004(j)</i>
PUBLICATION OF ADOPTED BUDGET	<p>On final approval of the budget by the Board, the District shall post on the District's Internet Web site a copy of the budget adopted by the Board. The District's Web site must prominently display the electronic link to the adopted budget.</p> <p>The District shall maintain the adopted budget on the District's Web site until the third anniversary of the date the budget was adopted.</p> <p><i>Education Code 39.084</i></p>
AMENDMENT OF APPROVED BUDGET	<p>The Board shall have the authority to amend the approved budget or to adopt a supplementary emergency budget to cover necessary unforeseen expenses.</p> <p>Copies of any amendment or supplementary budget must be prepared and filed in accordance with State Board rules.</p> <p><i>Education Code 44.006</i></p>
FAILURE TO COMPLY WITH BUDGET REQUIREMENTS	A Board member who votes to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits a misdemeanor offense. <i>Education Code 44.052(c)</i>
CERTAIN DONATIONS	The District may donate funds or other property or service to the adjutant general's department, the Texas National Guard, or the Texas State Guard. <i>Gov't Code 437.111(b), .252, .304(a)</i>

PURCHASING AND ACQUISITION

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

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

FACTORS

In awarding a contract, the District shall consider:

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

Education Code 44.031(b)

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

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The factors listed above are the only criteria that may be considered by the District in its decision to award a contract. R.G.V. Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

OUT-OF-STATE
BIDDERS

The Board shall not award a contract for services or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of 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, or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001-.002*

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

CONTRACT WITH
PERSON INDEBTED
TO DISTRICT

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

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

Education Code 44.044

NOTICE
PUBLICATION

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

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ELECTRONIC BIDS OR
PROPOSALS

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

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

Education Code 44.0313

PROFESSIONAL
SERVICES

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

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

Education Code 44.031(f)

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

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

[See also CV]

EMERGENCY DAMAGE
OR DESTRUCTION

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

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

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

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

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

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

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

Education Code 44.031(j)–(k)

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

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

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COMPETITIVE
BIDDING

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

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

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

Education Code 44.0351

OPENING BIDS

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

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

SAFETY RECORD

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

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

Local Gov't Code 271.0275

IDENTICAL BIDS

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

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

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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

COMPETITIVE SEALED PROPOSALS

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

REQUEST FOR PROPOSALS

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

OPENING PROPOSALS

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

SELECTION

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

BEST VALUE DETERMINATION

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

Education Code 44.0352

INTERLOCAL AGREEMENTS

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

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must

specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

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

Gov't Code 791.011(d)–(f), (i)

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

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

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

The District may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the District certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or
2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j)

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.

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2. Solicitation of bids on items desired by the District if the solicitation is considered feasible by the comptroller and is desired by the District.
3. Provision of information and technical assistance to the District about the purchasing program.

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

Local Gov't Code 271.082

DISTRICT
REQUIREMENTS

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

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

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

Local Gov't Code 271.083

MULTIPLE AWARD
CONTRACT
SCHEDULE

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

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

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proposals and satisfies any applicable requirements of Government Code 2157.

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

Gov't Code 2155, Subch. 1

COOPERATIVE
PURCHASING
PROGRAM

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

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

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

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

CONTRACT-RELATED
FEE

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

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

Education Code 44.0331

STATE COUNCIL ON
COMPETITIVE
GOVERNMENT

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

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(LEGAL)

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

Reverse auction procedure means:

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

Gov't Code 2155.062(d)

COMMITMENT OF CURRENT REVENUE A contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only, provided the contract contains either or both of the following provisions:

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

Local Gov't Code 271.903

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

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

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million

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increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

ENERGY OR WATER
CONSERVATION
MEASURES

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

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

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

RECYCLED
PRODUCTS

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

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.

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

VEGETATION FOR
LANDSCAPING

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

Education Code 44.042

BUS PURCHASE OR
LEASE

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

RIGHT TO WORK

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

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

Education Code 44.043

LOBBYING
RESTRICTION:
TOBACCO EDUCATION
GRANT FUNDS

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

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

Gov't Code 403.1067

CRIMINAL HISTORY

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

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IMPERMISSIBLE
PRACTICES

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

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

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

Education Code 44.032

INJUNCTION

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

SCHOOL PROPERTIES DISPOSAL

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(LEGAL)

All rights and titles to District property, whether real or personal, shall be vested in the Board and its successors in office.

The Board may, in an appropriate manner, dispose of property that is no longer necessary for District operations.

Education Code 11.151(c) [See also CDB(LEGAL)]

INSTRUCTIONAL
MATERIALS AND
TECHNOLOGICAL
EQUIPMENT

The Board must dispose of instructional materials and technological equipment in accordance with Education Code 31.105. *Education Code 31.105* [See CMD]

SURPLUS OR
SALVAGE PROPERTY
ACQUIRED FROM A
STATE AGENCY

The District may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of property acquired under Government Code 2175.184 or 2175.241 before the second anniversary of the date the property was acquired. A district that improperly disposes of acquired property must remit to the Texas Facilities Commission the amount the District received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless the commission authorizes the District's action. *Gov't Code 2175.184(b)*

SAFETY PROGRAM/RISK MANAGEMENT
SECURITY PERSONNEL

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(LEGAL)

PEACE OFFICERS The Board may employ security personnel and commission peace officers to carry out the provisions of Chapter 37, Subchapter C, Education Code, relating to law and order. If the Board authorizes security personnel to carry weapons, they must be commissioned peace officers. Any peace officer commissioned under Education Code 37.081 must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCLE).

JURISDICTION The Board shall determine the jurisdiction of its commissioned peace officers, which may include all territory in the boundaries of the District and all property outside the boundaries of the District that is owned, leased, or rented by or otherwise under the control of the District.

Education Code 37.081(a)

SCOPE OF POWERS AND DUTIES In a commissioned peace officer's jurisdiction, a peace officer:

1. Has the powers, privileges, and immunities of peace officers.
2. May take a child into custody in accordance with Chapter 52 of the Family Code or Article 45.058 of the Code of Criminal Procedure; and
3. May dispose of cases in accordance with Family Code 52.03 or 52.031.

Education Code 37.081(b); Family Code 52.01(a)

The Board shall determine the scope of the on-duty and off-duty law enforcement activities of its peace officers, and the District must authorize in writing any off-duty law enforcement activities performed by a District peace officer. A District peace officer shall perform law enforcement duties as determined by the Board, which shall include protecting the safety and welfare of any person in the officer's jurisdiction and protecting property of the District. *Education Code 37.081(d), (e)*

A peace officer may provide assistance to another law enforcement agency, and the District may contract with a political subdivision for the jurisdiction of District peace officers to include all territory in the jurisdiction of the political subdivision. *Education Code 37.081(c)*

MEMORANDUM OF UNDERSTANDING The District police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts among the department and the agencies. *Education Code 37.081(g)*

SAFETY PROGRAM/RISK MANAGEMENT
SECURITY PERSONNEL

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CHIEF OF POLICE

The District's chief of police is accountable to the Superintendent and shall report to the Superintendent. District police officers shall be licensed by TCLE and be supervised by the District chief of police or the chief's designee. *Education Code 37.081(f)*

MOTOR VEHICLE
STOPS

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

REPORTS
REQUIRED

1. A physical description of any person operating the motor vehicle who is detained as a result of the stop, including:
 - a. The person's gender; and
 - b. The person's race or ethnicity, as stated by the person or, if the person does not state his or her race or ethnicity, as determined by the officer to the best of the officer's ability;
2. The initial reason for the stop;
3. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
4. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
5. The reason for the search, including whether:
 - a. Any contraband or other evidence was in plain view;
 - b. Any probable cause or reasonable suspicion existed to perform the search; or
 - c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
6. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
7. The street address or approximate location of the stop; and
8. Whether the officer issued a written warning or a citation as a result of the stop.

Code of Criminal Procedure 2.133

The District police department shall compile and analyze the incident-based data contained in each report received by the department. Not later than March 1 of each year, the District police department shall submit a report containing the information compiled during the previous calendar year, in accordance with Code of Criminal Procedure 2.134, to the TCLE and to the governing body of each county or municipality served by the department. *Code of Criminal Procedure 2.134*

CIVIL PENALTY

If the District's chief of police intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

EXEMPTION

A peace officer and District's chief of police are exempt from the reporting requirements described above if:

1. During the calendar year preceding the date that the department's report is required to be submitted:
 - a. Each law enforcement motor vehicle regularly used by an officer employed by the department to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and
 - b. Each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or
2. The governing body of the county or municipality served by the department, in conjunction with the department, certifies to the Texas Department of Public Safety (TDPS), not later than the date specified by rule by TDPS, that the department needs funds or video and audio equipment for the purpose of installing video and audio equipment and the department does not receive from the state funds or video and audio equipment sufficient, as determined by TDPS, for the department to accomplish that purpose.

Except as otherwise provided by this subsection, a District police department that is exempt from the reporting requirements shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the department alleging that a District peace officer has engaged in racial profiling with respect to a motor

vehicle stop, the department shall retain the video and audio or audio record of the stop until final disposition of the complaint.

Code of Criminal Procedure 2.135

RACIAL PROFILING
PROHIBITION

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

DEPARTMENTAL
POLICY REQUIRED

Each district police department that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling. The policy must:

1. Clearly define acts constituting racial profiling;
2. Strictly prohibit peace officers employed by the department from engaging in racial profiling;
3. Implement a process by which an individual may file a complaint with the department if the individual believes that a peace officer employed by the department has engaged in racial profiling with respect to the individual;
4. Provide public education relating to the department's complaint process;
5. Require appropriate corrective action to be taken against a peace officer employed by the department who, after an investigation, is shown to have engaged in racial profiling in violation of the department's policy adopted under this article;
6. Require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - a. The race or ethnicity of the individual detained;
 - b. Whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
7. Require the District's chief of police to submit an annual report of the information collected under item 6 to:
 - a. TCLE; and
 - b. The governing body of each county or municipality served by the agency.

On adoption of a racial profiling policy, the department shall examine the feasibility of installing video camera and transmitter-activated equipment in each department law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each department law enforcement motorcycle regularly used to make motor vehicle stops. If the department installs video or audio equipment as provided by this subsection, the policy adopted by the department must include standards for reviewing video and audio documentation.

A report required under item 7 above may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.

Code of Criminal Procedure 2.132

BONDING

A commissioned and assigned peace officer shall take and file the oath required of peace officers and execute and file the required \$1,000 bond, payable to the Board, conditioned on the officer's performance of his or her duties. *Education Code 37.081(h)*

CONTINUING
EDUCATION

If the District employs peace officers, it shall provide each officer with a continuing education program as required by Occupations Code Title 10, Chapter 1701, Subchapter H. *Occupations Code 1701, Subch. H*

COMPLAINT AGAINST
PEACE OFFICER

In order for a complaint against a District peace officer to be considered by the head of the District's police department, the complaint must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed and no disciplinary action shall be taken against the officer as a result of the complaint unless a copy is given to the officer. The officer may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code Ch. 614, Subch. B; Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by the District police department of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the department shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(f)*

[See DGBA, FNG, and GF for appeals.]

SAFETY PROGRAM/RISK MANAGEMENT
SECURITY PERSONNEL

CKE
(LEGAL)

LEGAL
REPRESENTATION

The District shall provide a District employee who is a peace officer with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee, and the suit involves an official act of the employee within the scope of the employee's authority.

To defend the employee against the suit, the District may provide counsel already employed by it or may employ private counsel.

An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

Local Gov't Code 180.002(b)-(d)

NOTICE OF
EXPOSURE TO
COMMUNICABLE
DISEASE

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice in the form specified by administrative rule, in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

CL
(LEGAL)

REDUCTION OF
ENERGY
CONSUMPTION

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

1. Strategies for achieving energy efficiency, including facility design and construction, that:
 - a. Result in net savings for the District; or
 - b. Can be achieved without financial cost to the District; and
2. For each strategy identified above, the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

In determining whether a strategy may result in financial cost to the District, the Board shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.

The Board may submit the plan to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office or tax incentives administered by the state or federal government are available to the District. The Board may not disallow any proper allocation of incentives.

Education Code 44.902

ENERGY OR WATER
CONSERVATION
MEASURES

The Board may enter into an energy savings performance contract for energy or water conservation measures to reduce energy or water consumption or operating costs of new or existing school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period.

An energy savings performance contract includes a contract for the installation or implementation of:

1. Insulation of a building structure and systems within the building;
2. Storm windows or doors, caulking or weatherstripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

3. Automatic energy control systems, including computer software and technical data licenses;
4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;
5. Lighting fixtures that increase energy efficiency;
6. Energy recovery systems;
7. Electric systems improvements;
8. Water-conserving fixtures, appliances, and equipment or the substitution of nonwater-using fixtures, appliances, and equipment;
9. Water-conserving landscape irrigation equipment;
10. Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - a. Landscape contouring, including the use of berms, swales, and terraces; and
 - b. The use of soil amendments that increase the water-holding capacity of the soil, including compost;
11. Rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
12. Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
13. Equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
14. Metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
15. Other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

Each energy or water conservation measure shall comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding the list above, an energy savings performance contract may not include

improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The Board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts.

PERFORMANCE
BOND

Before entering an energy savings performance contract, the Board shall require the provider of the energy or water conservation measures to file a payment and performance bond relating to the installation of the measures in accordance with Government Code Chapter 2253. The Board may also require a separate bond to cover the value of the guaranteed savings on the contract.

FINANCING

An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing.
2. With the proceeds of bonds.
3. Under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

Notwithstanding other law, the Board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures, and the Board is not required to pay for such costs solely out of the savings realized by the District under an energy savings performance contract.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the District under the contract. If the term of an energy savings performance contract exceeds one year, the District's contractual obligations in any one year during the term of the contract beginning after the final date of

installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the District, divided by the number of years in the contract term.

CONTRACT
PROCUREMENT

An energy savings performance contract for energy or water conservation measures shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

The Board may contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

COST SAVINGS
REVIEW

Before entering an energy savings performance contract, the Board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract.

Education Code 44.901

ENERGY USAGE
REPORT

The District shall record in an electronic repository the District's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The District shall report the recorded information on a publicly accessible Internet Web site with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2265.001*

LIGHT BULBS

The District shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

1. Uses the fewest watts for the necessary luminous flux or light output;
2. Is compatible with the light fixture; and

3. Is the most cost-effective, considering the factors described above.

Education Code 44.903

[See CS for energy conservation measures related to outdoor lighting fixtures]

RECYCLING
PROGRAM

In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ), the District shall establish a program for the separation and collection of all recyclable materials generated by the District's operations, including at a minimum, aluminum, steel containers, aseptic packaging, polycoated paper-board cartons, high-grade office paper, and corrugated cardboard. "Recyclable materials" includes materials in the District's possession that have been abandoned or disposed of by the District's officers or employees or by any other person.

The District shall also:

1. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials.
2. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled.
3. Establish educational and incentive programs to encourage maximum employee participation.

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 TCEQ that compliance would work a hardship on the District.

Health and Safety Code 361.425

CERTIFICATE OF
MOLD REMEDIATION

When the District sells property, the District shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property during the five years preceding the date the District sells the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*

POOLS
GENERALLY

An owner, manager, operator, or other attendant in charge of a public swimming pool, wading pool, baby pool, hot tub, in-ground spa, spray fountain, or other artificial body of water typically used for recreational swimming, bathing, or play shall comply with pool safety standards necessary to prevent drowning adopted by the

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executive commissioner of the Health and Human Services Commission. *Health and Safety Code 341.0645; 25 TAC 265.181-.208*

DRAINS

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. Section 8003. "Public pool and spa" means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*

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

INSTRUCTIONAL
MATERIALS

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Education Code 31.104(d), the District may not charge a student for instructional material or technological equipment purchased by the District with the District's instructional materials allotment (IMA). All instructional materials, including electronic or online instructional material to the extent of any applicable licensing agreement, purchased in accordance with Education Code Chapter 31 for the District are the property of the District. *Education Code 31.001, .102(a)–(b); 19 TAC 66.1315(a), (c)*

DELEGATION OF
POWER

The Board may delegate to an employee the power to requisition, distribute, and manage the inventory of instructional materials, consistent with Education Code Chapter 31. *Education Code 31.104(a)*

FUNDING

The District is entitled to an annual allotment from the state instructional materials fund for each student enrolled in the District on a date during the preceding school year specified by the Commissioner. The Commissioner shall determine the amount of the allotment per student each year on the basis of the amount of money available in the state instructional materials fund to fund the allotment. The allotment shall be transferred from the state instructional materials fund to the credit of the District's instructional materials account as provided by Education Code 31.0212. The allotment allocated to the District is considered revenue and must be coded by the District in a manner required by TEA. *Education Code 31.0211(a); 19 TAC 66.1315(d)*

The Commissioner shall, as early as practicable during each fiscal year, notify the District of the estimated amount of funding to which the district will be entitled during the next fiscal year.

PLACING ORDERS
BEFORE FISCAL
YEAR

The Commissioner may allow the District to place an order for instructional materials before the beginning of a fiscal year and to receive instructional materials before payment. The Commissioner shall limit the cost of such an order to 80 percent of the estimated amount of funding and shall first credit any balance in the District instructional materials account to pay for an order.

The Commissioner shall make payments as funds become available to the instructional materials fund and shall prioritize payment of orders over reimbursement of purchases made directly by the District.

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INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

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The Commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. A publisher may decline to accept an order. Government Code Chapter 2251 does not apply to purchases of instructional materials before the fiscal year.

Education Code 31.0215

NO APPEAL

The amount of the IMA determined by the Commissioner is final and may not be appealed. *19 TAC 66.1307*

ALLOTMENT
ADJUSTMENT
CHANGE IN
ENROLLMENT

Not later than May 31 of each school year, the District may request that the Commissioner adjust the number of students for which the District is entitled to receive an allotment on the grounds that the number of students attending school in the District will increase or decrease during the school year for which the allotment is provided. The Commissioner may also adjust the number of students for which the District is entitled to receive an allotment, without a request by the District, if the Commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the District. The Commissioner's determination is final. *Education Code 31.0211(e)*

HIGH
ENROLLMENT
GROWTH

Each year the Commissioner shall adjust the IMA of districts experiencing high enrollment growth. *Education Code 31.0214*

The Commissioner's calculation for high-enrollment growth will be adjusted automatically for the biennium based on current Public Education Information Management System (PEIMS) enrollment data before the Educational Materials (EMAT) system opens in the spring.

A district that experiences a minimum enrollment growth of ten percent over the previous five-year period for which the IMA amount is being determined is eligible to receive an adjustment to accommodate high-enrollment growth.

A district that is experiencing a student population growth that is not reflected in the state calculation may submit an application to be considered for additional funding if the district experienced:

1. A net increase of 3,500 students over the last five years; or
2. An unexpected enrollment growth due to unforeseen circumstances.

The District may request additional funding for its IMA for high enrollment once during each school year.

19 TAC 66.1309

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PERMITTED
EXPENDITURES

Funds allotted under this section may be used to purchase:

1. Instructional materials on the list adopted by the Commissioner under Education Code 31.0231;
2. Instructional materials on the list adopted by the State Board of Education (SBOE) under Education Code 31.024;
3. Non-adopted instructional materials;
4. Consumable instructional materials, including workbooks;
5. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
6. Supplemental instructional materials, as provided by Education Code 31.035;
7. State-developed open-source instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
8. Instructional materials and technological equipment under any continuing contracts of the District in effect on September 1, 2011; and
9. Technological equipment necessary to support the use of materials included on the list adopted by the Commissioner or any instructional materials purchased with an allotment.

The funds can also be used to pay for training educational personnel directly involved in student learning in the appropriate use of instructional materials, providing access to technological equipment for instructional use, and the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

The funds may not be used to purchase services for installation, the physical conduit that transmits data such as cabling and wiring or electricity, or office and school supplies; or to pay for travel expenses.

Education Code 31.0211(c); 19 TAC 66.1307

ORDER OF
PURCHASE

Each year the District shall use the District's allotment to purchase, in the following order:

1. Instructional materials necessary to permit the District to certify that the District has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level.

EQUIPMENT AND SUPPLIES MANAGEMENT
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

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2. Any other instructional materials or technological equipment as determined by the District.

Education Code 31.0211(d)

CERTIFICATION OF ALLOTMENT USE	The District shall annually certify to the Commissioner that the District's IMA has been used only for permitted expenses. <i>Education Code 31.0213</i>
INSTRUCTIONAL MATERIALS ACCOUNT	<p>The Commissioner shall maintain an instructional materials account for the District, in which the Commissioner shall annually deposit the District's IMA. The Commissioner shall pay the cost of instructional materials requisitioned by the District under Education Code 31.103 using funds from the District's instructional materials account.</p> <p>The District may also use funds in the District's account to purchase electronic instructional materials or technological equipment. The District shall submit to the Commissioner a request for funds for this purpose from the District's account in accordance with the Commissioner's rules.</p> <p>Money deposited in the District's instructional materials account during each state fiscal biennium remains in the account and available for use by the District for the entire biennium. At the end of each biennium, if there is unused money in the District's account, the District may carry forward any remaining balance to the next biennium.</p> <p><i>Education Code 31.0212</i></p>
ONLINE REQUISITION SYSTEM (EMAT)	The Commissioner shall maintain an online requisition system (EMAT) for the District to requisition instructional materials to be purchased with the District's IMA. <i>Education Code 31.101(f)</i>
LOCAL FUNDS	The District may use local funds to purchase any instructional materials in addition to those selected under Education Code Chapter 31. <i>Education Code 31.106</i>
REQUISITIONS, USE, AND DISTRIBUTION	The District shall make a requisition for instructional materials using the online requisition program (EMAT) maintained by the Commissioner not later than June 1 of each year. The District may requisition instructional materials on the SBOE instructional materials list for grades above the grade level in which a student is enrolled. <i>Education Code 31.103(b)-(c)</i>
DURATION OF SELECTION	Once instructional materials have been selected, the District must use the material for the length of time described by Education Code 31.101. <i>Education Code 31.101</i> [See EFAA]

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VALUE	Current instructional materials in the District's inventory are considered assets and a value must be determined by the District. 19 TAC 66.1315(e)
DISTRIBUTION	The Board shall distribute or provide access to instructional materials to students as it may deem most effective and economical. Education Code 31.102(c); 19 TAC 66.1315(f)
SUPPLEMENTAL INSTRUCTIONAL MATERIALS	The District may requisition supplemental instructional material adopted by the SBOE but not on the instructional material list under Education Code 31.023 only if the District requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the SBOE instructional materials list that in combination cover each element of the essential knowledge and skills for the course for which the District is requisitioning the supplemental instructional materials. Education Code 31.035(d)
AVAILABILITY OF OPEN-SOURCE INSTRUCTIONAL MATERIALS	<p>If the District selects open-source instructional material, the District shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the District or school provides to each student:</p> <ol style="list-style-type: none">1. Electronic access to the instructional material at no cost to the student; or2. Printed copies of the portion of the instructional material that will be used in the course. <p>Education Code 31.103(d)</p>
BRaille AND LARGE-TYPE MATERIALS	<p>All laws and rules applying to instructional materials provided to students with no visual impairments that do not conflict with Education Code 31.028 apply to the distribution and control of Braille and large-type instructional materials, including but not limited to the following:</p> <ol style="list-style-type: none">1. A requisition for special instructional materials shall be based on actual student enrollment to meet individual student needs.2. The District shall conduct an annual physical inventory of all currently adopted accessible 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 and made available to TEA upon request. <p>Reimbursement and/or replacement shall be made for all volumes of Braille and large-type instructional materials determined to be lost.</p>

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FOR TEACHERS Copies of adopted instructional materials in Braille and large type needed by a teacher who is blind or visually impaired shall be furnished by the state without cost. The materials are to be loaned to the District as long as needed and are to be returned to the state when they are no longer needed. Materials in the medium needed by the teacher may be requisitioned by an instructional materials coordinator after the Superintendent has certified the following to the Commissioner:

1. The name of the teacher;
2. The grade or subject taught; and
3. The fact of the teacher's visual impairment.

FOR STUDENTS Non-adopted instructional materials purchased by the District shall be made available and provided in the specified format needed to students who are blind and visually impaired at the District's expense.

FOR PARENTS Copies of adopted instructional materials in Braille, large type, or an electronic file that are requested by a parent who is blind or visually impaired shall be furnished without cost by the state. Materials in the medium needed by the parent may be requisitioned by an instructional materials coordinator. Requests for electronic files will be filled by TEA after the parent signs and TEA receives a statement, through the District, promising that the parent will safeguard the security of the files and observe all current copyright laws. All Braille and large-type instructional materials and electronic files with educational content that have been provided to parents who are blind or visually impaired must be returned to the District at the end of the school year for reuse.

19 TAC 66.1311, .1319(e)

BILINGUAL
INSTRUCTIONAL
MATERIALS The District shall purchase with the District's IMA or otherwise acquire instructional materials for use in bilingual education classes, in accordance with Commissioner rules. *Education Code 31.029*

CERTIFICATION OF
INSTRUCTIONAL
MATERIALS Prior to the beginning of each school year, the District shall certify to the Commissioner in a format approved by the Commissioner that, for each subject in the foundation and enrichment curriculum other than physical education, and each grade level, the District provides each student instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level.

To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, the District

may consider both state- and Commissioner-adopted instructional materials and non-adopted instructional materials, including:

1. Instructional materials adopted by the SBOE;
2. Materials adopted or purchased by the Commissioner under Education Code 31.0231 or Education Code Chapter 31, Subchapter B-1;
3. Open-source instructional materials submitted by eligible institutions and adopted by the SBOE;
4. Open-source instructional materials made available by other public schools; and
5. Instructional materials developed or purchased by the District.

Upon request by the Commissioner, the certification shall include supporting documentation describing the instructional materials on which the certification is based.

The certifications shall be ratified by the Board in a public meeting.

The District may not submit a requisition or request for disbursement through the EMAT system for the next school year until the required annual certification has been received by the Commissioner for the current school year.

Education Code 31.004; 19 TAC 66.1305

OWNERSHIP

A student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school, unless the instructional material is open-source instructional material that the District does not intend to use for another student. The printed copy of the open-source instructional material becomes the property of the student to whom it is distributed.

This provision does not apply to an electronic copy of open-source instructional material.

Education Code 31.104(c), (g)–(h); 19 TAC 66.107(b)

RESPONSIBILITY FOR INSTRUCTIONAL MATERIALS AND EQUIPMENT

Each student or his or her parent or guardian shall be responsible for all instructional material and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment shall forfeit the right to free instructional materials and technological equipment until the instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

The Board may not require an employee of the District to pay for instructional materials or technological equipment that is stolen, misplaced, or not returned by a student. [See DG(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 instructional materials and technological equipment at school during each school day.

If instructional materials or technological equipment is not returned in an acceptable condition 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.

These provisions do not apply to an electronic copy of open-source instructional material.

Education Code 31.104(d), (e), (h); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2); 19 TAC 66.107(c), .1319(d) [See also EF]

ACCEPTABLE
CONDITION

Printed instructional materials are considered to be in acceptable condition if:

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

19 TAC 66.1201

Electronic instructional materials are considered to be in acceptable condition if:

1. All components or applications that are a part of the electronic instructional materials are returned;
2. The electronic instructional materials do not contain computer code (bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and

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INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD
(LEGAL)

3. The electronic instructional materials have not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the District.

19 TAC 66.1203

Technological equipment is considered to be in acceptable condition if:

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

19 TAC 66.1205

LOST, DAMAGED,
OR WORN OUT
INSTRUCTIONAL
MATERIALS

The District is fiscally responsible for lost, damaged, or worn out instructional materials.

The District may use the IMA or other available funds to replace lost, damaged, or worn out instructional materials.

Worn out or damaged instructional materials must be declared by the District as unsuitable for student use and the District must document the method of disposal.

A district declaring worn out instructional materials must follow the Commissioner-approved standards for worn out instructional materials.

Recycling funds received from the disposal of worn out instructional materials must be:

1. Reported to TEA through procedures established by the Commissioner; and
2. Used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

The District must adjust its inventory for lost, damaged, or worn out instructional materials and replacements through the EMAT system and document all transactions in the District annual inventory.

19 TAC 66.1321

SALE OR DISPOSAL

The Board must notify TEA of its intent to sell or dispose of instructional materials or technological equipment by a process established by the Commissioner.

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CMD
(LEGAL)

SALE AFTER DISCONTINUED FOR USE	The Board may sell any printed or electronic instructional materials purchased with the District's IMA on the date the instructional material is discontinued for use in the public schools. The Board may only sell or dispose of online or electronic instructional materials in compliance with the terms of any applicable licensing agreement.
TECHNOLOGICAL EQUIPMENT	The Board may sell technological equipment owned by the District that was purchased with the District's IMA.
REPORT TO COMMISSIONER	The Board must report to the Commissioner the amount of funds to be received from the sale of the instructional materials and technological equipment, identify the purchaser, and identify the instructional materials and/or technological equipment to be sold.
USE OF PROCEEDS OF SALE	Funds received by the District from a sale of instructional materials or technological equipment purchased with the IMA must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211. The Board must certify to the Commissioner that the new instructional materials acquired from the sale of discontinued instructional materials will cover the Texas essential knowledge and skills and be made available to students and/or teachers.
DISPOSAL	<p>The Board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the Board determines that the instructional material is not needed by the District and the Board does not reasonably expect that the instructional material will be needed.</p> <p>The Board shall determine how the District will dispose of discontinued printed instructional materials and technological equipment and must notify the Commissioner prior to the disposal of any instructional materials, identifying the instructional materials to be disposed and the method of disposal.</p> <p><i>Education Code 31.105; 19 TAC 66.1317</i></p>
ANNUAL INVENTORY	<p>The District shall conduct an annual physical inventory of:</p> <ol style="list-style-type: none"><li data-bbox="560 1528 1386 1591">1. All currently adopted instructional materials that have been requisitioned by and delivered to the District;<li data-bbox="560 1612 1409 1675">2. All non-adopted instructional materials purchased with funds from the IMA; and<li data-bbox="560 1696 1386 1768">3. All technological equipment purchased with funds from the IMA.

EQUIPMENT AND SUPPLIES MANAGEMENT
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD
(LEGAL)

The results of the inventory shall be recorded in the District's files and in the EMAT system. Reimbursement and/or replacement shall be made for all instructional materials determined to be lost.

19 TAC 66.107(a)

LOCAL HANDLING
EXPENSES

The District shall not be reimbursed from state funds for expenses incurred in local handling of instructional materials. *19 TAC 66.104(f)*

TRANSPORTATION MANAGEMENT
TRANSPORTATION SAFETY

CNC
(LEGAL)

SAFETY STANDARDS The District shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of TEA. If the District fails or refuses to meet these standards, it shall be ineligible to receive its transportation allotment until the first anniversary of the date the District begins compliance. *Education Code 34.002; Trans. Code 547.102; 37 TAC 14.51-.52*

STUDENT SAFETY
PROHIBITIONS 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

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

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

The District is required to comply with this requirement only to the extent that the legislature has appropriated money for the purpose of reimbursing the District for expenses incurred in complying with the requirement.

Trans. Code 547.701(e)-(f)

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

DONATIONS The Board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat

belts for the District's school buses. The Board may accept or decline the offer after adequate consideration.

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

Education Code 34.014

SCHOOL BUS
EMERGENCY
EVACUATION
TRAINING

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

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

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

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

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

Education Code 34.0021; 37 TAC 14.54

WIRELESS
COMMUNICATION
DEVICES

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone or on the property of a public elementary, middle, junior high, or high school

served by a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

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

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

Trans. Code 545.425, .4252

DISRUPTION OF
TRANSPORTATION

Any person other than a primary or secondary grade student who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school on a vehicle owned or operated by the District or to or from activities sponsored by a school on a vehicle owned and/or operated by the District shall be guilty of a misdemeanor. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

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

ACCIDENT REPORTS
NOTICE TO DPS

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

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

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

37 TAC 14.65(c)

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

NOTICE TO TEA

The District shall report annually to TEA the number of accidents in which its buses were involved in the past year in a manner

prescribed by the Commissioner. The District shall file the annual report to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus accidents;
2. The date each accident occurred;
3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each accident;
4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each accident;
6. The number and types of injuries that were sustained by the bus passengers in each accident; and
7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

The District shall report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

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

EXCEPTIONS

The District shall not report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

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

The District shall not report an accident that occurred in a vehicle that is owned, contracted, or chartered by the District and is not a

school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

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

FOOD SERVICES MANAGEMENT

CO
(LEGAL)

U.S. DEPARTMENT OF
AGRICULTURE RULES

Foods determined to be of minimal nutritional value, as defined by the U.S. Department of Agriculture, shall not be sold in the food service areas during meal periods. *7 C.F.R. 210.11, 220.12*

TEXAS DEPARTMENT
OF AGRICULTURE
POLICY

Effective August 1, 2004, all districts participating in the federal Child Nutrition Programs must comply with the nutrition policies outlined by the Texas Department of Agriculture (TDA). *Texas Department of Agriculture, Texas Public School Nutrition Policy (<http://www.squaremeals.org>); 7 C.F.R. Part 210*

EXCEPTIONS

The District may not adopt any rule, policy, or program under Education Code 28.002 that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

1. Children in the classroom of the child on the occasion of the child's birthday; or
2. Children at a school-designated function.

Education Code 28.002(l-3)(2)

LIMITATION ON
SANCTIONS

TDA may not impose on a district a sanction, including disallowing meal reimbursement, based on the sale to students at a high school of food of minimal nutritional value, if the sale is approved in advance by the school and is made:

1. Outside of a school area designated for food service or food consumption or during a period other than a school meal service period; and
2. For the purpose of raising money for a student organization or activity sponsored or sanctioned by the school or the school district in which the school is located.

Agriculture Code 12.0028

OFFICE COMMUNICATIONS
MAIL AND DELIVERY

CPAB
(LEGAL)

USE OF DISTRICT
MAIL SYSTEM

Unless it has been opened to the public, by policy or practice, a school mail system is not a public forum. The District may create a limited public forum in its campus mailboxes. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983) [See also GKD]

INTERCAMPUS MAIL
DELIVERY

The District is prohibited by the Private Express Statutes from carrying unstamped letters over postal routes unless:

1. The letters relate to the current business of the District to an extent sufficient to satisfy the "letters of the carrier" exception; or
2. The carriage of the letters is without any compensation, direct or indirect, to the District so as to satisfy the "private hands" exception.

Regents of the Univ. of Cal. System v. Public Employee Relations Board, 485 U.S. 589 (1988); 39 U.S.C. 601-606; 18 U.S.C. 1693-1699

POLITICAL
ADVERTISING

No officer or employee of the District may knowingly use or authorize the use of an internal mail system for the distribution of political advertising unless the political advertising is delivered by the United States Postal Service. *Election Code 255.0031*

"Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

1. In return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television;
2. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or
3. Appears on an Internet Web site.

Election Code 251.001(16); 1 TAC 20.1(13)(A)

"Political advertising" does not include an individual communication made by e-mail, but does include mass e-mails involving an expenditure of funds beyond the basic cost of hardware, messaging software, and bandwidth. *1 TAC 20.1(13)(B)*

DEFINITION

A "local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the District or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by District officers or employees.
2. Notes, journals, diaries, and similar documents created by a District officer or employee for his or her own personal convenience.
3. Blank forms, stocks or publications, and library and museum materials acquired solely for the purposes of reference or display.
4. Copies of documents in any media furnished to the public under the Open Records Act or other state law.

Local Gov't Code 201.003(8)

BOARD'S
RESPONSIBILITIES

In implementing the Local Government Records Act, the Board shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all District records.
2. Cause policies and procedures to be developed for the administration of the program under the direction of the records management officer.
3. Facilitate the creation and maintenance of District records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the District and designed to furnish the information necessary to protect the District's legal and financial rights, the state, and persons affected by the District's activities.
4. Facilitate the identification and preservation of District records that are of permanent value.
5. Facilitate the identification and protection of essential District records.

6. Cooperate with the State Library and Archives Commission in its conduct of statewide records management surveys.

Local Gov't Code 203.021

CUSTODIANS OF
RECORDS

In implementing the Local Government Records Act, school personnel who are custodians of records shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by the District for the efficient and economical management of records and in carrying out the requirements of the Act.
2. Adequately document the transaction of District business and the services, programs, and duties for which they and their staff are responsible.
3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records in accordance with the policies and procedures of the District's records management program.

Local Gov't Code 203.022

RECORDS
MANAGEMENT
OFFICER

In implementing the Local Government Records Act, the records management officer shall:

1. Assist in establishing and developing policies and procedures for the District's records management program.
2. Administer the records management program and provide assistance to the custodians in order to reduce costs and improve record-keeping efficiency.
3. In cooperation with the custodians of records, prepare and file records control schedules, amended schedules, and lists of obsolete records, as required by the Local Government Records Act.
4. In cooperation with the custodians of records, prepare or direct the preparation of requests for authorization to destroy records, when such requests are required under the Local Government Records Act.
5. In cooperation with the custodians of records, identify and take adequate steps to preserve District records of permanent value.
6. In cooperation with the custodians of records, identify and take adequate steps to protect essential District records.

7. In cooperation with the custodians of records, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the District's records management program and legal requirements.
8. Disseminate to the Board and custodians of records information concerning state laws, administrative rules, and government policies relating to the District's records.
9. In cooperation with the custodians of records, establish procedures to ensure that the handling of records is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

Local Gov't Code 203.023

RETENTION
SCHEDULES

In developing the District's records retention schedule, the records management officer shall ensure it is consistent with the applicable minimum retention schedules adopted by the State Library and Archives Commission, i.e., Local Schedule GR—Records Common to All Governments, Local Schedule EL—Records of Elections and Voter Registration, Local Schedule TX—Records of Property Taxation, and Local Schedule SD—Records for Public School Districts.
13 TAC 7.125

Note: The State Library and Archives Commission records retention schedules are available at
www.tsl.state.tx.us/slr/recordspubs/localretention.html.

DESTRUCTION OF
RECORDS

A District record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with the State Library and Archives Commission and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal standards.
2. The record appears on a list of obsolete records approved by the State Library and Archives Commission.
3. A destruction request is filed with and approved by the State Library and Archives Commission for a record not listed on an approved control schedule.
4. The district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law.

5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by the State Library and Archives Commission.

Local Gov't Code 202.001

EXCEPTIONS

A District record the subject matter of which is known by the custodian to be the subject of litigation shall not be destroyed until the litigation is settled. A District record that is subject to a request under Chapter 552, Government Code, shall not be destroyed until the request is resolved. *Local Gov't Code 202.002*

PRESERVATION OF
RECORDS

The Board shall determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of local government records or public information. *Gov't Code 552.004*

The Board shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the certified agenda or recording shall be preserved while the action is pending. *Gov't Code 551.104(a)*

MICROFILMING

District records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204 of the Local Government Code and rules adopted by the State Library and Archives Commission. *Local Gov't Code 204.002*

ELECTRONIC
STORAGE

District records may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205 of the Local Government Code and rules adopted by the State Library and Archives Commission. *Local Gov't Code 205.002*

FEDERAL
INVESTIGATIONS AND
BANKRUPTCY

Anyone who knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy case, or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. *18 U.S.C. 1519*

INSURANCE AND ANNUITIES MANAGEMENT

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(LEGAL)

COMMERCIAL
INSURANCE PLANS

The District may procure contracts with any insurance company authorized to do business in Texas to insure its employees. Policies may include group health, accident, accidental death and dismemberment, disability income replacement, and hospital, surgical, and/or medical expense insurance, or a group contract providing for annuities. Dependents of employees may be insured under group policies which provide hospital, surgical, and/or medical expense insurance. *Insurance Code 3.51*

EXCEPTION

A district that participates in the uniform group coverage program established under Insurance Code Article 3.50-7 may not procure or renew commercial health insurance coverage after the uniform group coverage is implemented in the District. *Insurance Code 3.51(b)* [See CRD]

PREMIUM PAYMENTS

Any portion of the commercial insurance premiums paid by the District shall be from local, not state, funds. *Insurance Code 3.51(b)*

The District may deduct from an employee's salary the employee's contribution for the premiums if authorized to do so in writing by that employee. *Insurance Code 1131.303(c)*

SELF-INSURANCE
FUND

The District may issue bonds, certificates, notes, and other obligations, the proceeds of which shall be used for all or any portion of a self-insurance fund to protect the District and its officers, employees, and agents from any insurable risk or hazard, or use any funds or money available to the District for the self-insurance fund. If the District desires to issue bonds payable from ad valorem taxes for this purpose, it shall comply with the requirements of Education Code 45.003.

The District may purchase reinsurance for a risk covered through the self-insurance fund. Any law or regulation requiring insurance may be satisfied by coverage provided through the self-insurance fund. Any law or regulation requiring a certificate of insurance or an insurance agent's signature, countersignature, or approval may be satisfied by a certificate of coverage issued on behalf of the District demonstrating that coverage is provided through the self-insurance fund. *Gov't Code 2259.031*

DESIGNATED BROKER
OF RECORD

The District may not use a designated broker of record to purchase insurance contracts with premiums of an aggregate value of \$10,000 or more for each 12-month period. If the District expends less than \$10,000, in the aggregate, on insurance premiums for each 12-month period, the District may use a designated broker of record to purchase insurance contracts, but the Board shall ensure that the use of a designated broker of record is in the District's best interest and select a designated broker of record in a manner it

INSURANCE AND ANNUITIES MANAGEMENT

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(LEGAL)

determines is consistent with good business management. *Atty. Gen. Op. JC-0205 (2000)*

RISK-RETENTION
GROUPS

The District may become a member of a risk retention group or purchasing group created under the Federal Liability Risk Retention Act of 1986 for the purpose of obtaining insurance against any insurable risk. *Gov't Code 2259.061*

FACILITY STANDARDS

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(LEGAL)

APPLICABILITY OF
STATE STANDARDS
AFTER JANUARY 1,
2004

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

DEFINITIONS

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

"Educational program" means a written document, developed and provided by the District, that includes the following information:

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

19 TAC 61.1036(a)(2)

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

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

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

19 TAC 61.1036(a)(3)

FACILITY STANDARDS

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(LEGAL)

APPLICABILITY OF
STATE STANDARDS
BEFORE JANUARY 1,
2004

All new facilities and major space renovations approved by the Board before January 1, 2004, shall meet the facility standards established by the Commissioner as set out in 19 Administrative Code 61.1033. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1033(a)(5), (b)*

FIRE ESCAPES

The Board shall ensure that each school building that is two or more stories shall have such fire escapes as are required by law. *Health and Safety Code 791.002, .035, .036*

SECURITY CRITERIA

A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, appropriate security criteria. *Education Code 46.0081*

READILY ACCESSIBLE
PROGRAMS

No qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the District or be subject to discrimination. *42 U.S.C. 12132; 28 C.F.R. 35.149; 29 U.S.C. 794; 34 C.F.R. 104.21*

The District shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The District is not, however, required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.

Compliance with these requirements may be achieved by:

1. Redesigning or acquisitioning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 C.F.R. 104.23 and 28 C.F.R. 35.151.
8. Any other methods that would result in making services, programs, and activities accessible to individuals with disabilities.

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

28 C.F.R. 35.150; 34 C.F.R. 104.22

REVIEW OF PLANS

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

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

Gov't Code 469.101, .102(c), .105

NOTICE

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

RELOCATABLE
EDUCATIONAL
FACILITY

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

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

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

PLAYGROUNDS

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

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

EXCEPTION

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

Health and Safety Code 756.061

OUTDOOR LIGHTING
FIXTURES

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

EXCEPTIONS

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

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

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

Health and Safety Code 425.002

TESTING OF NATURAL
GAS PIPING

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

RAILROAD
COMMISSION
RULES

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

STANDARDS AND
PROCEDURE

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

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

NOTICE

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

TERMINATION OF
SERVICE

The supplier shall terminate service to a District facility if:

FACILITY STANDARDS

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

Utilities Code 121.505(a)

The supplier shall develop procedures for terminating service to the District if:

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

16 TAC 8.230(b)(2)

REPORTING LEAKS

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

LP-GAS SYSTEMS
TESTING

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

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

Natural Resources Code 113.352; 16 TAC 9.41

REQUIREMENTS OF
TEST

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

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

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

FACILITY STANDARDS

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

DOCUMENTATION

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

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

TERMINATION OF SERVICE

A supplier shall terminate service to a District facility if:

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

Natural Resources Code 113.355

REPORTING LEAKS

An identified school LP-gas system leakage in a school district facility shall be reported to the Board. The District shall immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of the District performs the initial test, then the subsequent test may not be performed by a District employee. *Natural Resources Code 113.356; 16 TAC 9.41(b)(1)*

DEFINITIONS

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

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

16 TAC 9.41(a)(4)–(5)

INTRASTATE PIPELINE EMERGENCY RESPONSE PLAN

The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

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

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

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

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

Note: For information on procuring goods and services under Education Code Chapter 44, see CH(LEGAL).

BOARD AUTHORITY

The District may adopt rules as necessary to implement Government Code Chapter 2269. *Gov't Code 2269.051*

DELEGATION OF
AUTHORITY

The Board may delegate its authority under Government Code Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person.

The Board shall provide notice of the delegation, the limits of the delegation, and the name or title of each designated person by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Gov't Code 2269.053

CONTRACTS VALUED
AT OR ABOVE \$50,000

All District contracts valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for the District [see also CH]:

1. An interlocal contract. [See CH]
2. Competitive bidding. [See CVA]
3. Competitive sealed proposals. [See CVB]
4. Construction manager-agent method. [See CVC]
5. Construction manager-at-risk method. [See CVD]
6. Design-build method. [See CVE]
7. Job order contract. [See CVF]
8. The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

Education Code 44.031(a), Gov't Code 2269

[For information on contract-related fees, see CH]

SELECTING A
CONTRACTING
METHOD

If the Board considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding, the Board must, before advertising, determine which method provides the best value for the District. *Gov't Code 2269.056(a)*

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EXCEPTIONS 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. <i>Education Code 44.031(h)</i>
CONTRACTS REQUIRING A BOND	A reverse auction procedure, whether the same or similar to that described by Government Code 2155.062, may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see PAYMENT AND PERFORMANCE BONDS, below]. <i>Gov't Code 2253.021(h)</i>
PUBLIC NOTICE	Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the District's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a 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. <i>Education Code 44.031(g); Gov't Code 2269.052(a)-(b)</i>
CONTRACT SELECTION CRITERIA	In determining the award of a contract, the District shall consider and apply: <ol style="list-style-type: none">1. Any existing laws, including any criteria, related to historically underutilized businesses; and2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses. In determining the award of a contract, the District may consider: <ol style="list-style-type: none">1. Price.2. The offeror's experience and reputation.3. The quality of the offeror's goods or services.

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4. The impact on the ability of the District to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

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 greater of 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 or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001-.002*

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

PUBLISHING
CRITERIA

The District shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion. *Gov't Code 2269.056(b)*

SUBMISSION

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*

SELECTION

The District shall base its selection among offerors on applicable criteria listed for the particular method used. *Gov't Code 2269.056(b)*

MAKING EVALUATIONS
PUBLIC

The District shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. *Gov't Code 2269.056(c), .105*

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials,

equipment, or supplies to be furnished, the District may approve change orders making the changes. The District may grant general authority to an administrative official to approve the change orders.

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

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

Education Code 44.0411

INSPECTION,
VERIFICATION AND
TESTING

Independently of the contractor, construction manager-at-risk, or design-build firm, the District shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the District. The District shall select the services for which it contracts in accordance with Government Code 2254.004. *Gov't Code 2269.058*

IMPACT FEES

The District is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the Board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the Board considers advisable to provide for the payment of the fees. *Local Gov't Code 395.022*

ENERGY SAVINGS
PERFORMANCE
CONTRACTS

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts described at Education Code 44.901. *Education Code 44.901(j)* [See CL]

PROFESSIONAL
SERVICES
ARCHITECTS AND
ENGINEERS

An architect or engineer required to be selected or designated under Government Code Chapter 2269 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the District, the District shall select the architect or

engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004 [see PROCURING PROFESSIONAL SERVICES, below].

Gov't Code 2269.057

REGISTERED
ARCHITECT

An architectural plan or specification for any of the following may be prepared only by an architect registered in accordance with Occupations Code, Title 6, Chapter 1051:

1. A new building constructed and owned by the District that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed \$100,000.
2. Any alteration or addition to an existing building owned by the District that is, or will be, used for education, assembly, or office occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed \$50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

This section does not prohibit the District from choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand, limit, or otherwise alter the scope of a design professional's practice nor does it allow a design professional to prepare an architectural plan or specification described above.

Occupations Code 1051.703; 22 TAC 1.212

REGISTERED
ENGINEER

Electrical or mechanical engineering plans, specifications, and estimates for a District construction project whose contemplated cost at completion is more than \$8,000 and that involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

The District is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed \$20,000. *Occupations Code 1001.053*

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CERTIFICATION
FOR PURCHASES
THROUGH
PURCHASING
COOPERATIVES

The District may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the District certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or
2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j)

PROCURING
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. 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 architect, landscape architect, land surveyor, professional engineer, or state-certified or state-licensed real estate appraiser. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, .003(a)*

In procuring architectural, engineering, or land-surveying services, the District shall:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate a contract with that provider at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, the District shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable

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price. The District shall continue this process until the parties enter into a contract.

Gov't Code 2254.004

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)*

RIGHT TO WORK

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2269, the District:

1. May not consider whether a person is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

Gov't Code 2269.054

ACCESSIBILITY

Each facility or part of a facility constructed by, on behalf of, or for the use of the District shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities. *28 C.F.R. 35.151, 34 C.F.R. 104.23*

PAYMENT AND
PERFORMANCE
BONDS

When the Board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable to the Board and in a form approved by the Board. *Gov't Code 2253.021(a), (d)-(e)*

For a contract in excess of \$100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of the District. *Gov't Code 2253.021(b)*

For a contract in excess of \$25,000, a payment bond shall be executed in the amount of the contract solely for the protection and

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use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. *Gov't Code 2253.021(c)*

FAILURE TO OBTAIN
PAYMENT BOND

If the Board fails to obtain a payment bond covering a contract in excess of \$25,000 from the prime contractor, it is subject to the same liability as a surety would be, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code. *Gov't Code 2253.027*

NO BOND FOR
DESIGN SERVICES
ONLY

A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm. *Gov't Code 2269.311(a)* [See CVE for more information on design/build contracts, including bond amounts]

BOND FOR
INSURED LOSS

The Board shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor:

1. A performance bond for the benefit of the District, as described above; and
2. A payment bond, as described above. If the payment bond is not furnished, the District is subject to the same liability that a surety would have if the surety had issued the payment bond and the District had required the bond to be provided.

These bonds shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

EXCEPTION TO
BOND
REQUIREMENT

The requirement that the District secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the District.

Gov't Code 2253.022

PREVAILING WAGE ON
PUBLIC WORKS

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of the District shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per diem wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a

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public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with the District. *Gov't Code 2258.001, .021*

The Board shall determine, as a sum certain, the general prevailing rate of per diem wages in the District for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, the Board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in the District or adopt the prevailing wage rate as determined by the U.S. Department of Labor. The Board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. The Board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, .022*

ENFORCEMENT

The Board, and an agent or officer of the Board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, the Board shall determine, before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051-.052*

RETAINAGE AND
REIMBURSEMENT

The Board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, the Board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator's award. The Board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.052(d), .056*

PENALTY FOR
NONCOMPLIANCE

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to the District \$60 for each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates specified in the contract. The Board must specify this penalty in the contract. If the District does not determine the prevailing wage rates and specify them in the contract, the contractor or subcon-

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tractor may not be fined. The Board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

REQUIRED WORKERS'
COMPENSATION
COVERAGE

When the District enters into a building or construction contract on a project, it shall fulfill the following requirements regarding required workers' compensation coverages. A project includes the provision of all services related to a building or construction contract for the District. The District shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
2. As part of the contract, using the language required by 28 Administrative Code 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracts directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
 - a. Before the end of the coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
 - b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.

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5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance upon request and to any person entitled to a copy by law.
7. Use the prescribed language for bid specifications and contracts without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation. [See CV(EXHIBIT) for prescribed language]

Labor Code 406.096; 28 TAC 110.110(a)(7)(8), (c)

EXCEPTION

This coverage requirement does not apply to sole proprietors or partners of a covered business entity or corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self insure. *Labor Code 406.097; 28 TAC 110.110(i)*

CRIMINAL HISTORY

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

IMPERMISSIBLE PRACTICES

A Board member, employee, or agent of the District who knowingly or with criminal negligence violates the purchasing laws found in Education Code Chapter 44 as described at Education Code 44.032 is subject to criminal penalties. *Education Code 44.032* [See CH]

ENFORCEMENT ACTIONS

Government Code Chapter 2269 may be enforced through an action for declaratory or injunctive relief filed not later than the tenth day after the date on which the contract is awarded. *Gov't Code 2269.452*

DEFECTS IN INSTRUCTIONAL FACILITIES

If the District brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the District receives state assistance under Education Code Chapter 46, Subchapter A (Instructional Facilities Allotment), the District shall provide the Commissioner with written notice of the action. The Commissioner may join in the action on behalf of the state to protect the state's share.

The District shall use the net proceeds from the action to repair the defect or to replace the facility. Education Code 46.008 applies to the repair.

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The state's share is state property. The District shall send to the comptroller any portion of the state's share not used by the District to repair the defect or to replace the facility. Education Code 42.258 applies to the state's share.

NET PROCEEDS "Net proceeds" means the difference between the amount recovered by or on behalf of the District in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the District in prosecuting the action.

STATE'S SHARE "State's share" means an amount equal to the District's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under Education Code Chapter 46, Subchapter A used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

Education Code 46.0111

ATTORNEY FEES A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to the District in a dispute in which the District prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. *Gov't Code 2252.904*

FACILITIES CONSTRUCTION
COMPETITIVE BIDDING

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“Competitive bidding” is a procurement method by which the District contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

Except as otherwise provided by Government Code Chapter 2269 or other law, the District may contract for the construction, alteration, rehabilitation, or repair of a facility only after the District advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Gov't Code 2269.101

The competitive bidding process is governed by the process outlined below. The District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. Giving PUBLIC NOTICE of the project;
2. Publishing CONTRACT SELECTION CRITERIA;
3. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
4. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the District.

Education Code 44.031(g); Gov't Code 2269.052, .055, .056(c), .058, .105

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

PREPARATION OF
REQUEST

The District shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid. *Gov't Code 2269.103*

USE OF ARCHITECT
OR ENGINEER

The District shall select or designate an architect or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents required for a project to be awarded by competitive bidding. *Gov't Code 2269.102* [See CV]

OPENING BIDS

The District shall receive, publicly open, and read aloud the names of the offerors and their bids. Bids shall be opened only by the Board at a public meeting or by an officer or employee of the District at or in an office of the District. A bid that has been opened

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COMPETITIVE BIDDING

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may not be changed for the purpose of correcting an error in the bid price. *Gov't Code 2269.104; Local Gov't Code 271.026*

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

SAFETY RECORD

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

1. Adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. Given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. Ascertained that such determination is not arbitrary and capricious.

Local Gov't Code 271.0275

CONFLICT OF LAWS

Except as otherwise specifically provided in this policy, Local Government Code Chapter 271, Subchapter B, does not apply to the competitive bidding process. *Gov't Code 2269.106*

A “construction manager-agent” is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the District by providing consultation or administrative services during the design and construction phase and managing multiple contracts with various construction prime contractors for construction, rehabilitation, alteration, or repair of a facility. The District may retain a construction manager-agent only as provided by Government Code Chapter 2269, Subchapter E. The contract between the District and the construction manager-agent may require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this policy, on-site management, and other services specified in the contract. *Gov’t Code 2269.201–.202*

A construction manager-agent may not:

1. Self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility.
2. Be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility.
3. Provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Gov’t Code 2269.203

A construction manager-agent represents the District in a fiduciary capacity. *Gov’t Code 2269.204*

The District may use the construction manager-agent method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the District.

Education Code 44.031(g); Gov’t Code 2269.052, .055, .056(a), (c), .058, .201(c)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

ARCHITECT/
ENGINEER

On or before the selection of a construction manager-agent, the District shall select or designate an architect or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents for the project. *Gov't Code 2269.205(a)* [See CV]

The District's architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this policy. The District's architect or engineer is not prohibited by this policy from providing customary construction-phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws. *Gov't Code 2269.205(b)*

To the extent that the construction manager-agent's services are defined as part of the practice of architecture or engineering under Occupations Code Chapter 1051 or 1001 those services must be conducted by a person licensed under the applicable chapter. *Gov't Code 2269.205(c)*

SELECTION OF
CONSTRUCTION
MANAGER-AGENT

The District shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected under Government Code 2254.004. *Gov't Code 2269.207* [See CV]

INSURANCE

The construction manager-agent shall maintain professional liability or errors and omissions insurance in the amount of at least \$1 million for each occurrence. *Gov't Code 2269.208*

SELECTION OF
CONTRACTORS

If the District is using the construction manager-agent method, the District shall procure, in accordance with applicable law and in any manner authorized by Government Code Chapter 2269, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the District in accordance with applicable laws. *Gov't Code 2269.206*

“Construction manager-at-risk method” is a delivery method by which the District contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility. *Gov’t Code 2269.251(a)*

A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repairs of a facility at a contracted price as a general contractor and provides consultation to the District regarding construction during and after the design of the facility. The contracted price may be a guaranteed maximum price. *Gov’t Code 2269.251(b)*

The District may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the District.

Education Code 44.031(g); Gov’t Code 2269.052, .055, .056(a), (c), .058, .251(c)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

ARCHITECT/
ENGINEER

On or before the selection of a construction manager-at-risk, the District shall select or designate an architect or engineer or architect to prepare the construction documents for the project. *Gov’t Code 2269.252(a)* [See CV]

The District’s architect or engineer for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the architect or engineer is hired to serve as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with Government Code Chapter

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CONSTRUCTION MANAGER-AT-RISK

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2269, Subchapter F, which does not prohibit the engineer or architect from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws. *Gov't Code 2269.252(b)*

SELECTION PROCESS The District shall select the construction manager-at-risk in either a one-step or two-step process. The District shall prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications, in the case of a two-step process that includes:

1. A statement as to whether the selection process is a one-step or two-step process;
2. General information on the project site, project scope, schedule, selection criteria and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and
3. Other information that may assist the District in its selection of a construction manager-at-risk.

The District shall state the selection criteria in the request for proposals or qualifications.

If a one-step process is used, the District may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the District may not request fees or prices in step one. In step two, the District may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

Gov't Code 2269.253(a)–(e)

OPENING AND
EVALUATING
PROPOSALS

At each step, the District shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the District shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date on which the final proposals are opened, the District shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals. *Gov't Code 2269.253(f)–(g)*

SELECTION

The District shall select the offeror that submits the proposal that offers the best value for the District based on the published selection criteria and on its ranking evaluation. The District shall first attempt to negotiate a contract with the selected offeror. If the

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CONSTRUCTION MANAGER-AT-RISK

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District is unable to negotiate a satisfactory contract with the selected offeror, the District shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end. *Gov't Code 2269.254(a)-(c)*

NOTICE OF RANKINGS Not later than the seventh day after the date the contract is awarded, the District shall make the proposal rankings public. *Gov't Code 2269.254(d)*

TRADE CONTRACTORS/
SUBCONTRACTORS A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if:

1. The construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and
2. The District determines that the construction manager-at-risk's bid or proposal provides the best value for the District.

Gov't Code 2269.255

BIDS OR PROPOSALS The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or District. All bids or proposals shall be made available to the District on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals. *Gov't Code 2269.256(a)*

If the construction manager-at-risk reviews, evaluates, and recommends to the District a bid or proposal from a trade contractor or subcontractor but the District requires another bid or proposal to be accepted, the District shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of the District's requirement that another bid or proposal be accepted. *Gov't Code 2269.256(b)*

DEFAULT If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this policy, the construction manager-at-risk may itself fulfill, without advertising, the contract require-

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ments or select a replacement trade contractor or subcontractor to fulfill the contract requirements. *Gov't Code 2269.257*

PAYMENT AND
PERFORMANCE BOND
AMOUNTS

If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the District must each be in an amount equal to the project budget, as specified in the request for proposals or qualifications. The construction manager shall deliver the bonds not later than the tenth day after the date the construction manager-at-risk executes the contract, unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the District to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established. *Gov't Code 2269.258* [See CV for more information on payment and performance bonds]

“Job order contracting” is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite. *Gov't Code 2269.401*

This policy applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building. This policy does not apply to:

1. A highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or
2. A building or structure that is incidental to a project that is primarily a civil engineering construction project.

Gov't Code 2269.402

If the District uses the job order contracts method as described in this policy, it must comply with the applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the District.

Education Code 44.031(g); Gov't Code 2269.052, .055, .056(a), (c), .058

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

The District may award job order contracts for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks. The District

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JOB ORDER CONTRACTS

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shall establish the maximum aggregate contract price when it advertises the proposal. The Board shall approve each job, task, or purchase order that exceeds \$500,000. *Gov't Code 2269.403*

ESTABLISHING UNIT
PRICES

The District may establish contractual unit prices for a job order contract by:

1. Specifying one or more published construction unit price books and the applicable divisions or line items; or
2. Providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.

Gov't Code 2269.404

ADVERTISING AND
OPENING PROPOSALS

The District may use the competitive sealed proposal method under Government Code Chapter 2269, Subchapter D for job order contracts. [See CVB] The District shall advertise for, receive, and publicly open sealed proposals for job order contracts. The District may require offerors to submit additional information in addition to rates, including experience, past performance, and proposed personnel and methodology. *Gov't Code 2269.405*

ARCHITECT OR
ENGINEER

If a job order contract or an order issued under the contract requires architectural or engineering services that constitute the practice of architecture within the meaning of Occupations Code Chapter 1051 or the practice of engineering within the meaning of Occupations Code Chapter 1001, the District shall select or designate an architect or engineer to prepare the construction documents for the project.

This requirement does not apply to a job order contract or an order issued under the contract for industrialized buildings or relocatable educational facilities subject to and approved under Occupations Code Chapter 1202 if the contractor employs the services of an architect or engineer who approves the documents for the project.

Gov't Code 2269.408 [See CV]

AWARDING
CONTRACTS

The District may award job order contracts to one or more job order contractors in connection with each solicitation of proposals. *Gov't Code 2269.406*

An order for a job or project under a job order contract must be signed by the District's representative and the contractor. The order may be:

1. A fixed-price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities; or

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2. A unit price order based on the quantities and line items delivered.

Gov't Code 2269.410

CONTRACT TERM The base term for a job order contract may not exceed two years. The District may renew the contract annually for not more than three additional years. *Gov't Code 2269.409*

USE OF CONTRACT A job order contract may be used to accomplish work only for the district that awards the contract unless:

1. The solicitation for the job order contract and the contract specifically provide for use by other persons; or
2. The District enters into an interlocal agreement that provides otherwise.

Gov't Code 2269.407

BONDS The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. *Gov't Code 2269.411* [See CV for more information on payment and performance bonds]

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NOTICE TO PARENTS:
QUALIFICATIONS

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (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 school 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), .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)*

LICENSE

A person may not be employed by the District as an audiologist, occupational therapist, physical therapist, physician, nurse, school

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psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, 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.

A person employed by the District before September 1, 2011, to perform marriage and family therapy is not required to hold a license as a marriage and family therapist as long as the person remains employed by the District.

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

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.

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.

NEW
ELEMENTARY
TEACHER

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.

NEW MIDDLE OR
SECONDARY
TEACHER

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

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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 230.51*

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 a paraprofessional's 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

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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 automated external defibrillator (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

For purposes of the following provisions, a "school bus driver" is a driver transporting school children and/or school personnel on routes to and from school or on a school-related activity trip while operating a multifunction school activity bus, school activity bus, or school bus. *37 TAC 14.1 [See CNA]*

At a minimum, to become employed and maintain employment status as a school bus driver, a person must meet the following requirements:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LEGAL)

1. Be at least 18 years old.
2. Possess a valid driver's license designating a class appropriate (with applicable endorsement, if commercial driver license) for the gross vehicle weight rating and manufacturer's designed passenger capacity of the vehicle to be operated.
3. Meet the medical qualifications specified by the Department of Public Safety (DPS) at 37 Administrative Code 14.12. [See DBB]
4. Maintain an acceptable driving record in accordance with the minimum standards established by the DPS at 37 Administrative Code 14.14.
5. Maintain an acceptable criminal history record, secured from any law enforcement agency or criminal justice agency, and reviewed in accordance with the provisions of Education Code Chapter 22. [See DBAA]
6. Possess a valid Texas School Bus Driver Safety Training Certificate, as specified at 37 Administrative Code 14.35 or a valid Enrollment Certificate, as specified at 37 Administrative Code 14.36.

Trans. Code 521.022; 37 TAC 14.11, .12, .14

PRE-EMPLOYMENT
INQUIRIES

An applicant for employment as a school bus driver must disclose to the District:

1. Any violations of motor vehicle laws or ordinances (other than parking violations) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted;
2. Any serious traffic violations, as defined by Transportation Code 522.003(25), of which the applicant was convicted during the ten years preceding the date the application is submitted; and
3. Any suspension, revocation, or cancellation of driving privilege that the applicant has ever received.

The District shall make an inquiry into the applicant's complete driving record, with DPS and with any state in which the applicant held a motor vehicle operator's license or permit within the past seven years. If no previous driving record is found to exist, the District must document its efforts to obtain such information and certify that no previous driving record exists for the individual.

The District shall review the applicant's driving record to determine whether that person meets minimum requirements, as described at

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements).

37 TAC 14.14(b)

ANNUAL
EVALUATION

The District shall, at least once every twelve months, make an inquiry into the complete driving record of each school bus driver it employs, with DPS and with any state in which the individual held a motor vehicle operator's license or permit during that time period. The District shall review the driving record to determine whether the individual meets the minimum requirements described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements). *Trans. Code 521.022(d); 37 TAC 14.14(c)*

DISQUALIFICATION

Any person who has accumulated ten or more penalty points shall be considered ineligible to transport students until such time as he or she may become qualified. A school bus driver who receives notice that his or her license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the District of the contents of the notice before the end of the business day following the day the driver received it. The District shall not permit a disqualified driver to drive a school bus, school activity bus, or multifunction school activity bus. *37 TAC 14.14(g)*

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.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LEGAL)

FORMER
EMPLOYEES

On request by a classroom teacher, librarian, school counselor, or nurse or by the district employing one of those individuals, a district that previously employed the individual shall provide a copy of the individual's service record to the district employing the individual. The District must provide the copy not later than the 30th day after the later of:

1. The date the request is made; or
2. The date of the last day of the individual's service to the District.

The original service record, signed by the employee, 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.

Education Code 21.4031; 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 Ch. 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.

Except as provided below, 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, emergency contact information, or social security number, or that reveals whether the person has family members.

Gov't Code 552.024, .102(a)

The social security number of an employee of the District in the custody of the District is confidential. The District may not require an employee or former employee of the District to choose whether to allow public access to the employee's or former employee's social security number. *Gov't Code 552.024(a-1), .147(a-1)*

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LEGAL)

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, .102(a), .307

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LOCAL)

PARENT
NOTIFICATION

The District shall notify parents of students in classrooms in which the regular teacher is not “highly qualified,” as required by law.

Notification shall not be required, however, when:

1. The home campus teacher of a secondary school student assigned to a DAEP is considered the teacher-of-record; and
2. The home campus teacher:
 - a. Is highly qualified,
 - b. Assigns and evaluates the student’s coursework,
 - c. Provides substantially the same coursework and uses the same grading standards as in the regular classroom,
 - d. Has final authority on the coursework grades and the final grade for the course, and
 - e. Is regularly available for face-to-face consultation with the student and the DAEP teacher; and
3. The DAEP teacher meets all applicable SBEC certification requirements.

UPDATING
CREDENTIALS

All employees who have earned certificates, endorsements, or degrees of higher rank since the previous school year shall file with the Superintendent:

1. An official college transcript showing the highest degree earned and date conferred.
2. Proof of the certificate or endorsement.

CONTRACT
PERSONNEL

The Superintendent or designee shall ensure that contract personnel possess valid credentials before issuing contracts.

SOCIAL SECURITY
NUMBER

The District shall not use an employee’s social security number as an employee identifier, except for tax purposes [see DC]. In accordance with law, the District shall keep an employee’s social security number confidential.

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 RECOMMENDATION, 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	5. Each employee has the right to present grievances to the Board. [See GRIEVANCES, below]
	<i>Education Code 11.1513</i>
TAX IDENTIFIER	The Board shall adopt a policy prohibiting the use of social security numbers as employee identifiers other than for tax purposes [see SOCIAL SECURITY NUMBERS, below]. <i>Education Code 11.1514</i>
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> [For nepotism implications, see BBFB and 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 11.170</i>
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. <i>Education Code 11.1513</i>

EMPLOYMENT PRACTICES

DC
(LEGAL)

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; or
 - 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)*

GRIEVANCES

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(i)-(j) [See DGBA]

TRANSFERS

The District's employment policy may include a provision for providing each current District employee with an opportunity to participate in a process for transferring to another school in or position with the District. *Education Code 11.1513(c)(3)* [See DK]

EMPLOYMENT PRACTICES

DC
(LEGAL)

CONTRACT
EMPLOYEES

The District shall employ each classroom teacher, principal, librarian, nurse, or school 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*

“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. *Education Code 5.001(2)*

LENGTH OF
CONTRACT

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. *Education Code 21.401*

EDUCATIONAL AIDES

The Board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. *Education Code 54.214(f)*

EMPLOYMENT OF
RETIREES

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.

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.

An administrator of the District who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.

Gov’t Code 824.6022, 825.403(k); 34 TAC 31.2

FORMER BOARD
MEMBER
EMPLOYMENT

A Board member is prohibited from accepting employment with the District until the first anniversary of the date the Board member’s membership on the Board ends. *Education Code 11.063*

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.

EMPLOYMENT PRACTICES

DC
(LEGAL)

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 C.F.R. 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.

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

PENALTIES

A district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

EMPLOYMENT PRACTICES

DC
(LEGAL)

42 U.S.C. 653a(b), (c); Family Code 234.101-.105; 1 TAC 55, Subch. I

SOCIAL SECURITY
NUMBERS

The Board shall adopt a policy prohibiting the use of the social security number of an employee of the District as an employee identifier other than for tax purposes. *Education Code 11.1514* [See DBA]

FEDERAL LAW

The District shall not 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 federal law 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, 88 Stat. 1896, 1897 (1974)

COMPENSATION AND BENEFITS
INCENTIVES AND STIPENDS

DEAA
(LEGAL)

INCENTIVE GRANTS— CONTRACT PROVISION	The District shall provide in employment contracts that qualifying employees may receive an incentive payment under the Educator Excellence Award Program/District Awards for Teacher Excellence (DATE) if the District participates in the program. The District shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. <i>Education Code 21.415</i>
DISTRICT AWARDS FOR TEACHER EXCELLENCE (DATE)	The DATE is an annual grant program under which the District may receive a grant for the purpose of providing awards to classroom teachers, principals, and other District employees. Funds from the program shall be distributed to each selected school district that submitted an approved local awards plan developed in accordance with Education Code 21.704 and 19 Administrative Code 102.1073(e)(2).
APPLICATION	The District must act pursuant to local Board policy for submitting a local awards plan and grant application to TEA. The local awards plan must meet the criteria set forth at 19 Administrative Code 102.1073(e). The Board's decision to approve and submit its local awards plan and grant application may not be appealed to the Commissioner.
EXCLUSION OF CERTAIN EMPLOYEES	The District may choose to exclude a teacher or a principal on a selected campus from receiving an award, except involuntarily transferred teachers or principals, or teachers or principals no longer on the selected campus who retired at the end of the school year. The local awards plan must reflect the District policies with regard to such a teacher or principal at the program start date. A decision to exclude certain teachers or principals from receiving an award may not be appealed to the Commissioner.
NOTICE TO TEACHERS AND PRINCIPALS	A local awards plan must provide for notifying teachers and principals eligible to receive awards under the plan of the specific criteria and any formulas on which the awards will be based before the beginning of the period on which the awards will be based.
AWARD AMOUNTS	The District must use at least 60 percent of grant funds to directly award classroom teachers and principals who effectively improve student achievement as determined by meaningful, objective measures (Part I funds). The remaining funds may be used only for the purposes listed at Education Code 21.705. Annual award amounts should be valued at \$3,000 or more, unless otherwise determined by the District planning committee. All eligible educators must have the opportunity to earn minimum awards valued at \$1,000 per educator identified under Part I.

COMPENSATION AND BENEFITS
INCENTIVES AND STIPENDS

DEAA
(LEGAL)

Local decisions regarding award amounts are final and may not be appealed to the Commissioner.

Education Code Ch. 21, Subch. O; 19 TAC 102.1073

MENTOR TEACHERS

The District may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by Commissioner's rules.

The Commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the Commissioner;
2. Complete a training program provided by the District; and
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance.

The District may apply to the Commissioner for funds for a mentor teacher program. The District may use the funds only for providing:

1. Mentor teacher stipends;
2. Scheduled release time for mentor teachers and the classroom teachers to whom they are assigned for meeting and engaging in mentoring activities; and
3. Mentoring support through providers of mentor training.

Education Code 21.458; 19 TAC 153.1011

MASTER TEACHER
GRANT PROGRAMS

The Commissioner shall establish master reading, mathematics, technology, and science teacher grant programs to encourage teachers to become certified as master teachers and to work with other teachers and students to improve student performance. *Education Code 21.410-.413*

APPLICATION

The District may apply to the Commissioner for grants for each identified high-need campus to be used to pay year-end stipends to certified master teachers.

COMPENSATION AND BENEFITS
INCENTIVES AND STIPENDS

DEAA
(LEGAL)

USE OF FUNDS	<p>Grant funds may be used only for the purpose of paying a year-end stipend to a master teacher whose primary duties are to teach reading, mathematics, technology, or science and to serve as a reading, mathematics, technology, or science teacher mentor for the amount of time and in the manner established by the District.</p>
PAYMENTS	<p>The Commissioner shall reduce payments to the District proportionately to the extent a teacher does not meet the requirements for a master teacher for the entire school year.</p> <p>If a teacher qualifies as a master teacher for a partial month, the District's written policy will determine how the District counts the partial month, for example, as no month served or as an entire month served. Only whole months shall be entered on the application by the District on the teacher's behalf.</p> <p>Education Code sections 21.410-.413 do not create a property right to a grant or stipend. A master teacher stipend is not considered in determining whether the District is paying the teacher the minimum monthly salary under Education Code 21.402.</p>
DESIGNATION OF TEACHER	<p>A district that employs more certified master teachers than the number of grants available shall designate which certified master teacher(s) to assign the duties required to receive the state stipends. The designation is based on a written policy adopted by the Board. The District's decision is final and may not be appealed.</p> <p>The District may not apportion among teachers a stipend paid with a grant the District receives under this program. The District may use local money to pay additional stipends in amounts determined by the District.</p> <p><i>Education Code 21.410-.413; 19 TAC Ch. 102, Subch. BB</i></p>
RETIREMENT INCENTIVES	<p>The District may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. <i>Education Code 22.007</i></p>
ATTENDANCE SUPPLEMENT	<p>The District shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. <i>Education Code 21.406</i></p>

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

MINIMUM SALARY SCHEDULE — EDUCATORS	The District shall pay each classroom teacher, full-time librarian, full-time school 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 Administrative Code 153.1021.
DEFINITIONS	
‘CLASSROOM TEACHER’	“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 the State Board for Educator Certification (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’	“Librarian” means an educator who provides full-time library services and holds the relevant certificate from SBEC.
‘COUNSELOR’	“Counselor” means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.
‘NURSE’	“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.
‘FULL-TIME’	“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. <i>19 TAC 153.1022(a)</i>
PLACEMENT ON SALARY SCHEDULE	The Commissioner's rules determine the experience for which a teacher, librarian, school counselor, or nurse is to be given credit in placing the teacher, librarian, school counselor, or nurse on the minimum salary schedule. The District shall credit the teacher, librarian, school counselor, or nurse for each year of experience, whether or not the years are consecutive. <i>Education Code 21.402(a), .403(c); 19 TAC 153.1022</i>
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.

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

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 placement on the minimum salary schedule according to the guidelines at Education Code 21.403(d). *Education Code 21.402(f), .403(d)*

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*

PUBLIC HEARING—
CONTRACT
EMPLOYEES

The District may not pay an employee or former employee more than an amount owed under a contract with the employee unless the District holds at least one public hearing. Notice of the hearing must be given in accordance with notice of a public meeting under the Texas Open Meetings Act [see BE].

The Board must state the following at the public hearing:

1. The source and exact amount of the payment;
2. The reason the payment is being offered, including the public purpose that will be served by making the payment; and
3. The terms for distribution of the payment that effect and maintain the public purpose.

Loc. Gov't Code 180.007

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 22.103*

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 22.106*

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

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

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.

Education Code 22.101(2)

TRS CONTRIBUTIONS
FOR NEW HIRES

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.

"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.

On a monthly basis, the District shall:

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
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 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

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

TRS SURCHARGE FOR REHIRED RETIREES	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:
TRS FUND CONTRIBUTIONS	<ol style="list-style-type: none">1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and2. 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 rehiree 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. <i>Gov't Code 825.4092; Insurance Code 1575.204</i>
NOTICE REGARDING EARNED INCOME TAX CREDIT	Not later than March 1 of each year, the District shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means: <ol style="list-style-type: none">1. In person;2. Electronically at the employee's last known e-mail address;3. Through a flyer included, in writing or electronically, as a payroll stuffer; or4. By first class mail to the employee's last known address. The District may not satisfy this requirement solely by posting information in the workplace. In addition, the District may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit. <i>Labor Code 104.001-.003</i>

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

DECREASING PAY The Commissioner has held that a district may reduce educator compensation if it gives sufficient warning of a possible reduction in pay when educators can still unilaterally resign from their contracts. A sufficient warning must be both formal enough and specific enough to give educators a meaningful opportunity to decide whether to continue employment with the District. *Brajenovich v. Alief Indep. Sch. Dist., Tex. Comm’r of Educ. Decision No. 021-R10-1106 (2009)*

WIDESPREAD SALARY REDUCTIONS The following provisions apply only to a widespread reduction in the amount of annual salaries paid to classroom teachers in the District based primarily on District financial conditions rather than on teacher performance.

For any school year in which the District has reduced the amount of the annual salaries paid to classroom teachers from the amount paid for the preceding school year, the District shall reduce the amount of the annual salary paid to each District administrator or other professional employee by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

Education Code 21.4023

The Board may not reduce salaries until the District has complied with the requirements at Education Code 21.4022 [see SALARY REDUCTION/FURLOUGH PROCESS, below]. *Education Code 21.4022*

FURLOUGH PROGRAM In accordance with District policy [see DFFA(LOCAL)], the Board may implement a furlough program and reduce the number of days of service otherwise required under Education Code 21.401 [see DC] by not more than six days of service during a school year if the Commissioner certifies that the District will be provided with less state and local funding for that year than was provided to the District for the 2010–11 school year. *Education Code 21.4021(a)*

The Board may not implement a furlough program until the District has complied with the requirements at Education Code 21.4022 [see SALARY REDUCTION/FURLOUGH PROCESS, below]. *Education Code 21.4022*

FUNDING LEVELS Not later than July 1 of each year, the Commissioner shall determine whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the District under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the District for the 2010–11 school year. If the amount estimated to be provided is less, the Commissioner shall

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

	certify the percentage decrease in funding to be provided to the District. <i>Education Code 42.009</i>
SALARIES	Notwithstanding Education Code 21.402 (minimum salary schedule), the Board may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced. Any reduction in the amount of the annual salary must be equally distributed over the course of the employee's current contract with the District.
FURLOUGH DAYS	A furlough program must subject all contract personnel to the same number of furlough days. An educator may not be furloughed on a day that is included in the number of days of instruction required under Education Code 25.081 [see EB]. Implementation of a furlough program may not result in an increase in the number of required teacher workdays. An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.
CONTRACT RESIGNATION	If the Board adopts a furlough program after the date by which a teacher must give notice of resignation from a probationary, term, or continuing contract [see DFE], an employee who subsequently resigns is not subject to sanctions imposed by SBEC.
NO APPEAL	A decision by the Board to implement a furlough program is final and may not be appealed and does not create a cause of action or require collective bargaining. <i>Education Code 21.4021</i>
SALARY REDUCTION/ FURLOUGH PROCESS	The Board may not implement a furlough program under Education Code 21.4021 or reduce salaries until the District has complied with the requirements below.
EMPLOYEE INVOLVEMENT	The District must use a process to develop a furlough program or other salary reduction proposal, as applicable, that: <ol style="list-style-type: none">1. Includes the involvement of the District's professional staff; and2. Provides District employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal, as applicable, at the public meeting described below.
PUBLIC MEETING	The Board must hold a public meeting at which the Board and District administration present: <ol style="list-style-type: none">1. Information regarding the options considered for managing the District's available resources, including consideration of a

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEAB
(LEGAL)

tax rate increase and use of the District's available fund balance;

2. An explanation of how the District intends, through implementation of a furlough program or salary reductions, as applicable, to limit the number of District employees who will be discharged or whose contracts will not be renewed. Any explanation of a furlough program must state the specific number of furlough days proposed to be required; and
3. Information regarding the local option residence homestead exemption.

The public and District employees must be provided with an opportunity to comment at the public meeting.

Education Code 21.4022

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

STATE LEAVE

STATE PERSONAL
LEAVE

The District shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. The District may provide additional personal leave beyond this minimum.

The Board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

STATE SICK LEAVE
(ACCUMULATED
PRIOR TO 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.
5. During military leave [see USE DURING MILITARY LEAVE, below].

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

FORMER
EDUCATION
SERVICE CENTER
(ESC) EMPLOYEES

The District shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

ORDER OF USE

The Board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the District.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

COMPENSATION AND BENEFITS
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USE DURING
MILITARY LEAVE

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB(LEGAL)]

TEMPORARY
DISABILITY

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

AT EMPLOYEE'S
REQUEST

A request for a leave of absence for temporary disability must be made to the Superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

BY BOARD
AUTHORITY

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

RETURN TO ACTIVE
DUTY

NOTICE

The educator shall notify the Superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.

PLACEMENT

An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, the District must place the

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LEGAL)

	<p>employee at the school at which the employee formerly taught or was assigned.</p>
LENGTH OF ABSENCE	<p>The Superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. The Board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.</p> <p><i>Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)</i></p>
SICK LEAVE DIFFERENT FROM TEMPORARY DISABILITY LEAVE	<p>An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. <i>Atty. Gen. Op. H-352</i></p>
ASSAULT LEAVE	<p>In addition to all other days of leave, a District employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at COORDINATION WITH WORKERS' COMPENSATION BENEFITS.</p> <p>A District employee is physically assaulted if the person engaging in the conduct causing injury to the employee:</p> <ol style="list-style-type: none">1. Could be prosecuted for assault; or2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.
NOTICE OF RIGHTS	<p>Any informational handbook the District provides to employees in an electronic or paper form or makes available by posting on the District's Web site must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by the District through which an employee may request personal leave must include assault leave as an option.</p>
ASSIGNMENT TO ASSAULT LEAVE	<p>At the request of an employee, the District must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, the District may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.</p>

COMPENSATION AND BENEFITS
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DEC
(LEGAL)

COORDINATION WITH WORKERS' COMPENSATION BENEFITS	<p>Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.</p> <p><i>Education Code 22.003(b)-(c-1)</i></p>
RELIGIOUS OBSERVANCES	<p>The District shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of District business. Such absence shall be without pay unless applicable paid leave is available. <i>42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60 (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)</i></p>
COMPLIANCE WITH A SUBPOENA	<p>The District may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. <i>Labor Code 52.051(a)</i></p>
JURY DUTY	<p>The District may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, the District shall pay the employee the employee's normal daily compensation. An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. <i>Education Code 22.006</i></p>
DEVELOPMENTAL LEAVES OF ABSENCE	<p>The Board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in the District at least five consecutive school years.</p> <p>A developmental leave of absence may be granted for one school year at one-half regular salary or for one-half of a school year at full regular salary. Payment to the employee shall be made periodically by the District in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.</p> <p>An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of the District for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in the District.</p> <p><i>Education Code 21.452</i></p>

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LEGAL)

ABSENCE CONTROL

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc.*, 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); *Specialty Retailers v. DeMoranville*, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); *Gonzalez v. El Paso Natural Gas Co.*, 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)

[Some employees may have protected status even after the expiration of all other leave. See DAA.]

TERM CONTRACTS
NONRENEWAL

DFBB
(LEGAL)

GROUND FOR
NONRENEWAL

The Board may terminate a term contract for a financial exigency that requires a reduction in personnel. *Education Code 21.211(a)*
[See CEA]

REASONS

The Board shall establish by policy reasons for nonrenewal at the end of a school year. *Education Code 21.203(b)*

EVALUATIONS

Before making a decision not to renew a term contract, the Board shall consider the most recent evaluations if the evaluations are relevant to the reason for the Board's action. *Education Code 21.203(a)*

In the case of a classroom teacher, the District shall use the teacher's consecutive appraisals from more than one year, if available, in making employment decisions. *Education Code 21.352(e)*

[See DNA and DNB]

NOTICE

Not later than the tenth day before the last day of instruction in a school year, the Board shall notify in writing each employee whose contract is about to expire whether the Board proposes to renew or not renew the contract.

The notice must be delivered personally by hand delivery to the employee on the campus at which the employee is employed. If the employee is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the employee's address of record with the District. Notice that is postmarked on or before the tenth day before the last day of instruction is considered timely for these purposes.

FAILURE TO
PROVIDE TIMELY
NOTICE

The Board's failure to give timely notice of a proposed renewal or nonrenewal constitutes an election to employ the contract employee in the same professional capacity for the following school year.

Education Code 21.206

REQUEST FOR
HEARING

If the employee desires a hearing after receiving notice of the proposed nonrenewal, the employee shall notify the Board in writing not later than the 15th day after:

1. The date the employee receives hand delivery of the notice of proposed nonrenewal; or
2. The date the notice is delivered to the employee's address of record with the District, if the notice is mailed by prepaid certified mail or delivered by express delivery service.

The Board shall provide for a hearing to be held not later than the 15th day after receiving written notice from the employee

requesting a hearing unless the parties agree in writing to a different date. The hearing shall be closed unless the employee requests an open hearing and shall be conducted in accordance with rules adopted by the Board.

Education Code 21.207(a)

BOARD HEARING

At the hearing before the Board, the employee may:

1. Be represented by a representative of the employee's choice;
2. Hear the evidence supporting the reason for nonrenewal;
3. Cross-examine adverse witnesses; and
4. Present evidence.

Education Code 21.207(c)

BOARD DECISION

To evaluate the evidence put before it, the Board shall use the preponderance of the evidence standard of review. *Whitaker v. Marshall Indep. Sch. Dist., Tex. Comm'r. of Educ. Decision No. 112-R1-598 (1998)*

Following the hearing, the Board shall take the appropriate action and notify the employee in writing of that action within 15 days following the conclusion of the hearing. *Education Code 21.208*

HEARING EXAMINER

The Board may use the process described at DFD. *Education Code 21.207(b)*

NO HEARING

If the employee fails to request a hearing, the Board shall take the appropriate action and notify the employee in writing of that action not later than the 30th day after the date the notice of proposed nonrenewal was sent. *Education Code 21.208*

APPEALS

An employee aggrieved by a decision of the Board to nonrenew a term contract may appeal to the Commissioner for a review of the Board's decision. *Education Code 21.209*

REDUCTION IN FORCE
FINANCIAL EXIGENCY

DFFA
(LOCAL)

PLAN TO REDUCE
PERSONNEL COSTS

If the Superintendent determines that there is a need to reduce personnel costs, the Superintendent shall develop, in consultation with the Board as necessary, a plan for reducing costs that may include one or more of the following:

- Salary reductions [see DEAB]
- Furloughs, if the District has received certification from the Commissioner of a reduction in funding under Education Code 42.009 [see CBA and DEAB]
- Reductions in force of contract personnel due to financial exigency, if the District meets the standard for declaring a financial exigency as defined by the Commissioner [see CEA and provisions at REDUCTION IN FORCE DUE TO FINANCIAL EXIGENCY, below]
- Reductions in force of contract personnel due to program change [see DFFB]
- Other means of reducing personnel costs

A plan to reduce personnel costs may include the reduction of personnel employed pursuant to employment arrangements not covered at APPLICABILITY, below.

- See DCD for the termination at any time of at-will employment.
- See DFAB for the termination of a probationary contract at the end of the contract period.
- See DFCA for the termination of a continuing contract.
- See DCE for the termination at the end of the contract period of a contract not governed by Chapter 21 of the Education Code.

REDUCTION IN FORCE
DUE TO FINANCIAL
EXIGENCY

APPLICABILITY

The following provisions shall apply when a reduction in force due to financial exigency requires:

1. The nonrenewal or termination of a term contract;
2. The termination of a probationary contract during the contract period; or
3. The termination of a contract not governed by Chapter 21 of the Education Code during the contract period.

DEFINITIONS

Definitions used in this policy are as follows:

REDUCTION IN FORCE
FINANCIAL EXIGENCY

DFFA
(LOCAL)

1. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.
2. "Discharge" shall mean termination of a contract during the contract period.

GENERAL GROUNDS

A reduction in force may take place when the Superintendent recommends and the Board adopts a resolution declaring a financial exigency. [See CEA] A determination of financial exigency constitutes sufficient reason for nonrenewal or sufficient cause for discharge.

EMPLOYMENT AREAS

When a reduction in force is to be implemented, the Superintendent shall recommend the employment areas to be affected.

Employment areas may include, for example:

1. Elementary grades, levels, subjects, departments, or programs.
2. Secondary grades, levels, subjects, departments, or programs, including career and technical education subjects.
3. Special programs, such as gifted and talented, bilingual/ESL programs, special education and related services, compensatory education, or migrant education.
4. Disciplinary alternative education programs (DAEPs) and other discipline management programs.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.
9. Other Districtwide programs.
10. An individual campus.
11. Any administrative position, unit, or department.
12. Programs funded by state or federal grants or other dedicated funding.
13. Other contractual positions.

The Superintendent's recommendation may address whether any employment areas should be:

REDUCTION IN FORCE
FINANCIAL EXIGENCY

DFFA
(LOCAL)

1. Combined or adjusted (e.g., “elementary programs” and “compensatory education programs” can be combined to identify an employment area of “elementary compensatory education programs”); and/or
2. Applied on a Districtwide or campus-wide basis (e.g., “the counseling program at [named elementary campus]”).

The Board shall determine the employment areas to be affected.

CRITERIA FOR
DECISION

The Superintendent or designee shall apply the following criteria to the employees within an affected employment area when a reduction in force will not result in the nonrenewal or discharge of all staff in the employment area. The criteria are listed in the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force. For example, if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion, and so forth.

1. Qualifications for Current or Projected Assignment: Certification, multiple or composite certifications, bilingual certification, licensure, endorsement, highly qualified status, and/or specialized or advanced content-specific training or skills for the current or projected assignment.
2. Performance: Effectiveness, as reflected by:
 - a. The most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA]; and
 - b. Any other written evaluative information, including disciplinary information, from the last 36 months.

If the Superintendent or designee at his or her discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, he or she may proceed to apply the remaining criteria in the order listed below.

3. Extra Duties: Currently performing an extra-duty assignment, such as department or grade-level chair, band director, athletic coach, or activity sponsor.
4. Professional Background: Professional education and work experience related to the current or projected assignment.
5. Seniority: Length of service in the District, as measured from the employee’s most recent date of hire.

REDUCTION IN FORCE
FINANCIAL EXIGENCY

DFFA
(LOCAL)

SUPERINTENDENT RECOMMENDATION	The Superintendent shall recommend to the Board the nonrenewal or discharge of the identified employees within the affected employment areas.
BOARD VOTE	<p>After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for nonrenewal or discharge, as appropriate.</p> <p>If the Board votes to propose nonrenewal of one or more employees, the Board shall specify the manner of hearing in accordance with DFBB(LOCAL).</p> <p>If the Board votes to propose discharge of one or more employees, the Board shall determine whether the hearing will be conducted by a TEA-appointed hearing examiner [see DFD] or will be a local hearing under Education Code 21.207 [see DFBB].</p>
NOTICE	<p>The Superintendent or designee shall provide each employee written notice of the proposed nonrenewal or discharge, as applicable. The notice shall include:</p> <ol style="list-style-type: none"><li data-bbox="561 940 1091 970">1. The proposed action, as applicable;<li data-bbox="561 999 1334 1029">2. A statement of the reason for the proposed action; and<li data-bbox="561 1058 1393 1121">3. Notice that the employee is entitled to a hearing of the type determined by the Board.
CONSIDERATION FOR AVAILABLE POSITIONS	<p>An employee who has received notice of proposed nonrenewal or discharge may apply for available positions for which he or she wishes to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures.</p> <p>If the employee meets the District's objective criteria for the position and is the most qualified internal applicant, the District shall offer the employee the position until:</p> <ol style="list-style-type: none"><li data-bbox="561 1465 1393 1528">1. Final action by the Board to end the employee's contract, if the employee does not request a hearing.<li data-bbox="561 1558 1435 1646">2. The evidentiary hearing by the independent hearing examiner, the Board, or other person designated in DFBB(LOCAL), if the employee requests a hearing.
HEARING REQUEST NONRENEWAL: TERM CONTRACT	An employee receiving notice of proposed nonrenewal of a term contract may request a hearing in accordance with DFBB.

REDUCTION IN FORCE
FINANCIAL EXIGENCY

DFFA
(LOCAL)

DISCHARGE: CHAPTER 21 CONTRACT	An employee receiving notice of proposed discharge from a contract governed by Chapter 21 of the Education Code may request a hearing. The hearing shall be conducted in accordance with DFD or the nonrenewal hearing process in DFBB, as determined by the Board and specified in the notice of proposed discharge.
DISCHARGE: NON- CHAPTER 21 CONTRACT	An employee receiving notice of proposed discharge during the period of an employment contract not governed by Chapter 21 of the Education Code may request a hearing before the Board or its designee in accordance with DCE.
FINAL ACTION HEARING REQUESTED	If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DCE, DFBB, or DFD, as applicable, and shall notify the employee in writing.
NO HEARING REQUESTED	If the employee does not request a hearing, the Board shall take final action in accordance with DCE, DFBB, or DFD, as applicable, and shall notify the employee in writing.

REDUCTION IN FORCE
PROGRAM CHANGE

DFFB
(LOCAL)

APPLICABILITY This policy shall apply when a reduction in force due to a program change requires the nonrenewal of a term contract. A program change may be due to, for example, a redirection of resources; efforts to improve efficiency; a change in enrollment; a lack of student response to particular course offerings; legislative revisions to programs; or a reorganization or consolidation of two or more individual schools, departments, or school districts.

DEFINITIONS Definitions used in this policy are as follows:

1. "Program change" shall mean any elimination, curtailment, or reorganization of a program, department, school operation, or curriculum offering, including, for example, a change in curriculum objectives; a modification of the master schedule; the restructuring of an instructional delivery method; or a modification or reorganization of staffing patterns in a department, on a particular campus, or Districtwide.
2. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.

GENERAL GROUNDS A reduction in force may take place when the Superintendent recommends and the Board approves a program change. A determination of a program change constitutes sufficient reason for nonrenewal.

EMPLOYMENT AREAS When a reduction in force is to be implemented, the Superintendent shall recommend the employment areas to be affected.

Employment areas may include, for example:

1. Elementary grades, levels, subjects, departments, or programs.
2. Secondary grades, levels, subjects, departments, or programs, including career and technical education subjects.
3. Special programs, such as gifted and talented, bilingual/ESL programs, special education and related services, compensatory education, or migrant education.
4. Disciplinary alternative education programs (DAEPs) and other discipline management programs.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.

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9. Other Districtwide programs.
10. An individual campus.
11. Any administrative position, unit, or department.
12. Programs funded by state or federal grants or other dedicated funding.
13. Other contractual positions.

The Superintendent's recommendation may address whether any employment areas should be:

1. Combined or adjusted (e.g., "elementary programs" and "compensatory education programs" can be combined to identify an employment area of "elementary compensatory education programs"); and/or
2. Applied on a Districtwide or campus-wide basis (e.g., "the counseling program at [named elementary campus]").

The Board shall determine the employment areas to be affected.

CRITERIA FOR
DECISION

The Superintendent or designee shall apply the following criteria to the employees within an affected employment area when a program change will not result in the nonrenewal of all staff in the employment area. The criteria are listed in the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force. For example, if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion, and so forth.

1. Qualifications for Current or Projected Assignment: Certification, multiple or composite certifications, bilingual certification, licensure, endorsement, highly qualified status, and/or specialized or advanced content-specific training or skills for the current or projected assignment.
2. Performance: Effectiveness, as reflected by:
 - a. The most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA]; and
 - b. Any other written evaluative information, including disciplinary information, from the last 36 months.

If the Superintendent or designee at his or her discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, he

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or she may proceed to apply the remaining criteria in the order listed below.

3. Extra Duties: Currently performing an extra-duty assignment, such as department or grade-level chair, band director, athletic coach, or activity sponsor.
4. Professional Background: Professional education and work experience related to the current or projected assignment.
5. Seniority: Length of service in the District, as measured from the employee's most recent date of hire.

SUPERINTENDENT RECOMMENDATION The Superintendent shall recommend to the Board the nonrenewal of the identified employees within the affected employment areas.

BOARD VOTE After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for nonrenewal, as appropriate. If the Board votes to propose nonrenewal of one or more employees, the Board shall specify the manner of hearing in accordance with DFBB(LOCAL).

NOTICE The Superintendent or designee shall provide each employee written notice of the proposed nonrenewal. The notice shall include a statement of the reason for the proposed action and notice that the employee is entitled to a hearing of the type determined by the Board.

CONSIDERATION FOR AVAILABLE POSITIONS An employee who has received notice of proposed nonrenewal may apply for available positions for which he or she wishes to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures.

If the employee meets the District's objective criteria for the position and is the most qualified internal applicant, the District shall offer the employee the position until:

1. Final action by the Board to end the employee's contract, if the employee does not request a hearing.
2. The evidentiary hearing by the independent hearing examiner, the Board, or other person designated in DFBB(LOCAL), if the employee requests a hearing.

HEARING REQUEST An employee receiving notice of proposed nonrenewal of a term contract may request a hearing in accordance with DFBB.

FINAL ACTION If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DFBB and shall notify the employee in writing.
HEARING REQUESTED

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NO HEARING
REQUESTED

If the employee does not request a hearing, the Board shall take final action in accordance with DFBB and shall notify the employee in writing.

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 C.F.R. 104.7(b), .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 C.F.R. 35.107, .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 C.F.R. 106.8(b); North Haven Bd. of Educ. 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 Indep. Sch. Dist., 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.)*

REPRESENTATIVE

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 Indep. Sch. Dist. 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">1. Violated the law in the workplace; or2. Unlawfully harassed the employee.
TELEPHONE REPRESENTATION	<p>If the District's grievance policy provides for representation, the policy must permit an employee's representative to represent the employee through a telephone conference call at any formal grievance proceeding, hearing, or conference at which the employee is entitled to representation according to the policy. This provision applies to grievances under Education Code 11.171(a) and only if the District has the equipment necessary for a telephone conference call.</p> <p><i>Education Code 11.171(a), (c)</i></p>
AUDIO RECORDING	<p>The District's grievance policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of an employee's authorization to make an audio recording may not result in a delay of any time line provided by the grievance policy. The District is not required to provide equipment for the employee to make the recording. <i>Education Code 11.171(b)</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.</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. <i>Gov't Code 551.082</i> [See BEC]</p>
RECORD OF PROCEEDINGS	<p>An appeal of the Board's decision to the Commissioner shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic</p>

recording or written transcript of all oral testimony or argument.
Education Code 7.057(c), (f)

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:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
 - a. The tape recording must be complete, audible, and clear; and
 - b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
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 554.006* [See DG]

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

COMPLAINTS	In this policy, the terms “complaint” and “grievance” shall have the same meaning.
OTHER COMPLAINT PROCESSES	Employee complaints shall be filed in accordance with this policy, except as provided below: <ol style="list-style-type: none">1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability), shall be submitted in accordance with DIA.2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with DIA.3. Complaints concerning retaliation relating to discrimination and harassment shall be submitted in accordance with DIA.4. Complaints concerning instructional materials shall be submitted in accordance with EFA.5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.
NOTICE TO EMPLOYEES	The District shall inform employees of this policy.
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 a member of the Board 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.

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

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	<p>Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.</p>
WHISTLEBLOWER COMPLAINTS	<p>Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Three. 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 calendar days of the initiation of the complaint. [See DG]</p>
COMPLAINTS AGAINST SUPERVISORS	<p>Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaints alleging a violation of law by the Superintendent may be made directly to the Board or designee.</p>
GENERAL PROVISIONS FILING	<p>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 or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.</p>
RESPONSE	<p>At Levels One, Two, and Three, “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 or before the deadline.</p>
DAYS	<p>“Days” shall mean District business days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is “day zero.” The following business day is “day one.”</p>

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

REPRESENTATIVE	<p>“Representative” shall mean 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.</p> <p>The employee may designate a representative through written notice to the District at any level of this process. The representative may participate in person or by telephone conference call. 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. The District may be represented by counsel at any level of the process.</p>
CONSOLIDATING COMPLAINTS	<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 from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.</p>
COSTS INCURRED	<p>Each party shall pay its own costs incurred in the course of the complaint.</p>
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 by the employee 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 required information if the refiled is within the designated time for filing a complaint.</p>

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

AUDIO RECORDING As provided by law, an employee shall be permitted to make an audio recording of a conference or hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place.

LEVEL ONE Complaint forms must be filed:

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
2. With the lowest level administrator who has the authority to remedy the alleged problem.

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.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Three following the procedure, including deadlines, for filing the complaint form at Level One.

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.

The appropriate administrator shall investigate as necessary and hold a conference with the employee within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

The administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

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 executive director of human resources to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The employee may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the employee at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the employee at Level One and identified in the Level Two appeal notice. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

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 request a conference with the Superintendent or designee to appeal the Level Two decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two appeal to the Level Three administrator. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the Level Two administrator in reaching the Level Two decision.

The Level Three administrator shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the employee at Level One and identified in the Level Three appeal notice. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level Two decision. The Level Three administrator may set reasonable time limits for the conference.

The Level Three administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Three administrator may consider the Level One and Level Two records, information provided at the Level Three conference, and any other relevant documents or information the Level Three administrator believes will help resolve the complaint.

Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

LEVEL FOUR

If the employee did not receive the relief requested at Level Three or if the time for a response has expired, the employee shall deliver the appeal notice to the Superintendent's secretary for filing with the Board. [See BE]

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Three response or, if no response was received, within ten days of the Level Three response deadline.

Following receipt of the appeal notice and a determination that time lines have been met, the Board President shall furnish a copy of the appeal notice to each Trustee and grant the grievant a hearing at a future Board meeting.

The Board President shall inform the grievant of the date, time, and place of such hearing.

The Superintendent or designee shall provide the Board the record of the Level Three appeal. The employee may request a copy of the Level Three record.

The Level Three record shall include:

1. The Level One record.
2. The Level Two record.
3. The notice of appeal from Level Two to Level Three.
4. The written response issued at Level Three and any attachments.
5. All other documents relied upon by the administration in reaching the Level Three decision.

If at the Level Four hearing the administration intends to rely on evidence not included in the Level Three record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing.

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, including an opportunity for the employee and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. 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 Four presentation. The Level Four presentation, including the presentation 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 the Board does not make 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 Three.

EMPLOYEE RIGHTS AND PRIVILEGES
IMMUNITY

DGC
(LEGAL)

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 a district” includes the Superintendent; a 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; school 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.

MOTOR VEHICLE EXCEPTION Education Code 22.0511 does not apply to the operation, use, or maintenance of any motor vehicle.

Education Code 22.0511(a)–(b), .051; Hopkins v. Spring Indep. Sch. Dist., 736 S.W.2d 617 (Tex. 1987); Barr v. Bernhard, 562 S.W.2d 844 (Tex. 1978)

‘INDIVIDUALS’ 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. *Education Code 22.0511(c)*

NO WAIVER The District may not, by policy, contract, or administrative directive:

1. Require an employee to waive the employee’s immunity from liability under Education Code 22.0511; or
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 DG(LEGAL) at INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT]

Education Code 22.0511(d)

EMPLOYEE RIGHTS AND PRIVILEGES
IMMUNITY

DGC
(LEGAL)

'TEACHERS'
(COVERDELL ACT)

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:

1. The teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;
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;
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;
4. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant 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 the 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. Sections 6733, 6736(a)

EMPLOYEE RIGHTS AND PRIVILEGES
IMMUNITY

DGC
(LEGAL)

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.

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 GRAA]

CHILD ABUSE AND
MALTREATMENT

The requirements of Education Code 38.0041 [regarding prevention of abuse and other maltreatment of children, see FFG] are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Education Code 22.0511 [see IMMUNITY FROM INDIVIDUAL LIABILITY, above]. *Education Code 38.0041 [See DG regarding protection from disciplinary proceedings]*

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)*

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]*

IMMUNITY FOR
MENTAL HEALTH
FIRST AID

A person who has completed a mental health first aid training program offered by a local mental health authority and who in good faith attempts to assist an individual experiencing a mental health crisis is not liable in civil damages for an act performed in

EMPLOYEE RIGHTS AND PRIVILEGES
IMMUNITY

DGC
(LEGAL)

attempting to assist the individual unless the act is willfully or wantonly negligent. *Health & Safety Code 1001.206.*

IMMUNITY FOR
SHELTER WORKERS

An officer or employee of the District is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006, 431.085*

EMPLOYEE STANDARDS OF CONDUCT

DH
(LOCAL)

Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. [See DH(EXHIBIT)]

Each District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

VIOLATIONS OF
STANDARDS OF
CONDUCT

Each employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DCD and DF series]

ELECTRONIC MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), Web logs (blogs), electronic forums (chat rooms), video-sharing Web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and Web-based applications.

USE WITH
STUDENTS

In accordance with administrative regulations, a certified or licensed employee, or any other employee designated in writing by the Superintendent or a campus principal, may use electronic media to communicate with currently enrolled students about matters within the scope of the employee's professional responsibilities. All other employees are prohibited from using electronic media to communicate directly with students who are currently enrolled in the District. The regulations shall address:

1. Exceptions for family and social relationships;
2. The circumstances under which an employee may use text messaging to communicate with students; and
3. Other matters deemed appropriate by the Superintendent or designee.

Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic media. [See CPC]

PERSONAL USE

An employee shall be held to the same professional standards in his or her public use of electronic media as for any other public conduct. If an employee's use of electronic media violates state or

EMPLOYEE STANDARDS OF CONDUCT

DH
(LOCAL)

	<p>federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.</p>
SAFETY REQUIREMENTS	<p>Each employee shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.</p>
HARASSMENT OR ABUSE	<p>An employee shall not engage in prohibited harassment, including sexual harassment, of:</p> <ol style="list-style-type: none">1. Other employees. [See DIA]2. Students. [See FFH; see FFG regarding child abuse and neglect] <p>While acting in the course of employment, an employee shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.</p> <p>An employee shall report child abuse or neglect as required by law. [See FFG]</p>
RELATIONSHIPS WITH STUDENTS	<p>An employee shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]</p>
TOBACCO USE	<p>An employee shall not use tobacco products on District premises, in District vehicles, or at school or school-related activities. [See also GKA]</p>
ALCOHOL AND DRUGS	<p>An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while at school or at school-related activities during or outside of usual working hours:</p> <ol style="list-style-type: none">1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.2. Alcohol or any alcoholic beverage.3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.4. Any other intoxicant or mood-changing, mind-altering, or behavior-altering drug.

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(LOCAL)

	<p>An employee need not be legally intoxicated to be considered “under the influence” of a controlled substance.</p>
EXCEPTIONS	<p>An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee’s job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee’s personal use shall not be considered to have violated this policy.</p>
NOTICE	<p>Each employee shall be given a copy of the District’s notice regarding drug-free schools. [See DI(EXHIBIT)]</p> <p>A copy of this policy, a purpose of which is to eliminate drug abuse from the workplace, shall be provided to each employee at the beginning of each year or upon employment.</p>
ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS	<p>An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:</p> <ol style="list-style-type: none">1. Crimes involving school property or funds;2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or4. Crimes involving moral turpitude, which include:<ul style="list-style-type: none">• Dishonesty; fraud; deceit; theft; misrepresentation;• Deliberate violence;• Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;• Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;• Felony driving while intoxicated (DWI); or• Acts constituting abuse or neglect under the Texas Family Code.

EMPLOYEE STANDARDS OF CONDUCT

DH
(LOCAL)

DRESS AND
GROOMING

An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by his or her supervisor and approved by the Superintendent.

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
(LEGAL)

STAFF DEVELOPMENT	<p>Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee [see BQA and BQB].</p>
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 District may use District-wide staff development that has been developed and approved through the District-level decision process.</p> <p>The staff development may include:</p> <ol style="list-style-type: none">1. Training in technology, conflict resolution, and discipline strategies, including classroom management, District discipline policies, and the Student Code of Conduct;2. Training in preventing, identifying, responding to, and reporting incidents of bullying; and3. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.
STUDENTS WITH DISABILITIES	<p>The staff development must include training, based on scientifically based research, that relates to the instruction of students with disabilities and is designed for educators who work primarily outside the area of special education. The District is required to provide such training only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. The District may determine the time and place at which the training is delivered. In developing or maintaining such training, the District must consult persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified District personnel, and any other persons identified as qualified by the District.</p> <p><i>Education Code 21.451</i></p>
CHILD ABUSE AND MALTREATMENT	<p>The District's methods for increasing awareness of issues regarding sexual abuse and other maltreatment of children [see BQ, District Improvement Plan, and FFG] must address employee training.</p> <p>The training must be provided as part of employee orientation to all new employees and to existing employees on a schedule adopted by TEA until all District employees have taken the training. The</p>

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
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training may be included in staff development under Education Code 21.451.

The training shall address:

1. Factors indicating a child is at risk for sexual abuse or other maltreatment;
2. Likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk of sexual abuse or other maltreatment; and
5. Community organizations that have relevant existing research-based programs and that are able to provide training or other education for employees, students, and parents.

The District shall maintain records of the training that include the name of each employee who participated.

If the District determines that the District does not have sufficient resources to provide the required training, the District shall work with a community organization to provide the training at no cost to the District.

Education Code 38.0041

STUDENT DISCIPLINE

Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding Education Code Chapter 37, Subchapter G. The professional development shall include training relating to the distinction between a discipline management technique used at the principal's discretion under Education Code 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Education Code 37.002(b) [see FOA].

The professional development training may be provided in coordination with an education service center through the use of distance learning methods, such as telecommunications networks, and using available TEA resources.

Education Code 37.0181

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
(LEGAL)

SPECIAL PROGRAMS
TRAINING

TITLE I STAFF
DEVELOPMENT

A district that receives assistance under Title I, Part A, shall include in its plan [see AID] a description of the strategy the District will use to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including District staff, in accordance with 20 U.S.C. 6318 and 6319 (No Child Left Behind Act). 20 U.S.C. 6312(b)(1)(D), 7801(34)

READING
ACADEMIES

A teacher shall attend a reading academy under 19 Administrative Code 102.1101 if:

1. The teacher teaches at a campus that fails to satisfy any performance standard under Education Code 39.054(d) [see AIA] on the basis of student performance on the state reading assessment instrument administered to students in any grade level at the campus; and
2. The teacher teaches in general education, special education, or English as a second language for students in grade 6, 7, or 8, and:
 - a. The teacher is a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50 percent of the teacher's instructional duties; or
 - b. The teacher is a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50 percent of the teacher's instructional duties.

From funds appropriated for this purpose, a teacher who attends a reading academy is entitled to a stipend in the amount determined by the Commissioner. The stipend shall not be considered in determining whether the District is paying the teacher the state minimum monthly salary [see DEAB].

Education Code 21.4551(c), (e); 19 TAC 102.1101(b)

GIFTED AND
TALENTED
EDUCATION

The District shall ensure that:

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.

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REQUIRED STAFF DEVELOPMENT

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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.
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.
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

ELECTIVE BIBLE
COURSE

A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religious or biblical studies. The teacher must successfully complete the staff development training developed by the Commissioner with respect to Bible elective courses. *Education Code 28.011(f)*

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(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(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(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)*

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REQUIRED STAFF DEVELOPMENT

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(LEGAL)

RECORDS	Records of staff qualifications and professional development shall be maintained by the District and must be available for monitoring. <i>19 TAC 89.25(6)</i>
AUTOMATED EXTERNAL DEFIBRILLATORS	<p>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).</p> <p>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:</p> <ol style="list-style-type: none">1. Participate in the instruction;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. <p><i>Education Code 22.902</i></p>
EXTRACURRICULAR ACTIVITY SAFETY TRAINING	<p>The following persons must satisfactorily complete the extracurricular safety training program developed by the Commissioner:</p> <ol style="list-style-type: none">1. A coach or sponsor for an extracurricular athletic activity;2. A trainer, unless the trainer has completed the educational requirements for licensure as a licensed athletic trainer set forth at 22 Administrative Code 871.7 and the continuing education requirements at 22 Administrative Code 871.12;3. A physician who is employed by the District or who volunteers to assist with an extracurricular athletic activity, unless the physician attends a continuing medical education course that specifically addresses emergency medicine; and4. A director responsible for a school marching band. <p>The training may be conducted by the District, the American Red Cross, the American Heart Association, or a similar organization, or by the University Interscholastic League (UIL).</p> <p><i>Education Code 33.202(b), (f); 19 TAC 76.1003</i></p>
RECORDS	The Superintendent shall maintain complete and accurate records of the District's compliance and the District shall make available to the public proof of compliance for each person employed by or volunteering for the District who is required to receive safety training.

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
(LEGAL)

A campus that is determined by the Superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

Education Code 33.206; 19 TAC 76.1003(e)

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 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)

CONCUSSIONS

At least once every two years, the following employees shall take a training course from an authorized provider in the subject matter of concussions:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL.
2. An athletic trainer who serves as a member of the District's concussion oversight team shall take a course approved by the Texas Department of State Health Services Advisory Board of Athletic Trainers (TDSHS-ABAT) or a course approved for continuing education credit by the licensing authority for athletic trainers.
3. A licensed health-care professional, other than an athletic trainer, who serves as a member of the District's concussion oversight team shall take a course approved by the UIL, TDSHS-ABAT, or the appropriate licensing authority for the profession.

The employee must submit proof of timely completion of an approved course to the Superintendent or designee. A licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. [See FM]

Education Code 38.158

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*

PERFORMANCE APPRAISAL
EVALUATION OF TEACHERS

DNA
(LEGAL)

FREQUENCY Except as provided below, each teacher must be appraised at least once during each school year. *Education Code 21.203, .352(c); 19 TAC 150.1003(a)*

EXCEPTION A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years. *Education Code 21.352(c)*

For purposes of the Professional Development and Appraisal System (PDAS), an area of deficiency is a domain. A teacher must be rated as at least proficient for each domain (that is, for all domains) to be eligible for less frequent appraisals.

District policy may stipulate:

1. Whether the exception is to be made available to all teachers;
2. Whether the exception is to be adopted Districtwide or is to be campus specific;
3. If the appraisal accompanying a teacher new to the District or campus meets the requirements for the exception, whether the appraisal is to be accepted or whether that teacher is to be appraised by the new campus administrator; and
4. Whether a certified appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies documented by cumulative data, including third-party information.

The District may choose annually to review the written agreement with the teacher. However, at the end of the school year, the District may modify exceptions through Board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous years.

19 TAC 150.1003(l)

INTERIM
EVALUATIONS AND
GUIDANCE

In addition to conducting a complete appraisal as frequently as required by Education Code 21.352(c), the District shall require that appropriate components of the appraisal process, such as classroom observations and walk-throughs, occur more frequently as necessary to ensure that a teacher receives adequate evaluation and guidance. The District shall give priority to conducting appropriate components more frequently for inexperienced teachers or

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	<p>experienced teachers with identified areas of deficiency. <i>Education Code 21.352(c-1)</i></p>
NOTICE AND USE OF EVALUATIONS	<p>The District shall use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions and developing career recommendations for the teacher. <i>Education Code 21.352(e)</i></p> <p>The District shall notify a teacher of the results of any appraisal of the teacher in a timely manner so that the appraisal may be used as a developmental tool by the District and the teacher to improve the overall performance of the teacher. <i>Education Code 21.352(f)</i></p>
ROLE OF EXTRACURRICULAR ACTIVITIES	<p>A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the basis of classroom teaching performance and not on performance in connection with extracurricular activities. <i>Education Code 21.353</i></p>
ACCESS TO EVALUATIONS	<p>The District shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file.</p> <p>Each teacher is entitled to receive a written copy of the evaluation promptly on its completion. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.</p> <p><i>Education Code 21.352(c)</i></p>
CONFIDENTIALITY	<p>A document evaluating the performance of a teacher is confidential. <i>Education Code 21.355</i></p>
CHOICE OF APPRAISAL METHOD	<p>The District shall use one of the following methods to appraise teachers:</p> <ol style="list-style-type: none">1. The appraisal process and performance criteria developed by the Commissioner [see STATE METHOD, below]; or2. A locally developed appraisal process and performance criteria [see DISTRICT OPTION and CAMPUS OPTION, below]. <p><i>Education Code 21.352(a); 19 TAC 150.1001(a)</i></p>
SELECTION OF APPRAISAL METHOD	<p>The Superintendent, with the approval of the Board, may select the state appraisal method. Each district or campus wanting to select or develop an alternative teacher-appraisal system must follow the requirements set forth below at DISTRICT OPTION or CAMPUS OPTION. <i>19 TAC .1001(c)</i></p>
INFORMATION TO SERVICE CENTER	<p>The Superintendent shall notify the executive director of the District's regional education service center of the District's choice of appraisal system(s), by a time designated by the Commissioner.</p>

PERFORMANCE APPRAISAL
EVALUATION OF TEACHERS

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The District shall submit annually to its service center, in a manner prescribed by the Commissioner, a summary of the evaluation scoring from all campuses in the District.

19 TAC 150.1010

Note: The following provisions apply to teacher appraisal using the state appraisal method.

STATE METHOD
(PDAS)

The state appraisal method is the Professional Development and Appraisal System. The foundation for the PDAS is the teacher proficiencies described in *Learner-Centered Schools for Texas: A Vision of Texas Educators*. *19 TAC 150.1001(b), .1002(a)*

ORIENTATION AND
ANNUAL REVIEW

The District shall ensure that all teachers are provided with an orientation to the PDAS. The orientation shall be provided no later than the final day of the first three weeks of school and at least three weeks before the first observation. Additional orientations shall be provided any time substantial changes occur in the PDAS. The orientation shall include materials approved by the Commissioner.

In addition, at least three weeks before the first formal observation, all teachers to be appraised shall be provided an annual review of District policy regarding teacher appraisal and of 19 Administrative Code Chapter 150, Subchapter AA (Teacher Appraisal).

19 TAC 150.1007

APPRAISERS

The teacher appraisal process requires at least one certified appraiser.

A campus administrator who is a certified PDAS appraiser and approved by the Board shall conduct a teacher's appraisal. For the purposes of PDAS, a "campus administrator" includes a principal, an assistant principal, or other supervisory staff designated as an administrator who holds a comparable administrator/supervisor certificate established by the State Board for Educator Certification. Only in the event of the circumstances described below at SAME CAMPUS may an individual other than a campus administrator act as a certified appraiser.

SAME CAMPUS

A certified appraiser who is a classroom teacher may not appraise another classroom teacher at the same campus unless it is impractical because of the number of campuses or unless the appraiser is the chair of a department or grade-level whose job description includes classroom observation responsibilities.

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CERTIFICATION

Before conducting appraisals, an appraiser must be certified by having satisfactorily completed uniform appraiser training. Periodic recertification and training shall be required.

Education Code 21.351(c); 19 TAC 150.1006

APPRAISAL
CALENDAR

The District shall establish a calendar for teacher appraisals. The appraisal period for each teacher must include all of the days of the teacher's contract.

Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.

The calendar shall:

1. Exclude observations in the three weeks after the day of completion of the PDAS orientation in the school years when an orientation is required;
2. Exclude observations in the three weeks after the day of completion of the PDAS orientation for teachers new to the PDAS;
3. Exclude observations in the first three weeks of instruction in the school years when the PDAS orientation is not required;
4. Prohibit observations on the last day of instruction before any official school holiday or on any other day deemed inappropriate by the Board; and
5. Indicate a period for summative annual conferences that ends no later than 15 working days before the last day of instruction for students.

19 TAC 150.1003(d)

A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required. *Education Code 21.352(d); 19 TAC 150.1003(c)*

APPRAISAL PROCESS

The annual appraisal shall include:

1. At least one classroom observation of a minimum of 45 minutes, with additional walk-throughs and observations conducted at the discretion of the appraiser;
2. Completion of Section I of the Teacher Self-Report Form that shall be presented to the principal;

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3. Cumulative data of written documentation collected regarding job-related teacher performance, in addition to formal classroom observations; and
4. A written summative annual appraisal report and a summative annual conference, described below.

19 TAC 150.1003(b)

SUMMATIVE REPORT A written summative annual appraisal report shall be shared with the teacher no later than five working days before the summative conference and no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period. *19 TAC 150.1003(h)*

SUMMATIVE CONFERENCE Unless waived in writing by the teacher, a summative conference shall be held within a time frame specified on the District calendar and no later than 15 working days before the last day of instruction for students. The summative conference shall focus on the written summative report and related data sources. *19 TAC 150.1003(i)*

TEACHER RESPONSE A teacher may submit a written response or rebuttal after receiving a written observation summary, summative annual appraisal report, and/or any other documentation associated with the teacher's appraisal. The rebuttal is to be attached to the evaluation in the teacher's personnel file. *Education Code 21.352(c); 19 TAC 150.1005(a)*

REQUEST FOR SECOND APPRAISAL A teacher may request a second appraisal by another certified appraiser after receiving a written observation summary and/or a written summative annual appraisal report. *Education Code 21.352(c); 19 TAC 150.1005(c)*

The District shall adopt written procedures for determining the selection of second appraisers. The procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed. *19 TAC 150.1005(g)*

INTERVENTION PLAN A teacher whose performance meets one of the following circumstances will be designated a "teacher in need of assistance":

1. A teacher who is evaluated as unsatisfactory in one or more domains; or
2. A teacher who is evaluated as below expectations in two or more domains.

When a teacher is designated as in need of assistance, the certified appraiser and the teacher's supervisor shall, in consultation with the teacher, develop an intervention plan. A teacher who has

not met all requirements of the intervention plan by the time specified may be considered for separation from the assignment, campus, and/or District.

An intervention plan may be developed at any time at the discretion of the certified appraiser when the certified appraiser has documentation that would potentially produce an evaluation rating of "below expectations" or "unsatisfactory."

19 TAC 150.1004

APPEALS

The District shall adopt written procedures for a teacher to present grievances and receive written comments in response to the written annual report. *19 TAC 150.1005(g)*

Note: The following provisions apply to teacher appraisal using the District-developed appraisal method.

DISTRICT OPTION

A district that does not want to use the PDAS must develop its own teacher-appraisal system supported by locally adopted policy and procedures and by the processes outlined below.

The Texas Teacher Appraisal System (TTAS) is no longer a state-recommended system. However, the TTAS may be used as a local option governed by the process outlined below. If adopted as a local option, the TTAS must be modified to comply with Education Code 21.351(a)(1) and (2). [See APPRAISAL PROCESS, below]

DEVELOPMENT
OF APPRAISAL
SYSTEM

The District-level planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Consult with the campus-planning and decision-making committee on each campus in the District.

APPRAISAL
PROCESS

The appraisal process shall include:

1. At least one appraisal each year;
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
 - a. Teachers' implementation of discipline management procedures; and

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b. Performance of the teachers' students.

BOARD
ACCEPTANCE

The District-level planning and decision-making committee shall submit the appraisal process and criteria to the Superintendent, who shall submit the appraisal process and criteria to the Board with a recommendation to accept or reject.

The Board may accept or reject, with comments, the appraisal process and performance criteria, but may not modify the process or criteria.

Education Code 21.352(a)(2), (b); 19 TAC 150.1009(a)

Note: The following provisions apply to teacher appraisal using the campus-developed appraisal method.

CAMPUS OPTION

A campus within the District may choose to develop a local appraisal system.

DEVELOPMENT OF
APPRAISAL SYSTEM

The campus planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Submit the process and criteria to the District-level planning and decision-making committee.

APPRAISAL
PROCESS

The appraisal process shall include:

1. At least one appraisal each year;
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
 - a. Teachers' implementation of discipline management procedures; and
 - b. Performance of the teachers' students.

BOARD
ACCEPTANCE

Upon submission of the appraisal process and criteria to the District-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the Superintendent.

The Superintendent shall submit to the Board:

PERFORMANCE APPRAISAL
EVALUATION OF TEACHERS

DNA
(LEGAL)

1. The recommended campus appraisal process and criteria;
2. The District-level planning and decision-making committee's recommendation; and
3. The Superintendent's recommendation.

The Board may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

Education Code 21.352(a)(2), (b); 19 TAC 150.1009(b)

PERFORMANCE APPRAISAL
EVALUATION OF TEACHERS

DNA
(LOCAL)

PDAS	The formal appraisal of District teachers shall be in accordance with the Professional Development and Appraisal System (PDAS).
GENERAL REQUIREMENTS	District teachers shall be appraised annually. Components of the appraisal process, such as classroom observations and walk-throughs, shall be conducted more frequently as necessary to ensure that teachers receive appropriate guidance. The District shall establish an appraisal calendar each year.
FORMAL OBSERVATION	The formal observation for a teacher's appraisal shall be scheduled by date and time.
ALTERNATE APPRAISERS	The list of qualified appraisers who may appraise a teacher in place of the teacher's supervisor shall be approved by the Board.
SECOND APPRAISAL	Upon a teacher's request for a second appraiser, the Superintendent or designee shall select the second appraiser from a pre-established roster of trained appraisers. The formal observation for a second appraisal shall be scheduled by date and time.
SCORES	The Board shall ensure that the Superintendent or designee establishes procedures regarding how domain scores from first and second appraisals will be used.
GRIEVANCES	Complaints regarding teacher appraisal shall be addressed in accordance with DGBA(LOCAL).

SCHOOL DAY

EC
(LEGAL)

LENGTH AND
SCHEDULE

A school day shall be at least seven hours each day, including intermissions and recesses.

PLEDGES OF
ALLEGIANCE

The Board shall require students, once during each school day, to recite the pledges of allegiance to the United States and Texas flags.

On written request from a student's parent or guardian, the District shall excuse the student from reciting a pledge of allegiance.

MOMENT OF
SILENCE

The Board shall provide for the observance of one minute of silence following the recitation of the pledges of allegiance. During the one-minute period, each student may reflect, pray, or meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of the students during that period shall ensure that each student remains silent and does not act in a manner that is likely to interfere with or distract another student.

Education Code 25.082

KINDERGARTEN
PROGRAM

A public school kindergarten may be operated on a half-day or full-day basis as determined by the Board. *Education Code 29.152*

GRANT
PROGRAMS

The District may use funds from grants administered by the Commissioner to operate an existing half-day kindergarten on a full-day basis. *Education Code 29.155*

INTERRUPTIONS

The Board shall adopt and strictly enforce a policy limiting interruptions of classes during the school day for nonacademic activities such as announcements and sales promotions. At a minimum, the policy must limit announcements other than emergency announcements to once during the school day.

LOSS OF CLASS TIME

The Board shall adopt and strictly enforce a policy limiting the removal of students from class for remedial tutoring or test preparation. The District may not remove a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than ten percent of the school days on which the class is offered, unless the student's parent or another person standing in parental relation to the student provides to the District written consent for removal from class for such purpose.

Education Code 25.083

SCHOOL DAY

EC
(LOCAL)

LOSS OF CLASS TIME The District shall not remove a student from a regularly scheduled class for tutoring or test preparation for more than ten percent of the school days on which the class is offered without a parent's written consent.

INTERRUPTIONS The District shall limit nonacademic activities that interrupt and distract from the academic process and shall enforce the following restrictions:

1. Announcements, other than emergency announcements, shall be made over the public address system only once during the school day.
2. Selling or solicitation shall not be permitted during class time. [For fund-raising activities, see FJ]

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

PURPOSE

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. The District shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, the District shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

The District shall ensure that all children in the District participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

REQUIRED
CURRICULUM

A district that offers kindergarten through grade 12 shall offer the following as a required curriculum:

FOUNDATION
CURRICULUM

1. A foundation curriculum that includes:
 - a. English language arts and reading;
 - b. Mathematics;
 - c. Science; and
 - d. Social studies, consisting of Texas, United States, and world history; government; geography; and economics with emphasis on the free enterprise system and its benefits.

Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)

ENRICHMENT
CURRICULUM

2. An enrichment curriculum that includes:
 - a. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the District may offer an elective course in the language;
 - b. Health, with emphasis on the importance of proper nutrition and exercise;

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

- c. Physical education;
- d. Fine Arts;
- e. Career and technical education;
- f. Technology applications;
- g. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
- h. Personal financial literacy.

Education Code 28.002(a)(2), (e); 19 TAC 74.1(a)(2)

LOCAL CREDIT The District may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.002(f); 19 TAC 74.1(b)*

LOCAL INSTRUCTIONAL PLAN The District's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. The District is encouraged to exceed minimum requirements of law and State Board rule.

MAJOR CURRICULUM INITIATIVES Before the adoption of a major curriculum initiative, including the use of a curriculum management system, the District must use a process that:

- 1. Includes teacher input;
- 2. Provides District employees with the opportunity to express opinions regarding the initiative; and
- 3. Includes a meeting of the Board at which information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and members of the public and District employees are given the opportunity to comment regarding the initiative.

Education Code 28.002(g)

COMMON CORE STATE STANDARDS The District may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels. The District may not be required to offer any aspect of a common core state standards curriculum. "Common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative. *Education Code 28.002(b-1), (b-3), (b-4)*

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

COORDINATED
HEALTH PROGRAMS

TEA shall make available to the District one or more coordinated health programs or allow the development of District programs designed to prevent obesity, cardiovascular disease, oral disease, and type 2 diabetes in elementary, middle, and junior high school students. Each program must provide for coordinating:

1. Health education, including oral health education;
2. Physical education and physical activity;
3. Nutrition services; and
4. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

The District shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the District. *Education Code 38.014*

Coordinated school health programs that are developed by the District and that meet TEA criteria may be approved and made available as approved programs. The District must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

PHYSICAL EDUCATION

The District shall establish specific objectives and goals the District intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and
3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

STUDENT/TEACHER
RATIO

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the District to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If the District establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the District shall specifically identify the manner in which the safety of the students will be maintained.

Education Code 25.114, 28.002(d); 19 TAC 74.37

CLASSIFICATION FOR
PHYSICAL EDUCATION

The District shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
 - a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.
 - b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

SCHOOL HEALTH
ADVISORY COUNCIL

The Board shall establish a local school health advisory council (SHAC) to assist the District in ensuring that local community values are reflected in the District's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of the SHAC and FFA regarding federal wellness requirements]

DUTIES

The SHAC's duties include recommending:

1. The number of hours of instruction to be provided in health education;
2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, type 2 diabetes, and mental health concerns through coordination of:
 - a. Health education,
 - b. Physical education and physical activity,
 - c. Nutrition services,
 - d. Parental involvement,
 - e. Instruction to prevent the use of tobacco;
 - f. School health services,
 - g. Counseling and guidance services,
 - h. A safe and healthy school environment, and
 - i. School employee wellness;
3. Appropriate grade levels and methods of instruction for human sexuality instruction;
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:
 - a. School health services;
 - b. Counseling and guidance services;
 - c. A safe and healthy school environment; and
 - d. School employee wellness; and
5. If feasible, joint use agreements or strategies for collaboration between the District and community organizations or agencies. Any agreement entered into based on a recommendation of the SHAC must address liability for the District and community organization.

Education Code 28.004(c)

The SHAC shall consider and make policy recommendations to the District concerning the importance of daily recess for elementary school students. The SHAC must consider research regarding un-

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

structured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The SHAC shall ensure that local community values are reflected in any policy recommendation made to the District concerning the importance of daily recess for elementary school students. *Education Code 28.004(l)*

CONTENT OF HUMAN
SEXUALITY
INSTRUCTION

The Board shall determine the specific content of the District's instruction in human sexuality. *Education Code 28.004(h)*

The Board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the SHAC. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

Education Code 28.004(e)

CONDOMS

The District may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

SEPARATE
CLASSES

If the District provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FB regarding single-sex classes under Title IX]

NOTICE TO
PARENTS

Before each school year, the District shall provide written notice to a parent of each student enrolled in the District of the Board's decision regarding whether the District will provide human sexuality instruction to District students. If instruction will be provided, the notice must include:

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

1. A summary of the basic content of the District's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
2. A statement of the parent's right to:
 - a. Review curriculum materials as provided by Education Code 28.004(j); and
 - b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the District or the student's school; and
3. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the SHAC.

A parent may use the grievance procedure at FNG concerning a complaint of a violation of notice requirements.

Education Code 28.004(i)-(i-1)

AVAILABILITY OF
MATERIALS

The District shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFAA regarding selection of curriculum materials for human sexuality instruction]

STEROID NOTICE AND
EDUCATION

The District shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*

Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(EXHIBIT)]. *Education Code 38.008*

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

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

GRADES 6–8

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

PHYSICAL ACTIVITY
REQUIREMENTS

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

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

EXEMPTIONS

The District must provide an exemption for:

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

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

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

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

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

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

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

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

FINE ARTS
REQUIREMENT

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

HIGH SCHOOL
COURSES AT EARLIER
GRADES

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

GRADES 9–12
COURSE OFFERINGS

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

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

1. English language arts — English I, II, III, IV.
2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.
3. Science — Integrated Physics and Chemistry, Biology, Chemistry, Physics, and at least two of the following:
 - a. Aquatic Science;
 - b. Astronomy;
 - c. Earth and Space Science;
 - d. Environmental Systems;
 - e. Advanced Animal Science;

- f. Advanced Biotechnology;
- g. Advanced Plant and Soil Science;
- h. Anatomy and Physiology;
- i. Engineering Design and Problem Solving;
- j. Food Science;
- k. Forensic Science;
- l. Medical Microbiology;
- m. Pathophysiology; and
- n. Scientific Research and Design.

The requirement to offer two additional courses may be reduced to one by the Commissioner upon application of a district with a total high school enrollment of less than 500 students.

Science courses shall include at least 40 percent hands-on laboratory investigations and field work using appropriate scientific inquiry.

- 4. Social studies — United States History Studies Since 1877, World History Studies, United States Government, World Geography Studies, and Economics with Emphasis on the Free Enterprise System and Its Benefits.

Education Code 28.0021

- 5. Physical education — at least two of the following:
 - a. Foundations of Personal Fitness;
 - b. Adventure/Outdoor Education;
 - c. Aerobic Activities; or
 - d. Team or Individual Sports.
- 6. Fine arts — courses selected from at least two of the four fine arts areas (art, music, theatre, and dance) as follows:
 - a. Art I, II, III, IV;
 - b. Music I, II, III, IV;
 - c. Theatre I, II, III, IV; or
 - d. Dance I, II, III, IV.

7. Career and technical education [see EEL] — coherent sequences of courses selected from at least three of the following 16 career clusters:
 - a. Agriculture, Food, and Natural Resources;
 - b. Architecture and Construction;
 - c. Arts, Audio/Video Technology, and Communications;
 - d. Business Management and Administration;
 - e. Education and Training;
 - f. Finance;
 - g. Government and Public Administration;
 - h. Health Science;
 - i. Hospitality and Tourism;
 - j. Human Services;
 - k. Information Technology;
 - l. Law, Public Safety, Corrections, and Security;
 - m. Manufacturing;
 - n. Marketing;
 - o. Science, Technology, Engineering, and Mathematics;
and
 - p. Transportation, Distribution, and Logistics.
8. Languages other than English — Levels I, II, and III or higher of the same language.
9. Technology applications — at least four of the following:
 - a. Computer Science I;
 - b. Computer Science II;
 - c. Computer Science III;
 - d. Digital Art and Animation;
 - e. Digital Communications in the 21st Century;
 - f. Digital Design and Media Production;
 - g. Digital Forensics;
 - h. Digital Video and Audio Design;

- i. Discrete Mathematics;
 - j. Fundamentals of Computer Science;
 - k. Game Programming and Design;
 - l. Independent Study in Evolving/Emerging Technologies;
 - m. Independent Study in Technology Applications;
 - n. Mobile Application Development;
 - o. Robotics Programming and Design;
 - p. 3-D Modeling and Animation;
 - q. Web Communications;
 - r. Web Design; and
 - s. Web Game Development.
10. Speech — Communications Applications.
11. Personal financial literacy — The District shall provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit, using materials approved by the State Board of Education (SBOE). The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the Department of Education. In fulfilling the requirement to provide financial literacy instruction, the District may use an existing state, federal, private, or nonprofit program that provides students without charge the described instruction.

19 TAC 74.3(b)(2); Education Code 28.0021(b)

The District must provide each student the opportunity each year to select courses in which he or she intends to participate from a list that includes all courses listed above. If the District will not offer all required courses every year, but intends to offer particular courses only every other year, it must notify all enrolled students of that fact.

The District shall teach any course a student is specifically required to take for high school graduation at least once in any two consecutive school years. For a subject that has an end-of-course assessment, the District shall either teach the course every year or use alternate delivery systems, as described in 19 Administrative Code Chapter 74, Subchapter C, to enable students to earn credit for the course and shall maintain evidence thereof.

19 TAC 74.3(b)(4)

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

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

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

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

PARENT
PERMISSION

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

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

ALCOHOL
AWARENESS
INSTRUCTION

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

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

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

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

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

CHILD FIND

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 C.F.R. 300.111(a)(1)(i), (c)

PRIVATE SCHOOL
STUDENTS

The District shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools in the District.

The District shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending public schools in the District.

20 U.S.C. 1412(a)(10)(A)(ii)-(iv) [See EHBAC regarding students in nondistrict placement]

PRESCHOOL
STUDENTS

The District shall develop a system to notify District residents with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

REFERRALS

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the District's overall general education referral or screening system. Either a parent, TEA, another state agency, or the District may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

If a parent or legal guardian makes a written request to the District's director of special education services or to a District administrative employee for a full individual and initial evaluation of a stu-

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

dent, the District shall, not later than the 15th school day after the date the District receives the request:

1. Provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or
2. Refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011; Education Code 29.004(c)

NOTICE OF RIGHTS

A reasonable time before the District proposes or refuses to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (FAPE) to a student, the District shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 C.F.R. 300.503(a)* [See EHBAE]

INITIAL EVALUATION

The District shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *20 U.S.C. 1414(a)(1)(A)*

The District shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. *20 U.S.C. 1414(a)(1)(E)*

CONSENT FOR
INITIAL EVALUATION

Before the District conducts an initial evaluation, it shall make reasonable efforts to obtain informed parental consent.

If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, the District may, but is not required to, pursue the initial evaluation by utilizing due process procedures [see EHBAE], except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D)(i)(I); 34 C.F.R. 300.300(b)

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

WARDS OF THE
STATE

If the child is a ward of the state and is not residing with the child's parent, the District shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Despite reasonable efforts to do so, the District cannot discover the whereabouts of the parent;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 C.F.R. 300.300(a)(2)

TIME FRAME

The District must complete the written report of an initial evaluation:

1. Not later than the 45th school day following the date on which the District receives written consent for the evaluation, signed by the student's parent or legal guardian. If a student has been absent from school during that period on three or more days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
2. For students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting, not later than the 45th school day following the date on which the District receives written consent for the evaluation, signed by a student's parent or legal guardian.

This time frame shall not apply if:

1. A child enrolls in the District after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if the District is making sufficient progress to ensure a prompt completion of the evaluation and the parent and District agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the child for the evaluation.

CONSENT AT END
OF SCHOOL
YEAR

If the District receives written consent signed by a student's parent or legal guardian for a full individual and initial evaluation of a student at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the

parent or legal guardian not later than June 30 of that year. The student's admission, review, and dismissal committee shall meet not later than the 15th school day of the following school year to consider the evaluation.

If the District receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the District receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

"School day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. The Commissioner by rule may determine days during which year-round schools are recessed that, consistent with this subsection, are not considered to be school days.

20 U.S.C. 1414(a)(1)(C); 34 C.F.R. 300.301(c)-(e); Education Code 29.004

PSYCHOLOGICAL
EXAMINATIONS

If the District determines that an additional examination or test is required for the evaluation, the District shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the District provided the information, the parent's consent is considered denied.

The time required for the District to provide information and seek consent may not be counted toward the 60 calendar days for completion of an evaluation.

Education Code 29.0041

DETERMINATION OF
ELIGIBILITY

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.

The District shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4); 34 C.F.R. 300.306(a)

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

REEVALUATIONS

The District shall ensure that each child with a disability is reevaluated if the District determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and the District agree otherwise; and
2. At least once every three years, unless the parent and District agree that a reevaluation is unnecessary.

The District shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if the District can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond.

20 U.S.C. 1414(a)(2), (c)(3); 34 C.F.R. 300.303

EVALUATION FOR
CHANGE IN
ELIGIBILITY

The District shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law. *20 U.S.C. 1414(c)(5); 34 C.F.R. 300.305(e)*

INDEPENDENT
EVALUATION

The parents have a right to obtain an independent educational evaluation of their child. If a parent requests an independent evaluation, the District shall provide the parents with information regarding where one can be obtained and the District's criteria for independent evaluations.

AT PUBLIC
EXPENSE

If a parent requests an independent evaluation at public expense, the District shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
2. Ensure that an independent evaluation is provided at public expense, unless the District demonstrates that the evaluation obtained by the parent did not meet District criteria.

AT PRIVATE
EXPENSE

If the District initiates a hearing, and the final decision is that the District's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent evaluation at private expense, the results of the evaluation shall be considered by the District, if it meets Dis-

strict criteria, in any decision made with respect to providing FAPE to the child.

34 C.F.R. 300.502

ELIGIBILITY

A student is eligible to participate in the District's special education program if:

1. The student is between the ages of 3 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student's disability(ies) prevents the student from being adequately or safely educated in the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035, .1040

VISUAL AND
AUDITORY
IMPAIRMENTS

A student with a visual or auditory impairment shall be eligible to participate in the District's special education program from birth.
19 TAC 89.1035(b); Education Code 30.002

CONSENT TO
SERVICES

The District must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of services, the District:

1. May not use the procedures in 34 C.F.R. part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which the District requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, the District:

1. May not continue to provide services to the child, but must provide prior written notice before ceasing services;
2. May not use the procedures in 34 C.F.R. part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child;

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

3. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further services; and
4. Is not required to convene an ARD meeting or develop an IEP for further provision of services.

34 C.F.R. 300.300(b)

PRESCRIPTION
MEDICATION

An employee of the District is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 *et seq.*) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)

SPECIAL EDUCATION
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

EHBAB
(LEGAL)

ADMISSION, REVIEW,
AND DISMISSAL
COMMITTEE

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

RESPONSIBILITIES
OF ARD
COMMITTEE

The responsibilities of the ARD committee and the District include:

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

19 TAC 89.1050(a); 34 C.F.R. 300.116(a), .321(a)

COMMITTEE
MEMBERS

The District shall ensure that each ARD committee meeting includes all of the following:

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

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

20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.321; 19 TAC 75.1023(d)(1), 89.1131(b)(3)–(4), 101.1005

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

A District member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and the District

SPECIAL EDUCATION
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

EHBAB
(LEGAL)

consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

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

MEMBERSHIP
FOR TRANSITION
MEETINGS

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

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

34 C.F.R. 300.321(b) [See EHBAD]

PARENT
INVOLVEMENT

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

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

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

34 C.F.R. 300.322(a)–(b); 19 TAC 89.1045

ALTERNATIVE
MEANS OF
MEETING
PARTICIPATION

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

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

MEETINGS

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

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

20 U.S.C. 1414(d)(4); 34 C.F.R. 300.116(b)(1), .324(b), (c)(1)

MEETING AT
PARENT'S
REQUEST

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

TRANSFER STUDENTS

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

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

20 U.S.C. 1414(d)(2)(C)(i); 34 C.F.R. 300.323(e)-(f)

SPECIAL EDUCATION
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

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(LEGAL)

TRANSFER OF RECORDS	<p>The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.</p> <p>The previous district shall take reasonable steps to promptly respond to the request from the new district.</p> <p><i>20 U.S.C. 1414(d)(2)(C)(ii); 34 C.F.R. 300.323(g)</i></p>
MILITARY DEPENDENTS	<p>The District shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the District from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, § C</i> [See FDD]</p>
INDIVIDUALIZED EDUCATION PROGRAM (IEP)	<p>The District shall develop, review, and revise an IEP for each child with a disability. <i>20 U.S.C. 1412(a)(4); 34 C.F.R. 300.320(a)</i></p> <p>At the beginning of each school year, the District shall have in effect, for each child with a disability in its jurisdiction, an IEP. <i>20 U.S.C. 1414(d)(2)(A); 34 C.F.R. 300.323(a)</i></p> <p>The term "individualized education program" means a written statement for each child with a disability that includes:</p> <ol style="list-style-type: none"><li data-bbox="560 1123 1435 1186">1. A statement of the child's present levels of academic achievement and functional performance;<li data-bbox="560 1207 1435 1270">2. A statement of measurable annual goals, including academic and functional goals;<li data-bbox="560 1291 1435 1396">3. A description of how the child's progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;<li data-bbox="560 1417 1435 1564">4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;<li data-bbox="560 1585 1435 1648">5. A statement of the program modifications or supports for school personnel that will be provided for the child;<li data-bbox="560 1669 1435 1774">6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;<li data-bbox="560 1795 1435 1900">7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;

8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or districtwide assessments;
9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
10. Beginning not later than the first IEP to be in effect when the child is 14, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals [see EHBAD]; and
11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 C.F.R. 300.320; Education Code 29.0111; 19 TAC 89.1055

The written statement of a student's IEP may be required to include only information included in the model form developed by TEA under Education Code 29.0051(a) and posted on the TEA Web site. The District may use the model form to comply with the requirements for an IEP under 20 U.S.C. 1414(d). *Education Code 29.005(f), .0051*

BEHAVIORAL
INTERVENTION
PLAN

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student for whom the committee has developed an IEP. If the committee makes that determination, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. *Education Code 29.005(g)*

TRANSLATION OF
IEP INTO NATIVE
LANGUAGE

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

AUTISM /
PERVASIVE
DEVELOPMENTAL
DISORDER

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

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

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

19 TAC 89.1055(e)–(f)

SPECIAL EDUCATION
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

EHBAB
(LEGAL)

VISUAL
IMPAIRMENT

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

COLLABORATIVE
PROCESS

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

TEN-DAY RECESS

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

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

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

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

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

FAILURE TO
REACH
AGREEMENT

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

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

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

19 TAC 89.1050(h)

MODIFICATION OF
EXISTING IEP

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

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

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

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

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

TEACHER REQUEST
TO REVIEW IEP

In accordance with TEA rules, the District shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

1. To request a review of the student's IEP;
2. That provides for a timely District response to the teacher's request; and
3. That provides for notification to the student's parent or legal guardian of that response.

Education Code 29.001(11)

SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

EHBC
(LEGAL)

COMPENSATORY
EDUCATION
ALLOTMENT

The District is entitled to an annual compensatory education allotment for each student:

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

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

Education Code 42.152(a)–(b)

USE

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

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

The District may also use allocated funds for:

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

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

LIMIT ON DAEP
EXPENDITURES

The District may not use more than 18 percent of its compensatory education allotment for DAEPs.

The Commissioner may waive this limitation upon an annual petition, by the District's Board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on DAEPs.

Education Code 42.152(c)(1)–(2)

SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

EHBC
(LEGAL)

DROPOUT
PREVENTION
STRATEGIES

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

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

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

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

Education Code 29.918; 19 TAC 89.1701

DEFINITION OF AT-
RISK STUDENT

"Student at risk of dropping out of school" includes each student who is under 26 years of age and who:

1. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;
2. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

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4. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
5. Is pregnant or is a parent;
6. Has been placed in a DAEP in accordance with Education Code 37.006 during the preceding or current school year;
7. Has been expelled during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. Is a student of limited English proficiency, as defined by Section 29.052;
11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the District, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

Education Code 29.081(d)–(d-1)

LOCAL ELIGIBILITY
CRITERIA

In addition to students described above, a student who satisfies local eligibility criteria adopted by the Board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the District during the preceding school year. *Education Code 29.081(g)*

COMPENSATORY,
INTENSIVE, AND
ACCELERATED
INSTRUCTION

The District shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the District's schools that enable

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the students to perform at grade level at the conclusion of the next regular school term. *Education Code 29.081(a)*

ACCELERATED
INSTRUCTION

The District shall provide accelerated instruction to an enrolled student who has taken an end-of-course assessment instrument and has not performed satisfactorily or who is at risk of dropping out of school.

The District shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

A district that is required to provide accelerated instruction must separately budget sufficient funds for that purpose. [See CE]

The District shall evaluate the effectiveness of accelerated instruction programs and annually hold a public hearing to consider the results.

Education Code 29.081(b), (b-1), (b-2), (b-3), 39.025(b-1)

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(c), the District in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, using funds appropriated for accelerated instruction under Education Code 28.0211. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. *Education Code 28.0217*

EFFECTIVENESS

The District shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other District students. *Education Code 29.081(c)*

DROPOUT RECOVERY
EDUCATION
PROGRAMS

The District may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must meet the criteria set forth at Education Code 29.081(e)(1)–(5).

Students in attendance at a dropout recovery education program shall be included in the District's average daily attendance for funding purposes.

Education Code 29.081(e)–(f)

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PUBLIC JUNIOR COLLEGE PARTNERSHIP PROGRAM	The District may agree to partner with a public junior college to provide on the campus of the college a dropout recovery program for students to successfully complete and receive a diploma from a District high school in accordance with Education Code 29.401. [See GNC]
COMMUNITIES IN SCHOOLS (CIS)	An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least ten percent of the number of students in average daily attendance at the school, as determined by TEA. <i>Education Code 33.157</i>
OPTIONAL EXTENDED-YEAR PROGRAM (OEYP)	<p>The District may set aside an amount from its compensatory education allotment or may apply to TEA for funding of an extended-year program, for a period not to exceed 30 instructional days for students:</p> <ol style="list-style-type: none">1. In kindergarten through grade 11, who are identified as not likely to be promoted to the next grade level for the succeeding school year; or2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year. <p>A student who does not demonstrate proficiency in a subject area as determined by the District is also eligible for services.</p> <p>An optional extended year program (OEYP) may extend the day, the week, or the year to provide additional support and instruction for eligible students. The program shall be conducted beyond the required instructional year, which may include intercessions for year round programs.</p>
POLICY	If the District provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.
PROGRAM CRITERIA	An OEYP must meet the requirements set forth at Education Code 29.082 and 19 Administrative Code 105.1001.
PROMOTION OF STUDENT	A student who attends at least 90 percent of the program days and who satisfies the requirements for promotion at Education Code 28.021 shall be promoted or retained in accordance with Education Code 29.082(e).
TRANSPORTATION	<p>The District shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services.</p> <p><i>Education Code 29.082; 19 TAC 105.1001 [See EIE and FDC]</i></p>

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OPTIONAL FLEXIBLE YEAR PROGRAM (OFYP) The District may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.

PROGRAM CRITERIA An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 Administrative Code 129.1029.

Education Code 29.0821; 19 TAC 129.1029

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

PROGRAM CRITERIA A district that meets application requirements may:

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

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

STUDENT ELIGIBILITY The District may provide an OFSDP for students who:

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

A student who will be denied credit for one or more classes as a result of attendance requirements may enroll in a course in a OFSDP offered during the school year or during the period in which school is recessed for the summer to enable the student to earn

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	<p>class credit that the student would not otherwise be able to receive without retaking the class.</p>
EXTRACURRICULAR PARTICIPATION	<p>A student enrolled in an OFSDP may participate in a competition or activity sanctioned by the University Interscholastic League (UIL) only if the student meets all UIL eligibility criteria.</p>
FUNDING	<p>Funding for an OFSDP shall be based on the number of instructional days in the District calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required shall be proportionately reduced for funding purposes. The Commissioner may limit funding for the attendance of a student who will be denied credit as a result of attendance requirements to funding only for the attendance necessary for the student to earn class credit that the student would not otherwise be able to receive without retaking the class.</p>
ANNUAL PERFORMANCE REVIEW	<p>Annually, the District shall review its progress in relation to the performance indicators required by 19 Administrative Code 129.1027(h). Progress should be assessed based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status.</p> <p><i>Education Code 29.0822; 19 TAC 129.1027</i></p>
TUTORIAL SERVICES	<p>The District may provide tutorial services at District schools. If the District provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials.</p> <p>The District may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.</p> <p><i>Education Code 29.084</i></p>
BASIC SKILLS PROGRAMS	<p>The District may apply to the Commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the Commissioner.</p> <p>With the consent of a student's parent or guardian, the District may assign a student to the basic skills program.</p> <p>A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.</p> <p><i>Education Code 29.086</i></p>

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AFTER-SCHOOL AND
SUMMER INTENSIVE
MATHEMATICS AND
SCIENCE PROGRAMS

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

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

Before providing a program, the Board must adopt a policy for:

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

Education Code 29.088, .090; 19 TAC 102.1041

MENTORING
SERVICES PROGRAM

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

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

Education Code 29.089

ACCELERATED
READING
INSTRUCTION
PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results

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[see EKC], to be at risk for dyslexia or other reading difficulties. The District shall determine the form, content, and timing of the program.

The District shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

LIMITATION

The District may implement an accelerated reading instruction program only if the Commissioner certifies that funds have been appropriated during a school year for administering the program.

Education Code 28.006(f), (g), (g-1), (k)

INTENSIVE PROGRAM
OF INSTRUCTION

STATE
ASSESSMENTS

The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the District.

The program shall be designed to:

1. Enable the student to:
 - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - b. Attain a standard of annual growth specified by the District and reported by the District to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

STUDENTS
RECEIVING
SPECIAL
EDUCATION
SERVICES

For a student in a special education program who does not perform satisfactorily on an assessment instrument administered under Education Code 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

GRADUATION
REQUIREMENTS

The District shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

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NO CAUSE OF
ACTION

The District's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

Education Code 28.0213

MAXIMUM ALLOWABLE
INDIRECT COST

The District may expend no more than the following percentages of the District's Foundation School Program (FSP) special allotments under Education Code Chapter 42, Subchapter C, for indirect costs related to the following programs:

1. No more than 48 percent for indirect costs related to:
 - a. Compensatory education,
 - b. Bilingual education and special language programs, and
 - c. Special education.
2. No more than 45 percent for indirect costs related to gifted and talented education programs.
3. No more than 42 percent for indirect costs related to career and technical education programs.

Beginning with the 2012–13 school year, the District may choose to use a greater indirect cost allotment under Education Code 42.151, .153, .154, and .156, to the extent the District receives less funding per weighted student in state and local maintenance and operations revenue than in the 2011–12 school year. The Commissioner shall develop a methodology for the District to make this determination and may require any information necessary to implement this rule.

19 TAC 105.11

COLLEGE
PREPARATORY
COURSES

The District shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the twelfth grade level whose performance on:
 - a. An end-of-course assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
 - b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.3062(c) indicates that the student is not ready to perform entry-level college coursework; and

2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through an institution of higher education with which the District partners.

FACULTY

Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the District partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

NOTICE

The District shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

CREDIT EARNED

A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

DUAL CREDIT

A course may be offered for dual credit at the discretion of the institution of higher education with which the District partners.

INSTRUCTIONAL MATERIALS

The District, in consultation with each institution of higher education with which the District partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

To the extent applicable, the District shall draw from curricula and instructional materials developed under Education Code 28.008 in developing a course and related instructional materials. A course and the related instructional materials shall be made available to students not later than the 2014–15 school year.

Education Code 28.014

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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>
SEPTEMBER 11	September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary and secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the required period of observance, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The required period of observance may be held in conjunction with the minute of silence required by Education Code 25.082. [See EC] <i>Education Code 25.0821</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>
AMERICAN INDIAN HERITAGE DAY	The last Friday in September is in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to Texas. American Indian Heritage Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in Texas and to celebrate the rich traditional and contemporary American Indian culture. <i>Gov't Code 662.056</i>
HYDROCEPHALUS AWARENESS MONTH	October: Hydrocephalus Awareness Month, to: <ol style="list-style-type: none">1. Increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and

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2. Encourage the development of partnerships between the federal government, health-care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Gov't Code 662.106

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 DATES	In addition, the District may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:
DR. HECTOR P. GARCIA DAY	Third Wednesday of September: Dr. Hector P. Garcia Day, in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States. <i>Gov't Code 662.055</i>
PERSONS WITH DISABILITIES HISTORY AND AWARENESS MONTH	October: Persons with Disabilities History and Awareness Month, to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities. <i>Gov't Code 662.109</i>

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EHBK
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TEXAS NATIVE PLANT WEEK	Third week in October: Texas Native Plant Week, to celebrate the native plants of Texas. <i>Gov't Code 662.154</i>
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 662.105</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	Each district shall excuse from recitation a student: <ol style="list-style-type: none">1. Whose parent or guardian submits to the District a written request that the student be excused;2. Who, as determined by the District, has a conscientious objection to the recitation; or

3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

19 TAC 74.33(b), .36

GENERATION TEXAS
WEEK

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as Generation Texas 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;
 - c. College readiness standards and expectations as determined under Education Code 28.008; and
 - d. 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;
 - 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

STUDENT ELECTIONS

An election for the participation of students in kindergarten through grade 12 may be held in conjunction with a general, special, or primary election. The student election may be ordered by:

1. The commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority;
2. The governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or
3. The county executive committee, for a student election held in conjunction with a primary election.

A student election may be held only on election day or the day before election day.

The authority ordering a student election shall specify in the order each grade that may participate in the election. A student in a

specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

The election officers serving in the official election may not serve in the student election. The authority ordering a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election. The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

Election Code 276.007

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*

ALTERNATIVE METHODS FOR EARNING CREDIT
CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

EHDC
(LEGAL)

With Board approval, the District shall develop or purchase examinations for acceleration that thoroughly test the essential knowledge and skills for each primary school grade level and for credit for secondary school academic subjects.

The Board shall approve for each subject, to the extent available, at least four examinations that satisfy State Board of Education (SBOE) guidelines. The examinations approved by the Board must include:

1. Advanced placement examinations developed by the College Board; and
2. Examinations administered through the College-Level Examination Program.

KINDERGARTEN–
GRADE 5

The District shall develop procedures for kindergarten acceleration that are approved by the Board.

The District shall accelerate a student in grades 1–5 one grade level if the student meets the following requirements:

1. The student scores 80 percent or above on a criterion-referenced test for the grade level to be skipped in each of the following areas: language arts, mathematics, science, and social studies;
2. A District representative recommends that the student be accelerated; and
3. The student's parent or guardian gives written approval of the acceleration.

GRADES 6–12

The District shall give a student in grades 6–12 credit for an academic subject in which the student has received no prior instruction if the student scores:

1. Eighty percent or above on a criterion-referenced examination for acceleration for the applicable course;
2. A three or higher on an advanced placement examination approved by the Board and developed by the College Board; or
3. A scaled score of 60 or higher on an examination approved by the Board and administered through the College-Level Examination Program.

If such credit is given, the District shall enter the examination score on the student's transcript and the student is not required to take an end-of-course assessment instrument under Education Code 39.023(c) for that subject.

ALTERNATIVE METHODS FOR EARNING CREDIT
CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

EHDC
(LEGAL)

ANNUAL
ADMINISTRATION

The District shall administer each exam approved by the Board not fewer than four times each year, at times to be determined by the SBOE unless the exam's administration date is established by an entity other than the District. The days need not be consecutive but shall be designed to meet the needs of all students. The dates must be publicized in the community.

The District may allow a student to accelerate at a time other than those described above by developing a cost-free option approved by the Board that allows students to demonstrate academic achievement or proficiency in a subject or grade level.

LIMITATIONS ON
TAKING
EXAMINATIONS

A student may not attempt more than two times to receive credit for a particular subject on the basis of an examination for credit in that subject.

If a student fails to achieve the designated score on an applicable examination for a subject before the beginning of the school year in which the student would ordinarily be required to enroll in a course in that subject in accordance with the District's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course.

FEES

The District shall not charge for examinations for acceleration. If a parent requests an alternative examination, the District may administer and recognize results of a test purchased by the parent or student from Texas Tech University or the University of Texas at Austin.

Education Code 28.023; 19 TAC 74.24

ALTERNATIVE METHODS FOR EARNING CREDIT
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

Note: For information on dual credit courses available through the Texas Virtual School Network (TxVSN), see EHDE and www.txvsn.org

COLLEGE CREDIT
PROGRAM

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. If requested by the District, a public institution of higher education in this state shall assist the District in developing and implementing the program. 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.

The program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree,

ALTERNATIVE METHODS FOR EARNING CREDIT
COLLEGE COURSE WORK/DUAL CREDIT

EHDD
(LEGAL)

and is approved by the Texas Higher Education Coordinating Board; and

2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

The District is not required to pay a student's tuition or other associated costs for taking a course under this section.

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
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
DEFINITIONS

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(2), (4)

PARTNERSHIP
AGREEMENTS WITH
PUBLIC COLLEGES

The District may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

ALTERNATIVE METHODS FOR EARNING CREDIT
COLLEGE COURSE WORK/DUAL CREDIT

EHDD
(LEGAL)

COMMUNITY COLLEGE JURISDICTION	A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008. <i>Education Code 130.008(d)</i>
LIMIT ON ENROLLMENT	A student may not enroll in more than three courses for dual credit at a college if the college does not have a service area that includes the student's high school. A student enrolled at an early college high school may enroll in a greater number of courses to the extent approved by the Commissioner. <i>Education Code 130.008(f)</i>
ATTENDANCE ACCOUNTING	The time during which a student attends a dual credit course, including a course provided under the college credit program, 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] <i>Education Code 42.005</i>
PARTNERSHIP AGREEMENT	<p>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.</p> <p>The partnership agreement must address:</p> <ol style="list-style-type: none">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; and9. Funding. <p><i>19 TAC 4.84-.85</i></p>
INSTRUCTIONAL PARTNERSHIPS WITH COMMUNITY COLLEGE DISTRICTS	<p>Types of instructional partnerships between the District and a community college district include:</p> <ol style="list-style-type: none">1. Award of High School Credit Only (see HIGH SCHOOL CREDIT-ONLY COURSES, below).2. Award of Concurrent Course Credit (see DUAL CREDIT PROGRAMS, above).

ALTERNATIVE METHODS FOR EARNING CREDIT
COLLEGE COURSE WORK/DUAL CREDIT

EHDD
(LEGAL)

3. Tech-Prep Programs (see TECH-PREP PROGRAMS, below).
4. Remedial or Developmental Instruction (see REMEDIAL PROGRAMS, below).

19 TAC 9.143

AGREEMENT

For any educational partnership between the District and a community college district, an agreement must be approved by the board or designee of both the District and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcribing of credit.
8. Funding provisions.

19 TAC 9.144

HIGH SCHOOL
CREDIT-ONLY
COURSES

The District may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The District and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*

TECH-PREP
PROGRAMS

The District may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*

REMEDIAL
PROGRAMS

The Board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which the District is located for the college district to provide remedial programs for students enrolled in the District's secondary schools in preparation for graduation from secondary school and entrance into college. The District and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit. *Education Code 130.090; 19 TAC 9.125, .143(d), .146*

ALTERNATIVE METHODS FOR EARNING CREDIT
COLLEGE COURSE WORK/DUAL CREDIT

EHDD
(LEGAL)

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*

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

EHDE
(LEGAL)

DISTANCE LEARNING
AND
CORRESPONDENCE
COURSES

Credit toward state graduation requirements may be granted for distance learning and correspondence courses only as follows:

1. The institution offering the correspondence course is The University of Texas at Austin, Texas Tech University, or another public institution of higher education approved by the Commissioner.
2. Students may earn course credit through distance learning technologies, such as satellite, Internet, two-way videoconferencing, online courses, the Texas Virtual School Network (TxVSN), and instructional television.
3. The distance learning and correspondence courses must include the state-required essential knowledge and skills for such a course.

19 TAC 74.23

TEXAS VIRTUAL
SCHOOL NETWORK

The TxVSN is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TxVSN is a partnership network administered by TEA in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, and institutions of higher education.

The TxVSN is comprised of two components—the online school (OLS) program and the statewide course catalog.

19 TAC 70.1001(4)

ONLINE SCHOOL
(OLS) PROGRAM

“Online School (OLS) program” is a full-time, virtual instructional program that is made available through an approved course provider and is designed to serve students in grades 3–12 who are not physically present at school. *19 TAC 70.1001(7)*

A TxVSN OLS may serve students in grades 3–12 but may not serve students in kindergarten–grade 2.

A school district wishing to operate a TxVSN OLS in order to serve students in full-time virtual instruction shall, prior to the start of each academic year, notify TEA of grade levels to be served and the total number of students to be served during that academic year. A school district may not add grade levels after the start of the school year.

A TxVSN OLS or a school district wishing to begin operating a TxVSN OLS shall certify that the OLS has courses sufficient to comprise a full instructional program for each grade level served by the OLS prior to serving that grade level.

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

EHDE
(LEGAL)

School districts approved to serve as TxVSN OLSs shall follow the TEA procedures related to obtaining a campus number for the virtual campus through which they serve their TxVSN OLS students.

School districts serving as TxVSN OLSs must follow all requirements in 19 Administrative Code 70.1011.

19 TAC 70.1011

STATEWIDE
COURSE CATALOG

“Statewide course catalog” is a supplemental online high school instructional program available through approved providers. *19 TAC 70.1001(10)*

COURSE
PROVIDERS

A TxVSN course provider is an entity that provides an electronic course through the TxVSN. Course providers include TxVSN OLSs and providers in the statewide course catalog. *19 TAC 70.1001(8)*

ELECTRONIC
COURSE

“Electronic course” means an educational course in which:

1. Instruction and content are delivered primarily over the Internet;
2. A student and teacher are in different locations for a majority of the student’s instructional period;
3. Most instructional activities take place in an online environment;
4. The online instructional activities are integral to the academic program;
5. Extensive communication between a student and a teacher and among students is emphasized; and
6. A student is not required to be located on the physical premises of a school district or open-enrollment charter school.

An electronic course is the equivalent of what would typically be taught in one semester. For example: English IA is treated as a single electronic course and English IB is treated as a single electronic course.

Education Code 30A.001(4); 19 TAC 70.1001(1)

OLS ELIGIBILITY

To be eligible to serve as a TxVSN OLS, a school district shall:

1. Have a current accreditation status of Accredited under 19 Administrative Code 97.1055 (relating to Accreditation Status);
2. Be rated acceptable under Education Code 39.054;

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

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3. Be rated at the Standard Achievement level or higher under the state financial accountability rating system under 19 Administrative Code 109.1003 (relating to Types of Financial Accountability Ratings);
4. Have met statutory requirements for timely submission of annual audit and compliance reports, Public Education Information Management System (PEIMS) reports, and timely deposits with the Teacher Retirement System, with all records and reports reflecting satisfactory performance; and
5. Be in good standing with other programs, grants, and projects administered through TEA.

19 TAC 70.1009(a)

STATEWIDE
COURSE
CATALOG
PROVIDER
ELIGIBILITY

To be eligible to serve as a TxVSN statewide course catalog provider, a district must be rated acceptable under Education Code 39.054. A Texas school district may provide an electronic course through the TxVSN to students enrolled in that district or school or students enrolled in another school district or school in the state.
19 TAC 70.1007(a)

GENERAL
REQUIREMENTS

TxVSN course providers shall:

1. Notify parents and students of the option to enroll in the TxVSN OLS at the time and in the manner that the school district informs students and parents about instructional programs or courses offered in the district's traditional classroom setting;
2. Notify students in writing upon enrollment to participate in the TxVSN OLS with specific dates and details regarding enrollment;
3. Meet all federal and state requirements for educating students with disabilities;
4. Provide a contingency plan for the continuation of instructional services to all TxVSN OLS program students allowing them to complete their TxVSN OLS program subject areas or courses in the event that the contract or agreement through which the TxVSN OLS program instructional services are provided is terminated or a TxVSN OLS program subject area or course becomes unavailable to the student; and
5. Ensure a maximum class size limit of 40 students in a single section of a course and ensure that the class size does not exceed the maximum allowed by law, as applicable, whichever is less.

19 TAC 70.1007(b)

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

EHDE
(LEGAL)

COURSES	<p>All electronic courses to be made available through the TxVSN shall be reviewed and approved prior to being offered in accordance with the course requirements at 19 Administrative Code 70.1005. <i>19 TAC 70.1005(a)</i></p> <p>An electronic course or program that was offered or could have been offered during the 2008–09 school year under former Education Code 29.909, as that section existed on January 1, 2009, may be offered during a subsequent school year through the TxVSN. <i>Education Code 30A.006</i></p>
STUDENT ELIGIBILITY GENERALLY	<p>A student is eligible to enroll in a TxVSN course only if the student:</p> <ol style="list-style-type: none">1. On September 1 of the school year is younger than 21 years of age or is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 42.003;2. Has not graduated from high school; and3. Is otherwise eligible to enroll in a public school in this state. <p>A student is eligible to enroll full-time in courses provided through the TxVSN only if:</p> <ol style="list-style-type: none">1. The student was enrolled in a public school in this state in the preceding school year; or2. The student has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.
EXCEPTION FOR MILITARY DEPENDENTS	<p>A student is eligible to enroll in one or more TxVSN courses or enroll full-time in courses provided through the network if the student:</p> <ol style="list-style-type: none">1. Is a dependent of a member of the United States military;2. Was previously enrolled in high school in this state; and3. No longer resides in this state as a result of a military deployment or transfer.
PROVISIONAL ENROLLMENT	<p>If a student has not provided required evidence of eligibility to enroll, a TxVSN OLS may enroll a student provisionally for ten school days and withdraw the student from the OLS if the student does not provide the required evidence of eligibility within ten school days of the provisional enrollment.</p> <p>Upon enrolling a student provisionally, the TxVSN OLS shall notify the student and the student's parents or guardians that the student will be withdrawn if documentation is not provided within the required timeframe.</p> <p><i>Education Code 30A.002; 19 TAC 70.1013</i></p>

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

EHDE
(LEGAL)

ENROLLED
STUDENTS

A student who is enrolled in the District as a full-time student may take one or more electronic courses through the TxVSN. *Education Code 30A.107(b)*

UNENROLLED
STUDENTS

A student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TxVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TxVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the network; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c)

ENROLLMENT,
ADVANCEMENT,
AND
WITHDRAWAL

A student taking a course through the TxVSN statewide course catalog or a TxVSN OLS program is considered to:

1. Be enrolled in a TxVSN course when he or she begins receiving instruction and actively engages in instructional activities in a TxVSN subject area or course;
2. Have successfully completed a course if the student demonstrates academic proficiency and earns credit for the course, as determined by the TxVSN teacher; and
3. Be, and must be reported as, withdrawn from the TxVSN when the student is no longer actively participating in the TxVSN course or program.

A student taking a course through the TxVSN statewide course catalog:

1. Shall enroll in each TxVSN course through the TxVSN online registration system;
2. Shall be assigned a grade by the TxVSN teacher after the drop period established by TxVSN central operations;

ALTERNATIVE METHODS FOR EARNING CREDIT
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3. May withdraw from a course taken through the TxVSN after the instructional start date without academic or financial penalty within the drop period established by TxVSN central operations; and
4. Shall have the grade assigned by the TxVSN teacher added to the student's transcript by the student's home district.

A student enrolled full time in grades 3–8 must demonstrate academic proficiency sufficient to earn promotion to the next grade, as determined by the TxVSN teacher for the educational program.

19 TAC 70.1015

COMPULSORY
ATTENDANCE

Texas public school students are not required to be in physical attendance while participating in courses through a TxVSN OLS or the TxVSN course catalog.

Based upon successful completion of a TxVSN course for students in grades 9–12 or a TxVSN OLS instructional program for students in grades 3–8, students are considered to have met attendance requirements for that course or program. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible.

For audit purposes, TxVSN course providers and TxVSN receiver districts shall maintain documentation to support the students' successful completion and to support verification of compulsory attendance.

"TxVSN receiver district" means a Texas public school district that has students enrolled in the school district who take one or more online courses through the TxVSN statewide course catalog.

19 TAC 70.1001(9), .1017

LOCAL POLICY

The District shall adopt a written policy that provides students enrolled in the District with the opportunity to enroll in electronic courses provided through the TxVSN statewide course catalog. The policy must be consistent with the requirements regarding notice, enrollment requests, and students with disabilities as described below.

The District shall, at least once per school year, send to a parent of each District student enrolled at the middle or high school level a copy of the policy. The District may send the policy with any other information that the District sends to a parent.

Education Code 30A.007; 19 TAC 70.1033

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

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NOTICE At the time and in the manner that the District informs students and parents about courses that are offered in the District's traditional classroom setting, the District shall notify parents and students of the option to enroll in an electronic course offered through the TxVSN.

REQUESTS TO ENROLL Except as provided below, the District may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TxVSN.

The District may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;
2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the district providing the course; or
3. The District offers a substantially similar course.

The district providing the course shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TxVSN course, the District has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b).

APPEALS A parent may appeal to the Commissioner the District's decision to deny a request to enroll a student in an electronic course offered through the TxVSN. The Commissioner's decision under this subsection is final and may not be appealed.

Education Code 26.0031; 19 TAC 70.1035

STUDENTS WITH DISABILITIES For purposes of the policy, the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal (ARD) committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794. *Education Code 30A.007(b)*

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

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(LEGAL)

REQUIRED ENROLLMENT PROHIBITED	The District or open-enrollment charter school may not require a student to enroll in an electronic course. <i>Education Code 30A.107(d)</i>
INDUCEMENTS FOR ENROLLMENT PROHIBITED	A course provider may not promise or provide equipment or any other thing of value to a student or a student's parent as an inducement for the student to enroll in an electronic course offered through the TxVSN. The Commissioner shall revoke approval of electronic courses offered by a course provider that violates this prohibition. The Commissioner's action under this section is final and may not be appealed. <i>Education Code 30A.1052</i>
COURSE PORTABILITY	A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course. <i>Education Code 30A.1051; 19 TAC 70.1015(d)</i>
STUDENT ASSESSMENT	<p>All Texas public school students enrolled in the TxVSN are required to take the statewide assessments as required in Education Code 39.023 [see EKB]. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.</p> <p>The District shall report to the Commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the TxVSN separately from the results of assessment instruments administered to other students.</p> <p>All districts participating in the TxVSN OLS program are included in the state's academic accountability system.</p> <p><i>Education Code 30A.110; 19 TAC 70.1023</i></p>
FUNDING	<p>The district in which a student is enrolled is entitled to funding under Education Code Chapter 42 for the student's enrollment in a TxVSN course in the same manner that the district is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.</p> <p>Funding is limited to a student's enrollment in not more than three electronic courses during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.</p> <p><i>Education Code 30A.153</i></p> <p>The District may decline to pay the cost for a student of more than three yearlong electronic courses, or the equivalent, during any</p>

ALTERNATIVE METHODS FOR EARNING CREDIT
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school year unless the student is enrolled in a full-time online program that was operating on January 1, 2013. If the District declines to pay the cost, a student is able to enroll in additional electronic courses at the student's cost. *Education Code 26.0031(c-1)*

COURSE COST

The District may charge the course cost for enrollment in a TxVSN course to a student who resides in this state and:

1. Is enrolled in the District as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other school districts; or
2. Elects to enroll in a TxVSN course for which the District in which the student is enrolled as a full-time student declines to pay the cost as authorized by Education Code 26.0031(c-1).

The District may charge the course cost for enrollment in a TxVSN course during the summer.

The District shall charge the course cost for enrollment in a TxVSN course to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TxVSN course cost may not exceed the lesser of the cost of providing the course or \$400.

A district that is not the course provider may charge a student enrolled in the district a nominal fee, not to exceed \$50, if the student enrolls in a TxVSN course that exceeds the course load normally taken by students in the equivalent grade level.

A TxVSN statewide course catalog provider shall receive:

1. No more than 70 percent of the catalog course cost prior to a student successfully completing the course; and
2. The remaining 30 percent of the catalog course cost when the student successfully completes the course.

Education Code 30A.155(a)-(c-1); 19 TAC 70.1025

EDUCATORS OF
ELECTRONIC
COURSES

Each teacher of an electronic course, including a dual credit course, offered through the TxVSN by a course provider must be certified under Education Code Chapter 21, Subchapter B, to teach that course and grade level or meet the credentialing requirements of the institution of higher education with which they are affiliated and that is serving as a course provider.

In addition, each teacher must successfully complete one continuing professional development course specific to online learning every three years, and:

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1. Successfully complete a professional development course or program approved by TxVSN central operations before teaching an electronic course offered through the TxVSN; or
2. Have a graduate degree in online or distance learning and have demonstrated mastery of the International Association for K–12 Learning (iNACOL) National Standards for Quality Online Teaching; or
3. Have two or more years of documented experience teaching online courses for students in grades 3–12 and have demonstrated mastery of the iNACOL National Standards for Quality Online Teaching.

Each teacher of an electronic course, including a dual credit course, offered through the TxVSN by a course provider must meet highly qualified teacher requirements under the Elementary and Secondary Education Act, as applicable.

School districts and charter schools serving as TxVSN course providers shall affirm the preparedness of teachers of TxVSN electronic courses to teach public school-age students in a highly interactive online classroom and shall:

1. Maintain records documenting:
 - a. Successful initial completion of TxVSN-approved professional development, evidence of prior online teaching, or a graduate degree in online or distance learning; and
 - b. Teachers' demonstrated mastery of the iNACOL National Standards for Quality Online Teaching prior to teaching through the TxVSN;
2. Maintain records of successful completion of continuing professional development;
3. Maintain records documenting successful completion of TxVSN-approved professional development before the end of the school year for any teacher who is hired after the school year has begun; and
4. Make the records specified in this subsection available to TEA and TxVSN central operations upon request.

19 TAC 70.1027

REVOCATION

The Commissioner may revoke the right to participation in the TxVSN based on any of the following factors:

1. Noncompliance with relevant state or federal laws;

ALTERNATIVE METHODS FOR EARNING CREDIT
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2. Noncompliance with requirements and assurances outlined in the contractual agreements with TxVSN central operations and/or these provisions and Education Code Chapter 30A; or
3. Consistently poor student performance rates as evidenced by results on statewide student assessments, student withdrawal rates, student completion rates, successful completion rates, or campus accountability ratings.

19 TAC 70.1029

APPLICABILITY

Unless the District chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of the District or open-enrollment charter school, Chapter 30A does not affect the provision of a course to such a student.

Requirements imposed by or under Education Code Chapter 30A do not apply to a virtual course provided by the District only to District students if the course is not provided as part of the TxVSN.

Education Code 30A.004

ACADEMIC ACHIEVEMENT

EI
(LEGAL)

AWARD OF CREDIT	The award of credit for a course affirms that a student has satisfactorily met state and local requirements. <i>19 TAC 74.26(a)</i>
EARLY AWARD OF CREDIT	The District may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. <i>19 TAC 74.26(b)</i>
PARTIAL AWARD	In accordance with the District's local policy, a student who is able to successfully complete only one semester of a two-semester course can be awarded credit proportionately. <i>19 TAC 74.26(d)</i>
ATTENDANCE FOR CREDIT OR FINAL GRADE	Unless credit is awarded by the attendance committee, or regained in accordance with a principal's plan [see FEC], a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered. <i>Education Code 25.092</i>
GRADUATION REQUIREMENTS	Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. <i>19 TAC 74.26(a)(1), (c)</i>
ACADEMIC ACHIEVEMENT RECORD	<p>The District shall use the academic achievement record (transcript) form designated by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the District.</p> <p>Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned. A student's performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c) [see EKB], must be included in the student's academic achievement record.</p> <p>Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the district to which the student is transferring, or both. The District shall respond promptly to all requests for student records from receiving districts. [See also FD, FDA, and FL]</p> <p><i>Education Code 28.025(e), 39.023(c-5); 19 TAC 74.14(b)–(c)</i></p>

ACADEMIC ACHIEVEMENT

EI
(LEGAL)

EARLY HIGH SCHOOL
GRADUATION
SCHOLARSHIP
PROGRAM

For purposes of the Early High School Graduation Scholarship Program, a student who does not satisfy the curriculum requirements for a recommended or advanced high school program is considered to have satisfied those requirements if the high school from which the student graduated indicates on the student's transcript that the student was unable to complete the appropriate curriculum within the time prescribed solely because of a reason beyond the student's control, such as lack of enrollment capacity or a shortage of qualified teachers. *Education Code 56.203(d)*

TRANSCRIPT SEALS

Students who complete high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal.

CERTIFICATE OF
COURSEWORK
COMPLETION

A student who completes all graduation requirements except for required exit-level examinations may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student.

Education Code 28.025(d); 19 TAC 74.14(d)–(e)

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LEGAL)

GRADING POLICY The District shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. The District grading policy:

1. Must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;
2. May not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and
3. May allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

Education Code 28.0216

FINALITY OF GRADE An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District grading policy applicable to the grade, as determined by the Board.

A determination by the Board is not subject to appeal.

This subsection does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081.

Education Code 28.0214

STUDENT ELECTION
CLERKS A student who is appointed as a student election clerk under Election Code 32.0511, or as a student early voting clerk under Election Code 83.012, may apply the time served toward:

1. A requirement for a school project at the discretion of the teacher who assigned the project; or
2. A service requirement for participation in an advanced academic course program at the discretion of the program sponsor or a school-sponsored extracurricular activity at the discretion of the school sponsor.

Education Code 33.092

PROGRESS REPORTS The Board shall adopt a policy that:

1. Provides for a conference between parents and teachers;
2. Requires the District, at least once every 12 weeks, to give written notice to a parent of a student's performance in each class or subject; and

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LEGAL)

3. Requires the District, at least once every three weeks, or during the fourth week of each nine-week grading period, to give written notice to a parent if a student's performance in a foundation curriculum subject [see EHAA] is consistently unsatisfactory, as determined by the District.

The notice required by items 2 and 3 must provide for the signature of the student's parent and must be returned to the District.

"Parent" includes a guardian, conservator, or other person having lawful control of a student.

EXCEPTIONS

These requirements do not apply to a student who:

1. Is 18 or older and living in a different residence than the student's parents;
2. Is married; or
3. Has had the disabilities of minority removed for general purposes.

Education Code 28.022(a)

NOTICE OF
PERFORMANCE
RATING

The first written notice of a student's performance that the District gives during a school year under Education Code 28.022(a)(2) [see PROGRESS REPORTS, item 2, above] must include a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Education Code Chapter 39, Subchapter G or has been identified as an unacceptable campus under Education Code Chapter 39, Subchapter E and an explanation of the information's significance. [See AIB] *Education Code 39.361*

NOTICE OF STUDENT
PERFORMANCE

The District shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to the District under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code 39.023(a), (c), or (l), the District shall include in the notice specific information relating to access to educational resources at the appropriate assessment instrument content level, including assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

RELATION TO
ESSENTIAL
KNOWLEDGE AND
SKILLS

The District shall establish instructional objectives that relate to the essential knowledge and skills for grade-level subjects or courses. These objectives shall address the skills needed for successful performance in the next grade or next course in a sequence of courses.

Assignments, tests, projects, classroom activities, and other instructional activities shall be designed so that each student's performance indicates the level of mastery of the designated District objectives.

GUIDELINES FOR
GRADING

The Superintendent or designee shall ensure that each campus or instructional level develops guidelines for teachers to follow in determining grades for students. These guidelines shall ensure that grading reflects a student's relative mastery of an assignment and that a sufficient number of grades are taken to support the grade average assigned. Guidelines for grading shall be clearly communicated to students and parents.

The District shall permit a student who meets the criteria detailed in the grading guidelines a reasonable opportunity to redo an assignment or retake a test for which the student received a failing grade.

PROGRESS
REPORTING

The District shall issue grade reports/report cards every six weeks on a form approved by the Superintendent or designee. Performance shall be measured in accordance with this policy and the standards established in EIE.

INTERIM REPORTS

Interim progress reports may be issued at the teacher's discretion; however, notice of a student's consistent unsatisfactory performance shall be issued in accordance with law.

CONFERENCES

In addition to conferences scheduled on the campus calendar, conferences may be requested by a teacher or parent as needed.

ACADEMIC
DISHONESTY

A student found to have engaged in academic dishonesty shall be subject to grade penalties on assignments or tests and disciplinary penalties in accordance with the Student Code of Conduct. Academic dishonesty includes cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or another supervising professional employee, taking into consideration written materials, observation, or information from students.

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

AUTOMATIC
ADMISSION TO
INSTITUTION OF
HIGHER EDUCATION

Each general academic teaching institution [see Education Code 61.003(3)] shall admit an applicant for admission as an undergraduate student if the applicant:

1. Graduated:
 - a. With a grade point average in the top ten percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and submitted a complete application defined by the institution before the expiration of the institution's established deadline; or
 - b. In the top 25 percent of the student's high school class, to the extent the governing board of a general academic teaching institution has adopted such an admission policy;

[See CLASS RANK, below]

2. Graduated from a public high school in Texas accredited by a generally recognized accrediting organization;
3. Successfully completed the Recommended or Advanced/Distinguished Achievement High School Program as described in 19 Administrative Code 5.5(c), or satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent; and
4. Submitted an official high school transcript or diploma that, not later than the end of the student's junior year, indicates whether the student has satisfied the requirements outlined above regarding successful completion of the Recommended or Advanced/Distinguished Achievement High School Program.

Education Code 51.803(a); 19 TAC 5.5(b)

EXCEPTION

Beginning with admissions for the 2011–12 academic year, the University of Texas at Austin (UT) is not required to offer admission to applicants who qualify for automatic admission in excess of the number required to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year.

If the number of applicants who apply to UT for admission in the next academic year and who qualify for automatic admission exceeds 75 percent of UT's enrollment capacity, UT shall, not later

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

than September 15, provide to each district, for dissemination to high school juniors and their parents, notice of which percentile ranks of high school seniors who qualify for automatic admission are anticipated to be offered admission during the next school year.

Education Code 51.803(a-1)–(a-2)

CURRICULUM
REQUIREMENTS

An applicant who does not satisfy the curriculum requirements for the Recommended or Advanced/Distinguished Achievement High School Program is considered to have satisfied those requirements if the student completed the portion of the Recommended or Advanced curriculum that was available to the student but was unable to complete the remainder solely because the necessary courses were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control. A student's transcript or diploma must, not later than the student's junior year, indicate the student's progress toward satisfying the curriculum requirements [see EI]. *Education Code 51.803(b), (c)*

SIGNS TO BE
POSTED

The Board shall require each high school in the District to post appropriate signs in each school counselor's office, in each principal's office, and in each administrative building indicating the substance of the automatic admission provisions above. *Education Code 28.026*

DISSEMINATION

To assist in dissemination of information regarding the automatic admissions program, the District shall:

1. Require that each school counselor and class advisor at a high school be provided a detailed explanation of the substance of the program;
2. Provide each student, at the time the student first registers for one or more classes required for high school graduation, with a written notification, using the appropriate form adopted by the Commissioner, of the substance of the program;
3. Require that each school counselor and senior class advisor at a high school explain to eligible students the substance of the program;
4. Require that, at the beginning of grades 10 and 11, a certified counselor explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class [see EJ]; and

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

5. Not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system, provide each eligible senior student and each junior student who has a grade point average in the top ten percent of the student's high school class, and the student's parent or guardian, with a written notification, using the appropriate form adopted by the Commissioner, of the student's eligibility with a detailed explanation in plain language of the substance of the program. The District shall obtain written acknowledgment of receipt of the notification from each eligible student and the student's parent or guardian.

Education Code 28.026, 33.007(c); 19 TAC 61.1201

Note: The Notification of Eligibility for Automatic College Admission, intended to satisfy the requirement at item 5 above, is available at <http://www.tea.state.tx.us/index2.aspx?id=2147485632>.

CLASS RANK

High school rank for students seeking automatic admission to a general teaching institution on the basis of their class rank is determined and reported as follows:

1. Most recent available class rank, based on a point in time no earlier than the end of the 11th grade, shall be used for admission decision-making.
2. The top ten percent and top 25 percent of a high school class shall not contain more than ten percent and top 25 percent, respectively, of the total class size.
3. The student's rank shall be reported by the applicant's high school or District as a specific number out of a specific number total class size.
4. Class rank shall be determined by the Texas school or district from which the student graduated or is expected to graduate.

19 TAC 5.5(f)

CERTAIN
PROGRAMS

If the program meets the requirements of Education Code 51.8045, the Board may treat a high school magnet program, academy, or other special program conducted by the District at a high school attended by high school students who are not in the special program as an independent high school with its own graduating class for purposes of Education Code 51.803 and 51.804 only (top ten and top 25 percent rule). *Education Code 51.8045*

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

END-OF-COURSE
ASSESSMENTS

A student's performance on an end-of-course assessment instrument may not be used in determining the student's class ranking for any purpose, including entitlement to automatic college admission. *Education Code 39.0232(b)(1)*

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education [see STATE GRADUATION REQUIREMENTS, below] and has performed satisfactorily on state-required assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(a); 19 TAC 101.3022

POSTHUMOUS
DIPLOMA

Beginning with students enrolled in grade 12 during the 2005–06 school year, and on request of the student’s parent, the District shall issue a high school diploma posthumously to a student who died while enrolled in the District at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. “School year” includes any summer session following the spring semester.

EXCEPTION

The District is not required to issue a posthumous diploma if the student was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

Education Code 28.0254

DIPLOMAS FOR
VETERANS

Notwithstanding any other provision of this policy, the District may issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States; was scheduled to graduate from high school after 1940 and before 1975 or after 1989; and left school after completing the sixth or a higher grade, before graduating from high school, to serve in:

1. World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or
2. Any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973, 50 U.S.C. 1541, et seq.

Education Code 28.0251

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

DIPLOMA /
TRANSCRIPT /
CERTIFICATE OF
COURSEWORK
COMPLETION

Graduates of each high school are awarded the same type of diploma. The academic achievement record or transcript, rather than the diploma, records individual accomplishments, achievements, and courses completed and displays appropriate graduation seals. *19 TAC 74.51(a), .61(a)* [See EI for provisions regarding certificate of coursework completion]

SPECIAL
EDUCATION

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's admission, review, and dismissal (ARD) committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. *19 TAC 101.3023(a)*

PERSONAL
GRADUATION
PLAN (PGP)

A principal shall designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in a junior high, middle, or high school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level 9, as determined by the District.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

In addition, the District is encouraged to establish for each student entering grade 9 a PGP that identifies a course of study that:

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

1. Promotes college and workforce readiness;
2. Promotes career placement and advancement; and
3. Facilitates the student's transition from secondary to postsecondary education.

Education Code 28.0212

STUDENTS
RECEIVING
SPECIAL
EDUCATION
SERVICES

For a student receiving special education services, the student's ARD committee and the District are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

EARLY GRADUATION

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of the Board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), .003(b) [See FMH, FNG]*

STATE GRADUATION
REQUIREMENTS

All credit for graduation must be earned no later than grade 12. *19 TAC 74.51(b), .61(b), .71(b)*

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2004–05 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?ac_view=4&ti=19&pt=2&ch=74](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?ac_view=4&ti=19&pt=2&ch=74).

MINIMUM HIGH
SCHOOL PROGRAM

The District shall ensure that each student enrolls in the courses necessary to complete the Recommended or Advanced/Distinguished Achievement High School Program unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or

3. Has failed to be promoted to the tenth grade one or more times as determined by the District.

A student agreeing to take courses under the Minimum High School Program may, upon request, resume taking courses under the Recommended High School Program.

STUDENTS WITH DISABILITIES	If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.
NOTICE	Before a student's parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the Minimum High School Program, the District must provide the written notice developed by TEA to the parent or person standing in parental relation explaining the benefits of the Recommended High School Program.
APPLICABILITY	<p>A student who was permitted to take courses under the Minimum High School Program prior to the 2009–10 school year may remain in the Minimum High School Program.</p> <p><i>Education Code 28.025(b), (b-6), (b-8); 19 TAC 74.51(d), .52–.54, .61(c)–(e), .62–.64, .71(c), (d)</i></p>
REQUIREMENTS	<p>A student must earn at least 22 credits to complete the Minimum High School Program. A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.52. A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.62. A student who entered grade 9 in the 2012–13 school year or thereafter must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.72. 19 TAC 74.52, .62, .72</p>
RECOMMENDED HIGH SCHOOL PROGRAM	<p>A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must earn at least 24 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.53.</p> <p>A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.63.</p>

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

A student who entered grade 9 in the 2012–13 school year or thereafter must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.73.

Education Code 28.025; 19 TAC 74.53, .63, .73

ADVANCED /
DISTINGUISHED
ACHIEVEMENT
HIGH SCHOOL
PROGRAM

A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must earn at least 24 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.54.

A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.64.

A student who entered grade 9 in the 2012–13 school year or thereafter must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.74.

Education Code 28.025, 19 TAC 74.54, .64, .74

CURRICULUM MAY
NOT VARY

The District may not vary the curriculum for a course in the required curriculum based on whether a student is enrolled in the Minimum, Recognized, or Advanced/Distinguished Achievement High School Program. *Education Code 28.004(q)*

EXCEPTION

A student participating in the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program who is completing the fourth year of high school during the 2013–14 school year and who does not satisfy the curriculum requirements of the high school program in which the student is participating may graduate if the student satisfies the curriculum requirements established for the foundation high school program under Education Code 28.025 as amended by H.B. No. 5, 83rd Legislature, Regular Session, 2013, and any other requirement required for graduation. This provision expires September 1, 2015. *Education Code 28.025(h-2)*

SUBSTITUTIONS

No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. *19 TAC 74.53(d), .54(e), .63(d), .64(e), .73(d), .74(e)*

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

AP OR IB COURSES College Board Advanced Placement and International Baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. *19 TAC 74.51(h), .61(k), .71(i)*

READING The District may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the District:

1. Adopts policies to identify students in need of additional reading instruction;
2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

19 TAC 74.51(e), .61(e), .71(f)

COLLEGE COURSES A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an institution of higher education. *Education Code 28.002(b-7); 19 TAC 74.51(i), .61(l), .71(j)*

PHYSICAL EDUCATION SUBSTITUTIONS In accordance with local District policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

OTHER PHYSICAL ACTIVITY

1. Drill team;
2. Marching band; and
3. Cheerleading.

In accordance with local District policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. The District must apply to the Commissioner for approval of such programs,

which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:

- a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the Superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
- b. Private or commercially sponsored physical activities include those certified by the Superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

RESTRICTIONS All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

**STUDENT WITH
DISABILITY OR
ILLNESS**

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, or social studies for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the District, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee

must follow the same procedures required of an ARD or a Section 504 committee.

STUDENT WITH PHYSICAL LIMITATIONS	<p>If a student entering grade 9 during the 2007–08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A student with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.</p> <p><i>Education Code 28.025(b-10)–(b-11); 19 TAC 74.52(b)(7), .53(b)(7), .54(b)(7), .62(b)(7), .63(b)(7), .64(b)(7), .72(b)(6), .73(b)(6), .74(b)(6)</i></p>
TRANSFERS FROM OUT-OF-STATE OR NONPUBLIC SCHOOLS	<p>Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. 19 TAC 74.51(f), .61(f), .71(g) [See EHDB, EHDC, EHDE, and EI]</p>
PREREQUISITES	<p>A student may not be enrolled in a course that has a required prerequisite unless:</p> <ol style="list-style-type: none"><li data-bbox="561 1257 1328 1287">1. The student has completed the prerequisite course(s);<li data-bbox="561 1314 1403 1377">2. The student has demonstrated equivalent knowledge as determined by the District; or<li data-bbox="561 1404 1398 1535">3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course. <p>The District may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.</p> <p><i>19 TAC 74.71(k), (l)</i></p>
PRIOR COURSES	<p>High school courses successfully completed prior to grade 9 and the 2007–08 school year shall count toward graduation in the</p>

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

manner established in 19 Administrative Code Chapter 74 for credit in the year the course is successfully completed.

Science and physical education graduation requirements successfully completed prior to the 2010–11 school year shall count toward graduation in the manner established at the time the credit was earned.

Physical education graduation requirements successfully completed through a two- or three-credit career and technical education work-based training course prior to the 2011–12 school year shall count toward graduation.

19 TAC 74.61(f), (m)

GRADUATION OF
SPECIAL EDUCATION
STUDENTS

A student receiving special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

COMPLETION OF
GENERAL
EDUCATION
REQUIREMENTS

1. The student has satisfactorily completed the state's or District's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 and credit requirements applicable to students in general education for graduation under the Recommend or Advanced/Distinguished Achievement Programs, including satisfactory performance as established in Education Code Chapter 39, on the required state assessments.
2. The student has satisfactorily completed the state's or District's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 and credit requirements applicable to students in general education for graduation under the Minimum High School Program, including participation in state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation.

COMPLETION OF
IEP

3. The student has satisfactorily completed the state's or District's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 through courses, one or more of which contain modified content that is aligned to the standards required under the Minimum High School Program as well as the credit requirements under the Minimum High School Program, including participation in required state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation. The student must also successfully complete the student's IEP

and meet one of the following conditions, consistent with the IEP:

- a. Full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;
- b. Demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the District; or
- c. Access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program.

Employability and self-help skills are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.

The ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

AGING OUT

4. The student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

19 TAC 89.1070(b), (e)-(f)

EVALUATION

Special education students graduating under the above provisions shall be provided with a summary of academic achievement and functional performance as described at 34 C.F.R. 300.305(e)(3). The summary shall consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. If the student is graduating based on completion of his or her IEP, the evaluation under 34 C.F.R. 300.305(e) shall be included as part of the summary. Students who participate in graduation ceremonies but who are not graduating under 19 Administrative Code 89.1070(b)(3) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(c)-(d)*

GRADUATION OF
MILITARY
DEPENDENTS

COURSE WAIVER

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the District shall

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

provide an alternative means of acquiring required coursework so that graduation may occur on time.

TRANSFERS
DURING SENIOR
YEAR

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the District after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

SUBSTITUTE
PASSING
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ A, C [See FDD]

GRADUATION OF
STUDENT IN
CONSERVATORSHIP
OF DFPS

If an 11th or 12th grade student in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. *Education Code 28.025(i)*

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 District shall follow procedures for test security and confidentiality set forth in 19 Administrative Code Chapter 101, Subchapter C. [See EKB]

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 locally required assessments designed to prepare students for state assessments to any student on more than ten percent of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to ten percent or a lower percentage 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*

BENCHMARK
ASSESSMENT
INSTRUMENTS

"Benchmark assessment instrument" means a District-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

The District may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

TESTING PROGRAMS

EK
(LEGAL)

A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with Commissioner rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263

COLLEGE
PREPARATION
ASSESSMENTS

The following provisions apply only if the legislature appropriates funds for these purposes.

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 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

TESTING PROGRAMS

EK
(LEGAL)

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.

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 PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

STATE ASSESSMENT
OF ACADEMIC SKILLS

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see TESTING IN GRADES 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5*

A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course (EOC) assessment instruments [see END-OF-COURSE ASSESSMENTS, below]. *Education Code 39.025(a)*

LIMITED ENGLISH
PROFICIENT (LEP)
STUDENTS

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with Commissioner's rules at 19 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

SPECIAL
EDUCATION

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee, including assessment instruments approved by the Commissioner that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide the District with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Education Code 39.023(b)–(c), .025(a-4)

MILITARY
DEPENDENTS

If the student is a military dependent, the District shall accept:

1. Exit or EOC exams required for graduation from the sending state;

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a Commissioner's substitute passing standard shall apply.

SUBSTITUTE
PASSING
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ B–C [See FDD]

ADMINISTRATION

The District shall follow the test administration procedures established by TEA in the applicable test administration materials. The Superintendent shall be responsible for administering tests.
19 TAC 101.25, .27

SCHEDULE

The Commissioner shall specify the schedule for testing that is in compliance with Education Code 39.023(c-3)(1) and (2), and supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

ALTERNATE TEST
DATES

The Commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates will only be allowed if the campus or District is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect the District's or cam-

pus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause the District or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit the District or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the District, campus, and students.

19 TAC 101.5003

NOTICE TO PARENTS
AND STUDENTS

The Superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

GRADE
ADVANCEMENT
TESTING

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing.

Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the District, and no later than the beginning of the student's first-grade year for all other students. The Superintendent shall also provide such notice for students in grades 1–8 who are new to the District.

GRADUATION
TESTING

2. The testing requirements for graduation and the dates, times, and locations of testing.

Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The Superintendent shall also provide such notice for students in grades 7–12 who are new to the District. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

TESTING IN GRADES
3–8

Except as provided below, all students, other than students who are assessed under Education Code 39.023(b) (alternative assessment instrument) or 39.023(l) (LEP students) or exempted under Education Code 39.027, shall be assessed in:

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grade 8 with the aid of technology on any assessment instrument that includes algebra;
2. Reading, annually in grades 3 through 8;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. Social studies in grade 8;
5. Science in grades 5 and 8; and
6. Any other subject and grade required by federal law.

Education Code 39.023(a)

EXCEPTION

Except as required by federal law, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

Education Code 28.0211(p), 39.023(a-2); 19 TAC 101.3011

ACCOMMODATIONS

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by the Board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

A student's ARD committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP). [See SPECIAL EDUCATION, above]

19 TAC 101.3013; Education Code 39.023(a)–(c), (n); 34 C.F.R. 300.320(a)(6)

END-OF-COURSE
ASSESSMENTS

Beginning with students first enrolled in grade 9 in the 2011–12 school year, a student enrolled in a course for which an EOC assessment exists as required by Education 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*

STUDENTS
ENROLLED BELOW
HIGH SCHOOL
LEVEL

Beginning in the 2011–12 school year, a student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. *19 TAC 101.3021(d)*

STUDENTS
ENROLLED AT HIGH
SCHOOL LEVEL

A student must take an EOC assessment for courses in which the student is enrolled and for which an EOC assessment is available.

The standard in place when a student first takes a mathematics or English EOC assessment is the standard that will be maintained throughout the student's school career for the content areas.

EXCEPTIONS

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

The student shall be administered the applicable EOC assessment during an administration upon request.

19 TAC 101.3021(a), (e), .3022(a)(2)

SATISFACTORY
PERFORMANCE

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the Commissioner on each EOC assessment instrument listed under Education Code 39.023(c) that is administered to the student. *Education Code 39.025(a)*

SPECIAL
EDUCATION

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive

a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

Beginning with the 2011–12 school year, all grades 9–12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 Administrative Code 101.3011(b)(2).

A student who is receiving special education services and who is first enrolled in grade 9 or below in the 2011–12 school year shall be administered an alternative version of an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP.

If a student receiving special education services meets the participation requirements for an alternative form of an EOC assessment and is enrolled in a course for which there is an EOC assessment but no corresponding alternative version of that assessment, the student is not required to take an assessment for that course.

19 TAC 101.3023

ADDITIONAL STATE
ASSESSMENTS

TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student's performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments. *Education Code 39.023(c-2)*

RETAKES

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See SATISFACTORY PERFORMANCE, above]

A student is not required to retake a course as a condition of retaking an EOC assessment instrument.

Education Code 39.025(b)

REQUESTS TO TAKE
AN EOC
ASSESSMENT

If a student is not required to take an EOC assessment, he or she can request to be administered the EOC assessment for a course for which a student received credit. *19 TAC 101.3021(f)*

EXIT-LEVEL
ASSESSMENTS

Students who were first enrolled in grade 9 prior to the 2011–12 school year or enrolled in grade 10 or above in the 2011–12 school year must fulfill testing requirements for graduation with the assessments required by Education Code 39.023(c), as that section existed before amendment by Senate Bill 1031, 80th Texas

Legislature, 2007, and in accordance with Commissioner's rules at 19 Administrative Code 101.3024. *19 TAC 101.3024(a)*

ALTERNATIVE
EXIT-LEVEL
ASSESSMENTS

An eligible student who has met the passing standard on a state-approved alternative assessment instrument, as set forth at 19 Administrative Code 101.4001, in a particular area has satisfied the exit-level testing requirement in that subject area.

A student is eligible to substitute an alternative exit-level assessment for a TAKS exit-level assessment if the student, after January 1 of the year in which the student would otherwise be eligible to graduate:

1. Enrolls in a public school in Texas for the first time; or
2. Enrolls in a public school in Texas after an absence of at least four years from any public school in the state. A student meets this requirement if the student has not been enrolled for one or more days in a public school in Texas in the four years preceding the date on which the student enrolls.

VERIFICATION OF
ELIGIBILITY

An eligible student is responsible for providing the District an official copy of the student's scores from the alternative assessment.

The District shall be responsible for verifying a student's eligibility for the alternative exit-level assessment. Upon receipt of official results of an approved alternative exit-level assessment, the District must:

1. Verify the student's score on the alternative assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

Education Code 39.025(d); 19 TAC 101.4001, .4003, .4005

REPORTING RESULTS
TO THE PUBLIC

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

TO THE BOARD

The Superintendent shall accurately report all test results with appropriate interpretations to the Board according to the schedule in the applicable test administration materials.

TO PARENTS AND
STUDENTS

The District shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY, below. All test results shall be in-

cluded in each student's academic achievement record and shall be furnished for each student transferring to another district or school. [See BQ series, FD, and FL]

19 TAC 101.3014; No Child Left Behind Act, 20 U.S.C. 6311(h)(6)

TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. The District shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. The District may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

PARENTAL ACCESS

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, .006(a)(2)*

FURTHER
INSTRUCTION

The District shall provide each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. [See EHBC]

ACCELERATED
INSTRUCTION

COLLEGE
PREPARATORY
COURSE

If the District determines that a student, on completion of grade 11, is unlikely to achieve the score requirement for one or more EOC assessment instruments administered to the student as provided by Education Code 39.025(a) [see SATISFACTORY PERFORMANCE, above] for receiving a high school diploma, the District shall require the student to enroll in a corresponding content-area college preparatory course for which an EOC assessment instrument has been adopted, if available.

EOC PASSING
SCORES

A student who enrolls in a college preparatory course shall be administered an EOC assessment instrument for the course, with the instrument scored on a scale as determined by the Commissioner. A student may use the student's score on the EOC assessment instrument for the college preparatory course towards satisfying the score requirement.

Education Code 39.025(b-1)–(b-2)

COLLEGE
READINESS

The District shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the twelfth grade level whose performance on:
 - a. An EOC assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
 - b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.3062(c) indicates that the student is not ready to perform entry-level college coursework; and
2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through the institution of higher education with which the District partners.

FACULTY	Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the District partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.
NOTICE	The District shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.
CREDIT EARNED	A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).
DUAL CREDIT	A course may be offered for dual credit at the discretion of the institution of higher education with which the District partners.
INSTRUCTIONAL MATERIALS	The District, in consultation with the institution of higher education with which the District partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

To the extent applicable, the District shall draw from curricula and instructional materials developed under Education Code 28.008 in developing a course and related instructional materials. A course and the related instructional materials shall be made available to students not later than the 2014–15 school year. This section expires September 1, 2015.

Education Code 28.014

SECURITY

To ensure that each assessment instrument is reliable and valid and meets applicable federal requirements for measurement of student progress, the District must comply with all of the applicable requirements specified in the test administration materials, which include general testing program information, requirements for ensuring test security and confidentiality described in the annual Test Security Supplement, procedures for test administration, responsibilities of personnel involved in test administration, and procedures for materials control.

Test coordinators and administrators must receive all applicable training as required in the test administration materials and the District must maintain records related to the security of assessment instruments for a minimum of five years.

19 TAC 101.3031

CONFIDENTIALITY

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b)* [See FL and GBA]

PENALTIES

Violation of security or confidentiality of any test is prohibited. A person who engages in conduct prohibited by the Test Security Supplement may be subject to sanction of credentials.

Procedures for maintaining the security and confidentiality of state assessments are specified in the Test Security Supplement and in the appropriate test administration materials. Conduct that violates the security and confidentiality of a test is defined as any departure from the test administration procedures established in the Test Security Supplement and other test administration materials. Conduct of this nature may include the following acts and omissions:

1. Viewing a test before, during, or after an assessment unless specifically authorized to do so;
2. Duplicating secure examination materials;
3. Disclosing the contents of any portion of a secure test;

4. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
5. Changing or altering a response or answer of an examinee to a secure test item or prompt;
6. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
7. Encouraging or assisting an individual to engage in the conduct described in the items listed above; or
8. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in the items listed above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidentiality, as well as any person who fails to report such a violation is subject to the following penalties:

1. Placement of restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;
2. Issuance of an inscribed or non-inscribed reprimand;
3. Suspension of a Texas teacher certificate for a set term; or
4. Revocation or cancellation of a Texas teacher certificate without opportunity for reapplication either for a set term or permanently.

Release or disclosure of confidential test content could result in criminal prosecution under Education Code 39.0303, Government Code 552.352, and Penal Code 37.10. The State Board for Educator Certification may take any of the above actions based on satisfactory evidence that an educator has failed to cooperate with TEA in an investigation.

Any irregularities in test security or confidentiality may also result in the invalidation of student results.

The Superintendent and campus principal must develop procedures to ensure the security and confidentiality of the tests, and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of a test. Failure to report can subject the person responsible to the applicable penalties.

19 TAC 101.3031(b)(2), 249.15

MINIMIZE
DISRUPTIONS

In implementing the Commissioner's procedures for the administration of assessment instruments adopted or developed under Edu-

Education Code 39.023, including procedures designed to ensure the security of the assessment, the District shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*

Note: The terms English language learner and limited English proficient student are used interchangeably. *19 TAC 89.1203*

LANGUAGE
PROFICIENCY
ASSESSMENT
COMMITTEE (LPAC)

The language proficiency assessment committee (LPAC) [see EHBE] shall select the appropriate assessment option for English language learners, as defined by Education Code Chapter 29, Subchapter B, as a student of limited English proficiency (LEP), in accordance with 19 Administrative Code 101.1005. The LPAC assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA.

DOCUMENTATION

The LPAC shall document in the student's permanent record file:

1. The decisions and justifications related to English language proficiency assessments under 19 Administrative Code 101.1003;
2. The decisions and justifications related to selecting the appropriate assessment option under 19 Administrative Code 101.1005;
3. In conjunction with the admission, review, and dismissal (ARD) committee, the need for allowable testing accommodations under 19 Administrative Code 101.1003 and .1005;
4. The reason for a postponement under 19 Administrative Code 101.1023; and
5. The reason for a LEP exemption under 19 Administrative Code 101.1025.

19 TAC 101.1003(b), (c), .1005(a), (c), .1023, .1025(b)

DEFINITIONS

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. *Education Code 39.027(g)*

"Unschooled asylee or refugee" means a student who:

1. Initially enrolled in a school in the United States as:
 - a. An asylee as defined by 45 C.F.R. 400.41; or
 - b. A refugee as defined by 8 U.S.C. 1101;

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EKBA
(LEGAL)

2. Has a visa issued by the U.S. Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the U.S. Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and
3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the LPAC established under Education Code 29.063.

Education Code 39.027(a-1); 19 TAC 101.1005(c)

"Inadequate schooling outside the United States" is defined as little or no formal schooling outside the United States such that the asylee or refugee lacks basic literacy in his or her primary language upon enrollment in school in the United States. *19 TAC 101.1005(d)*

ENGLISH LANGUAGE
PROFICIENCY TESTS

In kindergarten through grade 12, an English language learner shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill state assessment requirements under Education Code Chapter 39, Subchapter B, [see EKB] and federal requirements. *19 TAC 101.1003(a)*

LIMITATIONS ON
EXEMPTIONS

FIRST YEAR AFTER
ENROLLMENT

A LEP student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of a LEP student. *Education Code 39.027(a)(1)*

SUBSEQUENT
YEARS

A LEP student granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or
2. An additional four years if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in

STATE ASSESSMENT
ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

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	<p>English to measure the student's academic progress in a valid, reliable manner.</p>
<p>MINIMUM DAYS FOR ENROLLMENT</p>	<p>Regardless of the date on which the student initially enrolled in a school in the United States, unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Education Code 39.027(a)(1), (2), or (3).</p> <p><i>Education Code 39.027(a)(1)–(2), (a-1), (a-2), (g)</i></p>
<p>TESTING IN GRADES 3–8</p>	<p>An English language learner shall participate in the grades 3–8 assessments and, except as provided below, shall be administered the general form of the English-version state assessment.</p>
<p>SPANISH-VERSION ASSESSMENT</p>	<p>A Spanish-speaking English language learner in grades 3–5 may be administered the state's Spanish-version assessment if an assessment in Spanish will provide the most appropriate measure of the student's academic progress.</p>
<p>LINGUISTICALLY ACCOMMODATED ASSESSMENTS</p>	<p>An English language learner in grade 3 or higher may be administered the linguistically accommodated English version of the state's mathematics, science, or social studies assessment if:</p> <ol style="list-style-type: none">1. A Spanish-version assessment does not exist or is not the most appropriate measure of the student's academic progress;2. The student has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above [see ENGLISH LANGUAGE PROFICIENCY TESTS]; and3. The student has been enrolled in U.S. schools for three school years or less or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less [see DEFINITIONS].
<p>EXEMPTION FOR ASYLEE OR REFUGEE</p>	<p>An unschooled asylee or refugee who meets the criteria at SPANISH-VERSION ASSESSMENT and LINGUISTICALLY ACCOMMODATED ASSESSMENTS above shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school.</p> <p><i>19 TAC 101.1005(b), (c)</i></p>

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ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

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(LEGAL)

REFUSAL OF SERVICES	An English language learner whose parent or guardian has declined bilingual education/ESL services is not eligible for special assessment, accommodation, or accountability provisions made available to English language learners on the basis of limited English proficiency. <i>19 TAC 101.1005(f)</i>
END-OF-COURSE ASSESSMENTS	<p>An English language learner shall participate in the end-of-course assessments as required by Education Code 39.023(c) and, except as provided below, shall be administered the general form of the English-version state assessment. <i>19 TAC 101.1005(b)</i></p> <p>An English language learner shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, except as provided below.</p>
ENGLISH I OR II	<p>If an English language learner enrolled in English I or II or English for Speakers of Other Languages I or II has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above [see ENGLISH LANGUAGE PROFICIENCY TESTS] and has been enrolled in U.S. schools for three school years or less, or qualifies as an unschooled asylee or refugee enrolled in U.S. schools [see DEFINITIONS] for five school years or less, then he or she shall not be required to:</p> <ol style="list-style-type: none">1. Use the assessment score as part of the cumulative score for graduation;2. Retake the assessment each time it is administered if the student passes the course but fails to achieve the established minimum score on the assessment; or3. Have the score on the assessment count for 15 percent of the student's final grade in the course. [See EKB] <p><i>19 TAC 101.1007(a), (b)</i></p>
EXIT-LEVEL ASSESSMENTS	Provisions related to exit-level assessments shall apply only to students first enrolled in grade 9 or higher prior to the 2011–12 school year, or first enrolled in grade 10 or higher in the 2011–12 school year. <i>19 TAC 101.1021</i>
POSTPONEMENT	English language learners are not eligible for an exemption from exit-level testing requirements for graduation on the basis of limited English proficiency. However, English language learners who are recent immigrants may be granted a postponement of the administration of the exit-level assessment during their first 12 months of enrollment in U.S. schools. A postponement is not permitted if a student would otherwise not be afforded the opportunity to take the

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exit-level assessments at least one time before the student's scheduled graduation date. The LPAC shall document the reason for the postponement in the student's permanent record file.

19 TAC 101.1023

LIMITED LEP
EXEMPTIONS

Certain English language learners who have had inadequate schooling outside the United States may be eligible for a LEP exemption from the assessment during a period not to exceed their first three school years of enrollment in U.S. schools. *19 TAC 101.1025(a)*

An English language learner who achieves a rating of advanced high on the state-administered English language proficiency assessment in reading during the student's first school year of enrollment in U.S. schools is not eligible for an exemption in the second or third school year of enrollment in U.S. schools. An English language learner who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in U.S. schools is not eligible for an exemption in the third school year of enrollment in U.S. schools. *Education Code 39.027(e); 19 TAC 101.1025(a)(1)*

During the first school year of enrollment in U.S. schools, the student may be granted a LEP exemption if the LPAC determines that the student has not had the schooling outside the United States necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed. *19 TAC 101.1025(a)(2)*

During the second and third school years of enrollment in U.S. schools, a student whose schooling outside the United States was inadequate may be granted a LEP exemption if the LPAC determines that the student lacks the academic language proficiency in English necessary for an assessment of academic skills in English to measure the student's academic progress in a valid, reliable manner. *19 TAC 101.1025(a)(3)*

FEDERAL
ACCOUNTABILITY
TESTING

Students exempted under these provisions shall be administered assessments in subjects and grades required by federal law and regulations in accordance with linguistically accommodated testing procedures delineated in the test administration materials. *19 TAC 101.1025(c)*

REFUSAL OF
SERVICES

An English language learner whose parent or guardian has declined bilingual/ESL services is not eligible for an exemption or an exit-level test postponement under 19 Administrative Code 101.1023. *19 TAC 101.1025(d)*

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ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

EKBA
(LEGAL)

NON-LEP STUDENTS School districts may administer the assessment of academic skills in Spanish to a student who is not identified as limited English proficient but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. *19 TAC 101.1005(g)*

SPECIAL EDUCATION
SELECTING
ASSESSMENTS For each English language learner who receives special education services, the student's ARD committee in conjunction with the student's LPAC shall select the appropriate assessments.

The ARD committee shall document the decisions and justifications in the student's individualized education program (IEP).

19 TAC 101.1005(a)

ENGLISH
LANGUAGE
PROFICIENCY
TESTS In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an English language learner who receives special education services to participate in an English language proficiency assessment required above [see ENGLISH LANGUAGE PROFICIENCY TESTS] for reasons associated with the student's particular disability. The ARD committee shall document the decisions and justifications in the student's IEP, and the LPAC shall document the decisions and justifications in the student's permanent record file. *19 TAC 101.1003(b)*

In the case of an English language learner who receives special education services, the ARD committee in conjunction with the LPAC shall determine and document the need for allowable testing accommodations in accordance with administrative procedures established by TEA. *19 TAC 101.1003(c)*

ALTERNATIVE
ASSESSMENT
INSTRUMENTS In certain cases, an English language learner who receives special education services may, as a result of his or her particular disabling condition, qualify to be administered an alternative assessment instrument based on alternative achievement standards. *19 TAC 101.1005(b)*

An unschooled asylee or refugee who meets this criteria shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school. *19 TAC 101.1005(c)*

TESTING
ACCOMMODATIONS The LPAC in conjunction with the ARD committee shall determine and document any allowable testing accommodations for assessments in accordance with administrative procedures established by TEA. *19 TAC 101.1005(e)*

STATE ASSESSMENT
ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

EKBA
(LEGAL)

GRADE
ADVANCEMENT
REQUIREMENTS

The LPAC shall determine appropriate assessment and accelerated instruction for an English language learner who is administered a grade advancement test in English or Spanish, except as provided by 19 Administrative Code 101.1005. The grade placement committee for an English language learner shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)* [See EIE]

TESTING PROGRAMS
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.

For use in diagnosing the reading development and comprehension of kindergarten students, the Commissioner shall include on the Commissioner's list at least two multidimensional assessment tools. A multidimensional assessment tool on the Commissioner's list must either include a reading instrument and test at least three developmental skills, including literacy, or test at least two developmental skills, other than literacy, and be administered in conjunction with a separate reading instrument that is on the Commissioner's list. A multidimensional assessment tool is considered to be a reading instrument.

The District-level committee may adopt a list of reading instruments in addition to the reading instruments on the Commissioner's list. Each reading instrument adopted by 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.

KINDERGARTEN-
SECOND GRADE

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.

SEVENTH GRADE

The District shall administer a diagnostic reading instrument during the first six weeks of the school year to each student in grade 7 whose performance on the grade 6 state reading assessment did not meet the passing standard. If a student was administered the modified state assessment in reading, the ARD committee may determine if the diagnostic assessment is appropriate for use with that student.

A student in grade 7 who does not have a score for the state reading assessment in grade 6 may be given an equivalent comprehension assessment. If that student does not meet the passing standard, the student must be administered the diagnostic reading assessment.

The District must use the Texas Middle School Fluency Assessment and/or an alternate diagnostic reading instrument. The District must submit an alternate diagnostic reading instrument to TEA for approval. An alternate diagnostic instrument must:

TESTING PROGRAMS
READING ASSESSMENT

EKC
(LEGAL)

1. Be based on published scientific research in reading;
2. Be age and grade-level appropriate, valid, and reliable;
3. Identify specific skill difficulties in word analysis, fluency, and comprehension; and
4. Assist the teacher in making individualized instructional decisions based on the assessment results.

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. 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 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; 19 TAC 101.6001

CHARTER CAMPUS OR PROGRAM

EL
(LEGAL)

DEFINITION	For the purpose of this policy, “parent” is the person who is indicated on the student registration form at the campus. The signature of only one parent of a student is required for a charter created by petition or a cooperative program charter. <i>Education Code 12.051(1), .052(b), .053(b)</i>
POLICY	<p>The District shall adopt a campus charter and program charter policy, which shall specify the:</p> <ol style="list-style-type: none">1. Process for approval of a campus charter or program charter;2. Statutory requirements with which a campus charter or program charter must comply; and3. Items that must be included in a charter application. <p><i>Education Code 12.058</i></p>
CREATION BY PETITION	<p>The Board shall grant or deny, through a public vote, a charter to parents and teachers for a campus or a program on a campus if the Board is presented with a petition signed by:</p> <ol style="list-style-type: none">1. The parents of a majority of the students at that campus; and2. A majority of the classroom teachers at that campus. <p>The Board may not arbitrarily deny a charter.</p> <p><i>Education Code 12.052</i></p>
CREATION WITHOUT PETITION	<p>The Board may grant a charter for:</p> <ol style="list-style-type: none">1. A new District campus; or2. A program that is operated:<ol style="list-style-type: none">a. By an entity that has entered into a contract with the District under Education Code 11.157 [see EEL] to provide educational services to the District through the campus or program; andb. At a facility located in the boundaries of the District.
ENROLLMENT	The District may not assign a student to the charter campus or program unless the student’s parent or guardian has voluntarily enrolled the student.
REMOVAL	A student’s parent or guardian may, at any time, remove the student from the campus or program and enroll the student at the campus to which the student would ordinarily be assigned.
TEACHER ASSIGNMENT	<p>The District may not assign to the campus or program a teacher who has signed a written statement that the teacher does not agree to that assignment.</p> <p><i>Education Code 12.0521</i></p>

CHARTER CAMPUS OR PROGRAM

EL
(LEGAL)

COOPERATIVE
CHARTER PROGRAM

The Board may grant a charter to parents and teachers at two or more campuses in the District for a cooperative charter program if the Board is presented with a petition signed by:

1. The parents of a majority of the students at each school; and
2. A majority of the classroom teachers at each school.

Education Code 12.053

STUDENT ELIGIBILITY

Eligibility criteria for admission of students to the charter campus or program must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials, in general or in a specific area, as necessary for the type of program offered.

The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Education Code 12.065

EXEMPTION

A campus or program for which a charter is granted is exempt from the instructional and academic rules and policies of the Board from which the campus or program is specifically exempted in the charter and retains the authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter. *Education Code 12.054*

CHARTER CONTRACT

A charter shall be in the form and substance of a written contract signed by the Board President and the chief operating officer of the campus or program for which the charter is granted. *Education Code 12.060*

Each charter shall:

1. Satisfy the requirements governing charter campuses and programs;
2. Include all information required to be in the content of the charter consistent with the information provided in the application and any modification the Board requires.

Education Code 12.061

CONTENT OF
CHARTER

Each charter granted must:

1. Describe the educational program to be offered, which may be a general or specialized program;

CHARTER CAMPUS OR PROGRAM

EL
(LEGAL)

2. Provide that continuation of the charter is contingent on satisfactory student performance on state-required assessment instruments, satisfactory financial performance under state financial accountability provisions, and on compliance with other applicable accountability provisions;
3. Specify any basis, in addition to a basis specified in Education Code Chapter 12, Subchapter C, on which the charter may be revoked;
4. Prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;
5. Describe the governing structure of the campus or program;
6. Specify any procedure or requirement, in addition to those under Education Code Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees;
7. Describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the District in which it is located to participate in PEIMS.

Education Code 12.059

REVISION

A charter created by petition or a cooperative charter program may be revised with Board approval and on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

A charter created without a petition may be revised with the approval of the board of trustees that granted the charter. The charter may be revised only before the first day of instruction or after the final day of instruction of a school year.

Education Code 12.062

APPLICABILITY OF
LAWS

A charter campus or program is subject to federal and state laws and rules governing public schools, except that the charter campus or program is subject to the Education Code and rules adopted thereunder only to the extent that the code or rule specifically provides. *Education Code 12.055(a)*

EDUCATION CODE

A charter campus or program has the powers granted to schools under the Education Code.

A charter campus or program is subject to:

1. Provisions of the Education Code establishing criminal offenses;
2. Prohibitions, restrictions, or requirements of the Education Code, or a rule adopted under the Education Code, relating to:
 - a. PEIMS, to the extent necessary to monitor compliance, as determined by the commissioner;
 - b. Criminal history records under Subchapter C, Chapter 22;
 - c. High school graduation under Section 28.025;
 - d. Special education programs under Subchapter A, Chapter 29;
 - e. Bilingual education under Subchapter B, Chapter 29;
 - f. Prekindergarten programs under Subchapter E, Chapter 29;
 - g. Extracurricular activities under Section 33.081 (i.e., “no pass-no play”);
 - h. Health and safety under Chapter 38 (including immunizations, dyslexia and related disorders, child abuse reporting, protective eye devices, tobacco and alcohol use, steroid use, access to medical records, and referrals to outside counselors); and
 - i. Public school accountability under Subchapter B, C, D, E, F, and J, Chapter 39.

Education Code 12.056

OPEN MEETINGS
AND PUBLIC
INFORMATION ACTS

With respect to the operation of a campus or program charter, the governing body of the charter campus or program is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.057(a)*

TEACHER
RETIREMENT
SYSTEM

The District may contract with another district or an open-enrollment charter holder for services at a campus charter. An employee of the District or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder. *Education Code 12.055(b)*

CHARTER CAMPUS OR PROGRAM

EL
(LEGAL)

An employee of an independent school district who is employed on a charter campus or program who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

An employee of a charter holder who is employed on a campus or in a program granted a charter and who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

Education Code 12.057(b), (b-1)

LIABILITY

The charter campus or program, and its employees and volunteers, are immune from liability to the same extent as the District, its employees, and volunteers, respectively. *Education Code 12.057(c)*

PLACEMENT ON
PROBATION OR
REVOCAION

The Board may place on probation or revoke a charter it grants if the Board determines that the campus or program:

1. Committed a material violation of the charter;
2. Failed to satisfy generally accepted accounting standards of fiscal management;
3. Failed to comply with law governing a charter campus or program, another law, or a state agency rule.

The action the Board takes under any item above shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

Education Code 12.063

PROCEDURE

Each board that grants a charter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

This procedure must provide an opportunity for a hearing to the campus or program for which the charter is granted and to parents and guardians of students at the campus or in the program. A hearing must be held on the campus or on one of the campuses in the case of a cooperative charter program.

Education Code 12.064

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
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FD	ADMISSIONS
FDA	Interdistrict Transfers
FDAA	Public Education Grants
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FE	ATTENDANCE
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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
FFFB	Safety Patrols
FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect
FFH	Freedom from Discrimination, Harassment, and Retaliation
FFI	Freedom from Bullying
FG	STUDENT AWARDS AND SCHOLARSHIPS

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

FH	STUDENT VOLUNTEERS
FJ	GIFTS AND SOLICITATIONS
FL	STUDENT RECORDS
FLA	Confidentiality of Student Health Information
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FNB	Involvement in Decision Making
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FNCD	Tobacco Use and Possession
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FNCF	Alcohol and Drug Use
FNCG	Weapons
FNCH	Assaults
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FND	Married Students
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FNF	Interrogations and Searches
FNG	Student and Parent Complaints/Grievances
FO	STUDENT DISCIPLINE
FOA	Removal by Teacher or Bus Driver
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.
- 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 as, a regular sleeping accommodation for human beings.

Education Code 25.001(b); 20 U.S.C. 6399; 42 U.S.C. 11434a

ADMISSIONS

FD
(LEGAL)

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 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)*

ADMISSIONS

FD
(LEGAL)

IMMIGRATION STATUS Denying enrollment based upon immigration status 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)*

AUTHORIZATION AGREEMENT A parent, as defined in Family Code 101.024, or both parents of a child may enter into an authorization agreement with the child's grandparent, adult sibling, or adult aunt or uncle to authorize the relative to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the District; and
3. Authorizing the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

A parent may also enter into an authorization agreement with a relative or other person with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) to allow the person to perform the acts described above with regard to the child during an investigation of abuse or neglect or while the department is providing services to the parent.

The authorization agreement must conform to the requirements of Family Code Chapter 34.

Only one authorization agreement may be in effect for a child at any time. Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect.

ADMISSIONS

FD
(LEGAL)

IMMUNITY

A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34.

Family Code 34.001–.009

Note: The Authorization Agreement for Nonparent Relative is available at <http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2638.pdf>.

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 a primary or secondary public school who is placed in the conservatorship of the Department of Family and Protective Services and at a residence outside the attendance area for a school or outside the District is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. *Education Code 25.001(g)*

The appropriate state agency shall coordinate with the District to ensure that the case plan for a student placed in foster care contains a plan for ensuring the educational stability of the child while in foster care, including ensuring that the child remains in the school in which the child is enrolled at the time of each placement, or if remaining in that school is not in the best interests of the child, providing immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school. *42 U.S.C. 675(1)(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*

ADMISSIONS

FD
(LEGAL)

STUDENTS HOLDING
F1 STUDENT VISAS

If a student is required, as a condition of obtaining or holding the appropriate United States student visa, to pay tuition to the District to cover the cost of the student's education provided by the District, the District shall accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student's education for the period of the student's attendance at school in the District.

The Commissioner shall develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education. The District may not accept tuition in an amount greater than the amount computed under the Commissioner's guidelines unless the Commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the District.

The attendance of a student for whom the District accepts tuition is not counted for purposes of allocating state funds to the District.

Education Code 25.0031

Note: Enrolling students with F-1 visas is optional. If the District is interested in enrolling students with F-1 visas, it must comply with the federal Student and Exchange Visitor Program (SEVP) under the Department of Homeland Security. Detailed information regarding SEVP can be found at <http://www.ice.gov/sevis/>.

TEXAS JUVENILE
JUSTICE
DEPARTMENT

A school-age child of an employee of the Texas Juvenile Justice Department (TJJD) 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 TJJD facility. *Education Code 25.042*

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:

ADMISSIONS

FD
(LEGAL)

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

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)

The District must furnish information under items 1 and 2 not later than the tenth working day after the date the District receives a request for the information.

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 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)

SUMMER SCHOOL
ENROLLMENT

The District shall permit a person who is eligible under Education Code 25.001 [see GENERAL ELIGIBILITY] to attend school in the District but who is not enrolled in school in the District to enroll in a District summer school course on the same basis as a District student, including satisfaction of any course eligibility requirement and payment of any fee authorized under Education Code 11.158 [see FP] that is charged in connection with the course.

This requirement does not apply to enrollment in a Summer Intensive Mathematics Instruction Program under Education Code 29.088, a Summer Intensive Science Instruction Program under Education Code 29.090, or an Intensive Summer Program under Education Code 29.098 or in a similar intensive program.

Education Code 25.008

ADMISSIONS

FD
(LEGAL)

FOOD ALLERGY
INFORMATION

On enrollment, the District shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the District to enable the District to take any necessary precautions regarding the child's safety [see FB and FFAF]; and specify the food to which the child is allergic and the nature of the allergic reaction.

The District shall maintain the confidentiality of the provided information, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with District policy under Education Code 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. [See FL]

"Severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Education Code 25.0022(a)-(c)

CHILD IN DFPS
POSSESSION

The District shall enroll a child without the required documentation if the DFPS has taken possession of the child. DFPS 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

ADMISSIONS

FD
(LEGAL)

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)*

ADMISSIONS

FD
(LEGAL)

The District shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in TJJD educational programs.
Education Code 30.104

The 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 37.011(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)*

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:
 - a. Is at least five years of age and under 21 years of age, and has not graduated from high school;
 - b. 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; or
 - c. Is at least 19 years of age and under 26 years of age and is enrolled in an adult high school diploma and industry certification charter school pilot program under Education Code 29.259.
2. The person is enrolled in prekindergarten under Education Code 29.153 [see EHBG].
3. 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.
4. 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

ADMISSIONS

FD
(LEGAL)

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]

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 18th 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 18th 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.

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]
 - 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

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

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;
- c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or
- d. Is homeless as defined by 42 U.S.C. 11302.

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

- | | | |
|---|----|--|
| HIGH SCHOOL REPLACEMENT PROGRAMS | 7. | The student is enrolled in the Texas Academy of Leadership in the Humanities, Texas Academy of Mathematics and Science, or Texas Academy of International Studies. |
| 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">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; orb. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801. |
| OTHER EXEMPTION | 9. | The student is specifically exempted under another law.
<i>Education Code 25.086</i> |
| EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS | | The District shall excuse a student from attending school for the following purposes: |
| RELIGIOUS HOLY DAYS | 1. | Observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site. |
| COURT APPEARANCES | 2. | Attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site. |
| CITIZENSHIP PROCEEDINGS | 3. | Appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site. |
| | 4. | Taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site. |

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

ELECTION CLERKS 5. Serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See EARLY VOTING CLERKS, below]

CHILDREN IN CONSERVATORSHIP OF DFPS 6. For a child in the conservatorship of the Department of Family and Protective Services (DFPS), attending a mental health or therapy appointment or family visitation as ordered by a court under Family Code Chapter 262 or 263.

7. If the student is in the conservatorship of DFPS, participating in an activity ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours.

HEALTH-CARE APPOINTMENTS 8. Temporary absence resulting from an appointment with a health-care professional for the student or the student's child if the student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Education Code 25.087(b), (b-3); 19 TAC 129.21(k) [See FEB]

HIGHER EDUCATION VISITS The District may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The District may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
2. The District adopts:
 - a. A policy to determine when an absence will be excused for this purpose; and
 - b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2); 19 TAC 129.21(k)(9)

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

EARLY VOTING CLERKS	The District may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. The District may excuse a student for serving as an election clerk [see ELECTION CLERKS, above] or early voting clerk for a maximum of two days in a school year. <i>Education Code 25.087(b-1), (d)</i>
MILITARY DEPENDENTS	The District shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. The District may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment. <i>Education Code 25.087(b-4)</i> [See FDD]
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. <i>Education Code 25.087(c)</i>
MAKE-UP WORK	The student shall be allowed a reasonable time to make up school work missed on the days described above. 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. <i>Education Code 25.087(d)</i>
OTHER 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(a)</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>
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.

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

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,
 - 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

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued,
2. The parent with criminal negligence fails to require the child to attend school as required by law, and
3. 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 the parent 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.

Education Code 25.093

STUDENT LIABILITY

A student who is 12 years of age or older and younger than 18 years of age, who is required to attend school under the compulsory attendance laws, and who 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:

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FEA
(LEGAL)

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 1.75 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. “Child” means a person who is ten years of age or older, who is alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age, and who is required to attend school under Education Code 25.085. *Family Code 51.03(b)(2), (e-1)*

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 ten school days of the student’s tenth 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 under 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

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

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

FILING
REQUIREMENTS

Each referral to juvenile court for conduct described by Family Code 51.03(b)(2) or complaint filed in county, justice, or municipal court alleging a violation by a student of Education Code 25.094 must:

1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures [see FED] to the student, and the measures failed to meaningfully address the student's school attendance; and
2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.

A court shall dismiss a complaint or referral by a district that does not comply with these requirements.

Education Code 25.0915(b), (c)

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 18th birthday shall be required to attend school until the end of the school year.

HIGHER EDUCATION
VISITS

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education. A student shall be required to submit verification of such visits in accordance with administrative regulations.

EARLY VOTING OR
ELECTION CLERK

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk. A student shall be required to submit verification of service in accordance with administrative regulations.

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.

RECORDS

The District shall maintain records to reflect the average daily attendance (ADA), as required by the Commissioner. The Superintendent, principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. *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, properly stored on the respective school campuses of the District, or at another secure location. Regardless of where such records are filed or stored, they must be readily available for audit by TEA. *19 TAC 129.21(b)*

MINIMUM
ENROLLMENT

A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.

FULL-DAY
STUDENTS

Students enrolled on a full-day basis may earn one full day of attendance each school day.

HALF-DAY
STUDENTS

Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present.

ALTERNATIVE
ATTENDANCE
ACCOUNTING
PROGRAM

Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program.

ATTENDANCE FOR
STATE FUNDING
PURPOSES

Attendance for all grades shall be determined by the absences recorded in the second or fifth instructional hour of the day, unless the Board adopts a policy, or delegates to the Superintendent the authority to establish procedures for recording absences in an alternate hour, or unless the students for which attendance is being taken are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

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, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

19 TAC 129.21(g)-(h)

A student in a disciplinary alternative education program shall be counted in computing the average daily attendance of students in the District for the student's time in actual attendance in the program. *Education Code 37.008(f)*

EXCEPTIONS

A student not actually on campus when attendance is taken may be considered in attendance for Foundation School Program purposes if:

BOARD-
APPROVED
ACTIVITIES

1. The student is participating in a Board-approved activity under the direction of a member of the District's professional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in TRS. [See FM]

MENTORSHIPS

2. The student is participating in a mentorship approved by District personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program outlined in 19 Administrative Code Chapter 74.

RELIGIOUS HOLY
DAYS

3. The student is observing religious holy days, including days of travel to or from a site where the student will observe holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site. [See FEA]

COURT
APPEARANCE

4. The student is attending a required court appearance, including travel for that purpose. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site. [See FEA]

CITIZENSHIP
PROCEEDINGS

5. The student is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site

- where the student will complete the paperwork and up to one day of excused travel for traveling from that site. [See FEA]
6. The student is taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site. [See FEA]
- ELECTION CLERKS 7. The student is serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See FEA]
- EARLY VOTING CLERKS 8. The student is serving as a student early voting clerk in an election. The District may excuse a student for serving as an early voting clerk for a maximum of two days in a school year. [See FEA]
- CHILDREN IN CONSERVATORSHIP OF DFPS 9. The child is in the conservatorship of the Department of Family and Protective Services (DFPS), and is attending a mental health or therapy appointment or family visitation as ordered by a court under Family Code Chapter 262 or 263. [See FEA]
10. The student is in the conservatorship of DFPS, and is participating in an activity ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours. [See FEA]
- HEALTH-CARE APPOINTMENTS 11. The student is temporarily absent as a result of a documented appointment with a health-care professional for the student or the student's child during regular school hours, if the student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy. [See FEA]
- HIGHER EDUCATION VISITS 12. The student is visiting an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

- a. The District may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
 - b. The District adopts:
 - (1) A policy to determine when an absence will be excused for this purpose; and
 - (2) A procedure to verify the student's visit at the institution of higher education. [See FEA]
- DROPOUT RECOVERY EDUCATION PROGRAM
13. The student is in attendance at a dropout recovery education program, including a program operated by a public junior college under Education Code 29.402. [See GNC]
- TAPS AT MILITARY FUNERAL
14. The student is sounding "Taps" at a military honors funeral held in this state for a deceased veteran, provided that the student is enrolled in grade 6 or higher.
- OFF-CAMPUS INSTRUCTION
15. The student's absence is permitted by other conditions related to off-campus instruction described in the *Student Attendance Accounting Handbook*.
- MILITARY DEPENDENTS
16. The student's parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. The District may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment.

Education Code 25.087, 29.081(e); 19 TAC 129.21

DISASTERS

The Commissioner shall adjust the average daily attendance of the District all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the District experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The Commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

Education Code 42.0051

ATTENDANCE
ATTENDANCE ACCOUNTING

FEB
(LEGAL)

PARENTAL CONSENT
TO LEAVE CAMPUS

Before the District 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 Board shall adopt a policy, or delegate to the Superintendent the authority to establish procedures, addressing parental consent for a student to leave campus and the District must distribute the policy or procedures to staff and to all parents of students in the District. *19 TAC 129.21(l)*

ATTENDANCE
ATTENDANCE FOR CREDIT

FEC
(LEGAL)

90 PERCENT RULE	Except as provided below, a student in any grade level from kindergarten through grade 12 shall not be given credit or a final grade 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 FEA] and does not apply to a student who receives credit by examination for a class as provided by Education Code 28.023 [See EHDC]
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 or a final grade 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 or a final grade without the consent of the judge presiding over the student's case.
EXTENUATING CIRCUMSTANCES	<p>An attendance committee (see below) may give class credit or a final grade 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 or a final grade by students who have not met the 90 percent rule and have not earned class credit or a final grade by completing a principal's plan. Classroom teachers shall comprise a majority of the attendance committee.
APPEAL	If the committee denies a student credit or a final grade, 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
OR AWARDED A
FINAL GRADE

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 or a final grade 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 or a final grade by submitting a written petition to the appropriate attendance committee.

Petitions for credit or a final grade 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 or a final grade. 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 or have not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

PERSONAL ILLNESS

When a student's absence for personal illness exceeds five consecutive days, the principal or attendance committee may require that the student present a statement from a physician or health clinic verifying the illness or condition that caused the student's extended absence from school as a condition of classifying the absence as one for which there are extenuating circumstances.

If a student has established a questionable pattern of absences, the principal or attendance committee may require that a student present a physician's or clinic's statement of illness after a single

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ATTENDANCE FOR CREDIT

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(LOCAL)

day's absence as a condition of classifying the absence as one for which there are extenuating circumstances.

GUIDELINES ON
EXTENUATING
CIRCUMSTANCES

The attendance committee shall adhere to the following guidelines to determine attendance for award of credit or a final grade:

DAYS OF
ATTENDANCE

1. All absences shall be considered in determining whether a student has attended the required percentage of days. If makeup work is completed satisfactorily, excused absences that are allowed under compulsory attendance requirements shall be considered days of attendance for this purpose. [See FEA(LLEGAL) at EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS]

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. The Superintendent or designee shall develop administrative regulations addressing the committee's documentation of the decision.

DOCUMENTATION

4. The committee shall consider the acceptability and authenticity of documented reasons for the student's absences.

CONSIDERATION OF
CONTROL

5. The committee shall consider whether the absences were for reasons out of the student's or parent's control.

STUDENT'S
ACADEMIC RECORD

6. 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

7. 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 or be awarded a final grade.

IMPOSING
CONDITIONS FOR
AWARDING CREDIT
OR A FINAL GRADE

The committee may impose any of the following conditions for students with excessive absences to regain credit or be awarded a final grade:

1. Completing additional assignments, as specified by the committee or teacher.
2. Attending tutorial sessions as scheduled, which may include Saturday classes or before- and after-school programs.

ATTENDANCE
ATTENDANCE FOR CREDIT

FEC
(LOCAL)

3. Maintaining the attendance standards for the rest of the semester.
4. Taking an examination to earn credit. [See EHDB]
5. Attending a flexible school day program.
6. Attending summer school.

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.

ATTENDANCE
ATTENDANCE ENFORCEMENT

FED
(LEGAL)

ATTENDANCE
OFFICER

The Board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. *Education Code 25.088*

In districts where no attendance officer has been selected, the Superintendent and the peace officers in the District shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090* [See PEACE OFFICERS, below]

POWERS AND
DUTIES

An attendance officer employed by the District who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;
2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:
 - a. Referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); and
 - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the officer;
4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner, to provide a record to the individual or entity requesting the record;
5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence;

ATTENDANCE
ATTENDANCE ENFORCEMENT

FED
(LEGAL)

6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements; and
7. If the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

Education Code 25.091(b)

PEACE OFFICERS

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;
2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:
 - a. Referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); or
 - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To serve court-ordered legal process;
4. To review school attendance records for compliance by each student investigated by the officer;
5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner, to provide a record to the individual or entity requesting the record;
6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the

ATTENDANCE
ATTENDANCE ENFORCEMENT

FED
(LEGAL)

residence except to lawfully serve court-ordered legal process on the parent; and

7. To take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

A peace officer who has probable cause to believe that a child is in violation of the compulsory attendance law may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory attendance requirements.

Education Code 25.091(a), (b-1)

TRUANCY
PREVENTION
MEASURES

The District shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting, minimize the need for referrals to juvenile court for conduct described by Family Code 51.03(b)(2), and minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Education Code 25.094. *Education Code 25.0915(a)*

JUVENILE CASE
MANAGER

On approval of the Board, the District may employ or agree in accordance with Government Code Chapter 791 to jointly employ:

1. A case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or
2. One or more juvenile case managers who shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases, and may provide prevention services to a child considered at risk of entering the juvenile justice system, and intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses.

FUNDING

The District may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. Pursuant to Code of Criminal Procedure 102.0174, the District may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.

RULES

The board of a district that employs a juvenile case manager shall adopt and implement reasonable rules for juvenile case managers that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and training in:

1. The role of the juvenile case manager;
2. Case planning and management;
3. Applicable procedural and substantive law;
4. Courtroom proceedings and presentation;
5. Services to at-risk youth under Family Code Chapter 264, Subchapter D;
6. Local programs and services for juveniles and methods by which juveniles may access those programs and services; and
7. Detecting and preventing abuse, exploitation, and neglect of juveniles.

Code of Criminal Procedure 45.056

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

IMMUNIZATION
REQUIREMENTS

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).

TDSHS requires students in seventh through twelfth grade to have the meningococcal vaccine, according to the immunization schedules set forth in department regulations.

25 TAC 97.63(2)(B)

Note: For immunization requirements, see TDSHS's Web site at <http://www.dshs.state.tx.us/immunize/school/default.shtm#requirements>. For TDSHS's recommended immunization schedule, see http://www.dshs.state.tx.us/immunize/Schedule/schedule_child.shtm.

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *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.

Education Code 38.0181

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 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 state health services.

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), .0041; 25 TAC 97.62

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

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.
REVIEW OF STATUS	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.
HOMELESS STUDENT	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]
TRANSFER STUDENTS	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.
MILITARY DEPENDENTS	A military dependent 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. [See FDD] The collection and exchange of information pertaining to immunizations shall be subject to confidentiality provisions prescribed by federal law. <i>Education Code 38.001(e), 162.002 art. IV, § C; 25 TAC 97.66, .69; Atty. Gen. Op. GA-178 (2004)</i>
EVIDENCE OF IMMUNIZATION	A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to the District. 25 TAC 97.63(2) Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel;
2. An official immunization record generated from a state or local health authority, such as a registry; or
3. A record received from school officials including a record from another state.

25 TAC 97.68

Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, hepatitis B, or varicella illnesses must consist of a valid laboratory report that indicates either confirmation of immunity or infection.

A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. [See the form on TDSHS's Web site at www.dshs.state.tx.us/immunize/docs/c-9.pdf].

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), (a-1)*

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

The District 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

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

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)

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)

CONSENT BY CHILD

A child may consent to the child's own immunization for a disease if the child is pregnant or is the parent of a child and has actual custody of that child, and the Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age.

Consent by a child to immunization is not subject to disaffirmance because of minority. A health-care provider or facility may rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's immunization.

Family Code 32.1011

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).

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

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), .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
CRISIS INTERVENTION

FFB
(LEGAL)

RECOMMENDED
PROGRAMS

The Texas Department of State Health Services (TDSHS), in coordination with TEA and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. The District may select from the list a program or programs appropriate for implementation in the District.

The list must include programs in the following areas:

1. Early mental health intervention;
2. Mental health promotion and positive youth development;
3. Substance abuse prevention;
4. Substance abuse intervention; and
5. Suicide prevention.

TDSHS, TEA, and each ESC shall make the list easily accessible on their Web sites.

The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and
3. Intervene effectively with students described by items 1 or 2 above, by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

TRAINING

The District shall provide training described in the components set forth above for teachers, school counselors, principals, and all other appropriate personnel. The District is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. The District may implement a program on the list to satisfy the training requirements.

If the District provides the training, a District employee must participate in the training at least one time, and the District shall maintain records that include the name of each District employee who participated in the training.

POLICY

The Board may adopt a policy concerning mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention that:

1. Establishes a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;
2. Establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;
3. Establishes that the District may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the District for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and
4. Sets out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

The policy must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

The policy and any necessary procedures adopted must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

District policy and procedures are not intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. District policy and procedures are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. School districts do not have the authority

to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

Health and Safety Code 161.325

IMMUNITY

These requirements do not waive any immunity from liability of a district or of district officers or employees, create any liability for a cause of action against a district or against district officers or employees, or waive any immunity from liability under Civil Practice and Remedies Code 74.151. *Health and Safety Code 161.326*

STUDENT WELFARE
STUDENT SUPPORT SERVICES

FFC
(LEGAL)

LIAISON FOR COURT-
RELATED STUDENTS

The District shall appoint at least one educator, as defined by Education Code 5.001(5), to act as a liaison officer for court-related students. The liaison officer shall provide counseling and other services for court-related students and their parents to establish or reestablish normal attendance and progress in school. *Education Code 37.014*

LIAISON FOR
HOMELESS
STUDENTS

The District shall designate an appropriate staff person as the District liaison for homeless children. The District shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison.

The liaison shall ensure that:

1. Homeless children are identified by school personnel and through coordination activities with other entities and agencies;
2. Homeless children enroll in, and have a full and equal opportunity to succeed in, District schools;
3. Homeless families and children receive educational services for which they are eligible, including Head Start, Even Start, and District preschool programs, and referrals to health care, dental, mental health, and other appropriate services;
4. The parents or guardians of homeless children are informed of the available educational and related opportunities and are provided meaningful opportunities to participate in the education of their children;
5. Public notice of the educational rights of homeless children is disseminated where such children receive services, such as schools, family shelters, and soup kitchens;
6. Enrollment disputes are mediated; and
7. The parent or guardian of a homeless child, and any unaccompanied youth, are fully informed of all transportation services, including transportation to the school of origin, and are assisted in accessing transportation to the school of enrollment.

42 U.S.C. 11432(g)(6)(A)

LIAISON FOR
CHILDREN IN
CONSERVATORSHIP
OF THE STATE

The District shall appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in the District who is in the conservatorship of the state and submit the liaison's name and contact information to TEA in a format and under the schedule determined by the Commissioner.

TEA shall provide information to the liaisons on practices for facilitating the enrollment in or transfer to a public school or open-enrollment charter school of children who are in the conservatorship of the state.

Education Code 33.904

SCHOOL-COMMUNITY
GUIDANCE CENTER

The District may establish a school-community guidance center designed to locate and assist children with problems that interfere with their education, including juvenile offenders and children with severe behavioral problems or character disorders.

Each center shall coordinate efforts of District personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

Education Code 37.051

Upon request from the Superintendent, a governmental agency concerned with children that has jurisdiction in the District shall cooperate with the school-community guidance center and shall designate a liaison to work with the center in identifying and correcting problems affecting school-age children in the District. The governmental agency may establish or finance a school-community guidance center jointly with the District according to terms approved by the governing body of each participating entity. *Education Code 37.053*

COOPERATIVE
PROGRAMS

The Board may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct. *Education Code 37.052*

PARENTAL NOTICE
AND ACCESS TO
INFORMATION

Before a student is admitted to a school-community guidance center, the administrator of the center shall notify the student's parent or guardian that the student has been assigned to attend the center.

The notice must include:

1. The reason the student has been assigned to the center;
2. A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
3. A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

If after notification, the parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

A parent or guardian of a student attending a center is entitled to inspect:

1. Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
2. The results of any treatment, testing, or guidance method involving the student.

The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

Education Code 37.054

PARENTAL
INVOLVEMENT

On admitting a student to a school-community guidance center, a representative of the District, the student, and the student's parent or legal guardian shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

1. A statement of the student's behavioral and learning objectives;
2. A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
3. The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting objectives, defined by the District, to aid student remediation.

The Superintendent may obtain a court order from a district court in the District requiring a parent to comply with such an agreement. A parent who violates such a court order may be punished for contempt of court.

COURT
SUPERVISION

If the District, the student, and the parent or guardian for any reason fail to reach an agreement, any party may request the juvenile court or its designee to conduct a hearing and enter an order establishing the responsibilities and duties of each of the parties as the court deems appropriate.

Education Code 37.055-.056

STUDENT WELFARE
CHILD ABUSE AND NEGLECT

FFG
(LEGAL)

ANTIVICTIMIZATION PROGRAM	The District shall provide child abuse antivictimization programs in elementary and secondary schools. <i>Education Code 38.004</i>
DUTY TO REPORT BY ANY PERSON	Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. <i>Family Code 261.101(a)</i>
BY A PROFESSIONAL	<p>Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.</p> <p>A professional may not delegate to or rely on another person to make the report.</p> <p>A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.</p> <p><i>Family Code 261.101(b)</i></p>
ADULT VICTIMS OF ABUSE	A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person. <i>Family Code 261.101(b-1)</i>
PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING	<p>An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:</p> <ol style="list-style-type: none">1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child. <p><i>Education Code 26.0091; Family Code 261.111(a)</i> [See FFAC]</p>
CONTENTS OF REPORT	The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

STUDENT WELFARE
CHILD ABUSE AND NEGLECT

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(LEGAL)

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.103, .104

TO WHOM REPORTED

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the Texas Department of Family and Protective Services (DFPS), unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

Family Code 261.103; 19 TAC 61.1051(a)(1)

JJAEPS

Any report of alleged abuse, neglect, or exploitation in a juvenile justice program or facility shall be made to the Texas Juvenile Probation Commission and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(2)(A), (b)*

IMMUNITY FROM
LIABILITY

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

The District may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110* [See DG]

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CRIMINAL OFFENSES	<p>A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see DUTY TO REPORT] and knowingly fails to make a report as provided by law.</p> <p>A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see DUTY TO REPORT] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.</p> <p><i>Family Code 261.109</i></p> <p>Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 Administrative Code Chapter 249. <i>19 TAC 61.1051(a)(2)(A)</i></p>
FAILURE TO REPORT	
FALSE REPORT	<p>A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. <i>Family Code 261.107(a)</i></p>
COERCION	<p>An employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i></p>
CONFIDENTIALITY OF REPORT	<p>A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. <i>Family Code 261.201</i></p> <p>Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. <i>Family Code 261.101(d)</i></p>
INVESTIGATIONS	<p>If the DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. <i>Family Code 261.105(d)</i></p> <p>The DFPS shall send a written report of its investigation, as appropriate, to the school principal, unless the principal is alleged to have committed the abuse or neglect, to the Board, and to the</p>
REPORTS TO DISTRICT	

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	<p>Superintendent. The report shall be edited to protect the identity of the person who made the report. <i>Family Code 261.406(b)</i></p>
INTERVIEW OF STUDENT	<p>The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. <i>Family Code 261.302(b)</i> [See GRA]</p>
INTERFERENCE WITH INVESTIGATION	<p>A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. <i>Family Code 261.303(a)</i></p>
CONFIDENTIALITY	<p>A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. <i>Human Resources Code 42.004</i></p>
REPORTING POLICY	<p>The Board shall establish and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.</p> <p>The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see TO WHOM REPORTED] within 48 hours or less, as determined by the Board, after learning of facts giving rise to the suspicion.</p> <p>The policies must also be consistent with 40 Administrative Code Chapter 700 regarding investigations by the DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]</p> <p><i>19 TAC 61.1051(a)(3)</i></p> <p>The policies must notify school personnel of the following:</p> <ol style="list-style-type: none">1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:<ol style="list-style-type: none">a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and

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- b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with the District's reporting policy;
6. The prohibition under Education Code 26.0091 [see PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING, above]; and
7. The current toll-free number for the DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

19 TAC 61.1051(a)(2), (5)

ANNUAL
DISTRIBUTION AND
STAFF
DEVELOPMENT

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 61.1051(b)* [See DH and DMA]

ABUSE OF DISABLED
PERSONS

A person having cause to believe that a disabled person over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to the DFPS.

A person commits a Class A misdemeanor if the person has cause to believe that a disabled person has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, .052, .054

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POSTING CHILD
ABUSE HOTLINE
TELEPHONE NUMBER

Each school shall post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and in Spanish that contains the toll-free telephone number operated by DFPS to receive reports of child abuse or neglect. The Commissioner may adopt rules relating to the size and location of the sign. *Education Code 38.0042*

Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

What are the District's policies addressing child abuse or neglect and my responsibilities for reporting suspected child abuse or neglect?

The applicable District policies—FFG(LEGAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact Anitrea Goodwin at (409) 882-5610.

What are my legal responsibilities for reporting if I suspect that a child has been or may be abused or neglected?

Anyone who suspects that a child has been or may be abused or neglected has a legal responsibility, under state law, for reporting the suspected abuse or neglect to law enforcement or to Child Protective Services (CPS).

Any District employee, agent, or contractor has an additional legal obligation to submit the oral or written report within 48 hours of learning of the facts giving rise to the suspicion.

An employee shall make a report if the employee has cause to believe that an adult was a victim of abuse or neglect as a child and the employee determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

Are there any restrictions on reporting?

Under state law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

- Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

To whom do I make a report?

Reports may be made to any of the following:

- A law enforcement agency: The Orange Police Department, at (409) 883-1026; the Pinehurst Police Department, at (409) 886-2221; or the West Orange Police Department, at (409) 883-0059;

- The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services, at (800) 252-5400 or on the Web at www.txabusehotline.org; or
- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility.

Reporting your suspicion to a school counselor, a principal, or another school staff member does NOT fulfill your responsibilities under the law. Furthermore, the District cannot require you to report your suspicion first to a school administrator.

Will my report be kept confidential?

State law requires that the identity of a person making a report of suspected child abuse or neglect be kept confidential.

Will I be liable in any way for making a report?

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

What will happen if I don't report suspected child abuse or neglect?

By failing to report a suspicion of child abuse or neglect:

- You may be placing a child at risk of continued abuse or neglect;
- You are violating the law and may be subject to legal penalties, including criminal sanctions;
- You are violating Board policy and may be subject to disciplinary action, including possible termination of your employment; and
- Your certification from the State Board for Educator Certification may be suspended, revoked, or canceled.

What are my responsibilities regarding investigations of abuse or neglect?

State law specifically prohibits school officials from:

- Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect; or
- Requiring that a parent or school employee be present during the interview.

School personnel must cooperate fully and may not interfere with an investigation of reported child abuse or neglect.

STUDENT ACTIVITIES

FM
(LEGAL)

APPLICABILITY OF UIL
RULES AND DISTRICT
POLICIES

A student enrolled in the District or who participates in an extracurricular activity or a University Interscholastic League (UIL) competition is subject to District policy and UIL rules regarding participation only when the student is under the direct supervision of an employee of the school or District in which the student is enrolled or at any other time specified by resolution of the Board. *Education Code 33.081(b)* [See FO regarding additional standards of conduct for extracurricular activities]

ATHLETIC ACTIVITIES
UIL FORMS

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled "Preparticipation Physical Evaluation — Medical History" and "Acknowledgement of Rules." Each form must be signed by both the student and the student's parent or guardian. *Education Code 33.203(a)*

NOTICES

Each school that offers an extracurricular athletic activity shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the Commissioner maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student's parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL's parent information manual. The document may be provided in an electronic format unless otherwise requested.

Education Code 33.207(b), .208

SAFETY TRAINING

The District shall provide training to students participating in athletic extracurricular activities related to:

1. Recognizing the symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and
2. The risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

The training may be conducted by the District, the American Red Cross, the American Heart Association, or a similar organization, or by the UIL.

Education Code 33.202(d)–(e)

RECORDS

The Superintendent shall maintain complete and accurate records of the District's compliance and the District shall make available to the public proof of compliance for each person enrolled in the District who is required to receive safety training.

STUDENT ACTIVITIES

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(LEGAL)

A campus that is determined by the Superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206

UNSAFE
PRACTICES

A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204*

SAFETY
PRECAUTIONS

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in a practice or competition becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205

PREVENTION,
TREATMENT, AND
OVERSIGHT OF
CONCUSSIONS

“Interscholastic athletic activity” includes practice and competition, sponsored or sanctioned by a district, including a home-rule district, or a public school, including any school for which a charter has been granted under Education Code Chapter 12, or the UIL. *Education Code 38.152*

“Concussion” means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns, and involve loss of consciousness. *Education Code 38.151(4)*

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CONCUSSION OVERSIGHT TEAM	<p>The board of a district with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team. <i>Education Code 38.153(a)</i></p> <p>Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the District is located, District enrollment, and the availability of and access to licensed health-care professionals in the District, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If the District employs an athletic trainer, the athletic trainer must be a member of the concussion oversight team.</p> <p>Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. The members also must take a training course at least once every two years and submit proof of timely completion to the Superintendent or designee in accordance with Education Code 38.158.</p> <p><i>Education Code 38.154, .158</i></p>
RETURN-TO-PLAY PROTOCOL	<p>Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. <i>Education Code 38.153(b)</i></p>
REQUIRED ANNUAL FORM	<p>A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. <i>Education Code 38.155</i></p>
REMOVAL FROM PLAY	<p>A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health-care professional, as defined by Education Code 38.151(5); or the student's parent or guardian or another person with legal authority to make medical decisions for the student. <i>Education Code 38.156</i></p>
RETURN TO PLAY	<p>A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to</p>

practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;
2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;
3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and
4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:
 - a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;
 - b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;
 - c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and
 - d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student's return to play.

The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play

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protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157

IMMUNITY

These provisions do not:

1. Waive any immunity from liability of the District or of District officers or employees;
2. Create any liability for a cause of action against the District or against District officers or employees;
3. Waive any immunity from liability under Civil Practice and Remedies Code 74.151; or
4. Create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Education Code 38.159

FOOTBALL HELMET
SAFETY
REQUIREMENTS

The District may not use a football helmet that is 16 years old or older in the District's football program. The District shall ensure that each football helmet used in the District's football program that is ten years old or older is reconditioned at least once every two years.

The District shall maintain and make available to parents of students enrolled in the District documentation indicating the age of each football helmet used in the District's football program and the dates on which each helmet is reconditioned.

Education Code 33.094(a)–(c)

STEROID TESTING

The UIL shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids [see FNF].

Results of such steroid tests are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

Education Code 33.091(d)–(e)

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RODEOS
APPLICATION

This section applies only to a primary or secondary school that sponsors, promotes, or otherwise is associated with a rodeo in which children who attend the school are likely to participate.

“Rodeo” means an exhibition or competition, without regard to whether the participants are compensated, involving activities related to cowboy skills, including:

1. Riding a horse, with or without a saddle, with the goal of remaining on the horse while it attempts to throw off the rider;
2. Riding a bull;
3. Roping an animal, including roping as part of a team;
4. Wrestling a steer; and
5. Riding a horse in a pattern around preset barrels or other obstacles.

EDUCATIONAL
PROGRAM

A primary or secondary school to which this section applies shall, before the first rodeo associated with the school in each school year, conduct a mandatory educational program on safety, including the proper use of protective gear, for children planning to participate in the rodeo, in accordance with 25 Administrative Code 104.4. The educational program may consist of an instructional video, subject to the Department of State Health Services approval.

RESTRICTION ON
PARTICIPATION

A child may not participate in a rodeo associated with the child’s school during a school year unless the child has completed the educational program not more than one year before the first day of the rodeo.

PROTECTIVE GEAR
FOR BULL RIDING

A child may not engage in bull riding, including engaging in bull riding outside a rodeo for the purpose of practicing bull riding, unless the child is wearing a protective vest and bull riding helmet in accordance with 25 Administrative Code 104.3.

Health and Safety Code 768.001(6), .003; 25 TAC 104.2-.4

ELIGIBILITY

A student otherwise eligible to participate in an extracurricular activity or a UIL competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided. *Education Code 33.087*

MILITARY
DEPENDENTS

The District shall facilitate the opportunity for transitioning military children’s inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B* [See FDD]

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SUSPENSION FROM
EXTRACURRICULAR
ACTIVITIES

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by the District or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at EXEMPT COURSES.

LENGTH OF
SUSPENSION

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of REINSTATEMENT, described below, are met. A suspension shall not last beyond the end of a school year.

GRADE
EVALUATION
PERIOD

“Grade evaluation period” means:

1. The six-week grade reporting period; or
2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

Education Code 33.081(c)

SCHOOL WEEK

The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b)*

EXEMPT COURSES

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. *Education Code 33.081(d-1)*

The following are honors classes for purposes of eligibility to participate in extracurricular activities:

1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;
2. English language arts: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)”;
3. Languages other than English: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)” and languages other than English courses Levels IV–VII;
4. Mathematics: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)” and precalculus;

5. Science: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)"; and
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)."

Districts may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English for the purposes of extracurricular eligibility, but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Districts are neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

19 TAC 74.30

STUDENTS WITH
DISABILITIES

In the case of a student with a disability that significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program (IEP). The determination of whether the disability substantially interferes with the student's ability to meet the requirements of the student's IEP must be made by the admission, review, and dismissal (ARD) committee.

For the purposes of this provision, "student with a disability" means a student who is eligible for the District's special education program under Education Code 29.003(b).

Education Code 33.081(e)

PRACTICE OR
REHEARSAL

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance.
Education Code 33.081(f)

REINSTATEMENT

Until the suspension is removed or the school year ends, the District shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at EXEMPT COURSES, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers

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FM
(LEGAL)

shall make the determination concerning the student's grades.
Education Code 33.081(d)

ATTENDANCE AND
PARTICIPATION

The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The Board may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the District, UIL, or an organization sanctioned by Board resolution. The policy must permit a student to be absent from class at least ten times during the school year, and the policy prevails over any conflicting policy adopted by the State Board of Education.

Education Code 33.081(a), .0811

STATE BOARD OF
EDUCATION RULES

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from the Board. If sanctioned by resolution of the Board, student participation in the organization's activities shall be subject to all provisions of statute and to Texas Administration Code Title 19, section 76.1001. If the Board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)* [See FEB]

EXTRACURRICULAR
ACTIVITIES

An extracurricular activity is an activity sponsored by the UIL, the Board, or an organization sanctioned by Board resolution. The activity is not necessarily directly related to instruction of the essential knowledge and skills, but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include public performances (except as described below), contests, demonstrations, displays, and club activities. In addition, an activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or

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5. An admission is charged.

EXCEPTION —
PUBLIC
PERFORMANCES

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

19 TAC 76.1001(a)

LIMITS ON
PARTICIPATION AND
PRACTICE

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

DURING THE
SCHOOL WEEK

1. For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, the District must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
4. The Commissioner recommends that school districts avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

19 TAC 76.1001(d); Education Code 33.081(a)

DURING THE
SCHOOL DAY

Limitations on practice and rehearsal during the school day shall be as follows:

1. The District must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.

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FM
(LEGAL)

3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. The District must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
5. Regardless of the schedule type in place (traditional or non-traditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(e); Education Code 33.081(a)

RECORD OF
ABSENCES

The District shall maintain an accurate record of extracurricular absences for each student in the District each school year. *19 TAC 76.1001(c)*

PARENTAL NOTICE
AND CONSENT

A parent is entitled to full information regarding the school activities of a parent's child except as provided by Education Code 38.004 (regarding child abuse investigations). *Education Code 26.008(a)*

ANONYMOUS
EVALUATION

Anonymous evaluations of a student that determine whether the student may participate in a school-related program do not provide full information about the student's school activities. The District may by policy establish the parameters for parental contact with evaluating teachers, taking into account the type of evaluation, the information elicited in the evaluation, and scheduling and workload requirements of the teachers. *Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)*

VIDEOTAPING AND
RECORDING

A District employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to a cocurricular or extracurricular activity. *Education Code 26.009(b)(2)*

DISCRIMINATORY
CLUB

An extracurricular activity sponsored or sanctioned by the District, including an athletic event or an athletic team practice, may not take place at an athletic club located in the United States that denies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the person's race, color, religion, creed, national origin, or sex.

"Athletic club" means an entity that provides sports or exercise equipment or facilities to its customers or members or to the guests of its customers or members.

Education Code 33.082

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STUDENT ELECTION
CLERKS

Unless applied toward instructional requirements [see EIA], a student who is appointed as a student election clerk under Election Code 32.0511 or as a student early voting clerk under Election Code 83.012, may apply the time served toward a service requirement for participation in a school-sponsored extracurricular activity at the discretion of the school sponsor. *Education Code 33.092*

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

FNA
(LEGAL)

FIRST AMENDMENT 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. *U.S. Const. Amend. I*

FREEDOM OF SPEECH 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.

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.

Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969)
[See also FNCI]

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. *Morse v. Frederick*, 551 U.S. 393 (2007)

When a student threatens violence against a student body, such specific threatening speech to a school or its population is unprotected by the First Amendment: school officials may punish such speech without first collecting evidence sufficient to prove a reasonable belief that disruption would occur as a result of the speech. *Ponce v. Socorro Indep. Sch. Dist.*, 508 F.3d 765 (5th Cir. 2007)

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. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986)

PRAYER AT SCHOOL ACTIVITIES 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. *Education Code 25.901*

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 school day. But the religious

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

FNA
(LEGAL)

liberty protected by the Constitution is abridged when the District affirmatively sponsors the particular religious practice of prayer.

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.

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) [For invocations and benedictions at commencement, see 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

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

FNA
(LEGAL)

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;
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, .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 the study of religion, see EMI. 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 RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

FNA
(LEGAL)

WINTER
CELEBRATIONS

The District may educate students about the history of traditional winter celebrations, and allow students and District staff to offer traditional greetings regarding the celebrations, including:

1. "Merry Christmas";
2. "Happy Hanukkah"; and
3. "Happy holidays."

The District may display on school property scenes or symbols associated with traditional winter celebrations, including a menorah or a Christmas image such as a nativity scene or Christmas tree, if the display includes a scene or symbol of more than one religion or one religion and at least one secular scene or symbol.

A display relating to a traditional winter celebration may not include a message that encourages adherence to a particular religious belief.

Education Code 29.920

STUDENT CONDUCT
WEAPONS

FNCG
(LEGAL)

POSSESSION OF
WEAPONS

A student shall be expelled from school if the student possesses, uses, or exhibits any firearm, illegal knife, club, or prohibited weapon, on school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(a)(1)* [See also FOD]

EXPULSION
OFFENSE

EXCEPTION

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

FEDERAL FIREARMS
PROVISION

In accordance with the Gun-Free Schools Act, the District shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any District school. *20 U.S.C. 7151; Education Code 37.007(e)* [See FOD]

EXPULSION
OFFENSE

DEFINITIONS

FIREARM

For purposes of state law, "firearm" shall mean any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3)*

ILLEGAL KNIFE

"Illegal knife" is, as defined by law, a knife with a blade over 5-1/2 inches; hand instrument designed to cut or stab another by being thrown; dagger, including a dirk, stiletto, and poniard; bowie knife; sword; or spear, or is as defined by local policy. *Penal Code 46.01(6); Education Code 37.007(a)(1)(B)*

CLUB

A "club" is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

OTHER PROHIBITED
WEAPONS

A prohibited weapon is:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for

the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*
4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*
5. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*
6. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*
7. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*
8. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*
9. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible

sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

Penal Code 46.05(a)

STUDENT CONDUCT
DISRUPTIONS

FNCI
(LEGAL)

DISRUPTION OF
LAWFUL ASSEMBLY

A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any school in the District.

DEFINITION

“Disruptive activity” means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school.
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity.
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress.
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

FREE SPEECH

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

DISRUPTION OF
CLASSES

A person other than a primary or secondary grade student enrolled in the school where the offense occurs commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age.

DEFINITIONS

“Disrupting the conduct of classes or other school activities” includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.

STUDENT CONDUCT
DISRUPTIONS

FNCI
(LEGAL)

2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or use of loud or profane language, disrupting class activities.

“School property” includes a public school campus or school grounds on which a public school is located, and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

“Public property” includes a street, highway, alley, public park, or sidewalk.

Education Code 37.124

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(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* [See FNA]

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)

TEXAS CONSTITUTION

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

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] Dist.*, 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 C.F.R. 104.7(b)*

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 C.F.R. 35.107*

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 student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(b)* [See FB]

EDUCATION CODE
CHAPTER 26

Parents are partners with educators, administrators, and the Board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LEGAL)

Unless otherwise provided by law, the Board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

'PARENT' DEFINED For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.003(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order. *Education Code 26.002*

COMPLAINT PROCEDURES The Board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

The Board shall adopt a grievance procedure under which the Board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights). *Education Code 26.011*

PARENTAL RIGHTS Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials. *Education Code 26.006* [See EF and EKB]
5. Access to Board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]
6. Right to full information concerning a student. *Education Code 26.008* [See DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]
8. Requests for public information. *Education Code 26.0085* [See GBA]

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LEGAL)

9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]
11. Exemption from instruction. *Education Code 26.010* [See EMB]

OBJECTION TO
SCHOOL ASSIGNMENT

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, the Board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), .034* [See FDB]

CHALLENGE TO
EDUCATION RECORDS

The District shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 C.F.R. 99.21* [See FL]

DENIAL OF CLASS
CREDIT OR FINAL
GRADE

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the Board. *Education Code 25.092(d)* [See FEC]

COMPLAINTS AGAINST
PROFESSIONAL
EMPLOYEES

A person may not file suit against a professional employee of the District unless the person has exhausted the District's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of the District" includes:

1. The Superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by the District;
2. A teacher employed by a company that contracts with the District to provide the teacher's services to the District;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the Board; and
6. Any other person whose employment by the District requires certification and the exercise of discretion.

Education Code 22.051(a)

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LEGAL)

- FINALITY OF GRADES** 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.
- The Board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]
- Education Code 28.0214*
- REQUESTS FOR PUBLIC INFORMATION** A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). The District shall also comply with the deadlines and provisions set forth at Education Code 26.0085. *Gov't Code Ch. 552; Education Code 26.0085*
- CLOSED MEETING** The Board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. *Gov't Code Ch. 551, Subch. D* [See BEC]
- RECORD OF PROCEEDINGS** 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. *Education Code 7.057(c), (f)*
- 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:
1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
 - a. The tape recording must be complete, audible, and clear; and
 - b. Each speaker must be clearly identified.
 2. All evidence admitted;
 3. All offers of proof;
 4. All written pleadings, motions, and intermediate rulings;
 5. A description of matters officially noticed;
 6. If applicable, the decision of the hearing examiner;

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG
(LEGAL)

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)

DISRUPTION

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

Note: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline; see FL for provisions concerning student records.

STUDENT DISCIPLINE

FO
(LEGAL)

STUDENT CODE OF
CONDUCT

The Board shall adopt a Student Code of Conduct for the District, with the advice of its District-level committee. The Student Code of Conduct must:

1. Specify the circumstances, consistent with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, disciplinary alternative education program (DAEP), school bus, or vehicle owned or operated by the District.
2. Specify the conditions that authorize or require a principal or other appropriate administrator to transfer a student to DAEP.
3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].
4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
 - a. Self-defense;
 - b. Intent or lack of intent at the time the student engaged in the conduct;
 - c. A student's disciplinary history; or
 - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), the District is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that District employees enforce those prohibitions.

"Bullying" has the meaning provided by Education Code 37.0832. [See FFI]

"Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating

STUDENT DISCIPLINE

FO
(LEGAL)

conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

"Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

8. Provide, as appropriate for students at each grade level, methods, including options, for:
 - a. Managing students in the classroom, on school grounds, and on a vehicle owned or operated by the District;
 - b. Disciplining students; and
 - c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making of hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

CHANGES IN SCOC Once the Student Code of Conduct is promulgated, any change or amendment shall be approved by the Board.

POSTING The Student Code of Conduct shall be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

Education Code 37.001

NOTICE TO PARENTS Each school year, the District shall provide parents with notice of and information regarding the Student Code of Conduct. *Education Code 37.001(d)*

NONCUSTODIAL PARENT A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, the District provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. The District may not unreasonably deny the request. Notwithstanding

STUDENT DISCIPLINE

FO
(LEGAL)

	<p>this requirement, the District shall comply with any applicable court order of which the District has knowledge. <i>Education Code 37.0091(a)</i></p>
COPIES TO STAFF	<p>The District shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. <i>Education Code 37.018</i></p>
NO UNSUPERVISED SETTING	<p>Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. <i>Education Code 37.008(h)</i></p>
CONTINUATION OF DISCIPLINARY ACTION	<p>If the District takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.</p> <p>“Disciplinary action” means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.</p> <p>“District or school” includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.</p> <p><i>Education Code 37.022</i></p>
OPPORTUNITY TO COMPLETE COURSES	<p>If a student is placed in in-school suspension or other alternative setting other than a DAEP, the District shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. The District may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. <i>Education Code 37.021</i> [For DAEP notice requirements, see FOCA]</p>
SECLUSION	<p>A District employee or volunteer or an independent contractor of the District may not place a student in seclusion. <i>Education Code 37.0021(c)</i></p> <p>“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:</p> <ol style="list-style-type: none">1. Is designed solely to seclude a person; and2. Contains less than 50 square feet of space. <p><i>Education Code 37.0021(b)(2)</i></p>

STUDENT DISCIPLINE

FO
(LEGAL)

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by the District; or
2. Provides, as a school resource officer, a regular police presence on the District campus under a memorandum of understanding between the District and a local law enforcement agency.

Education Code 37.0021(h)

EXCEPTIONS

This prohibition on seclusion does not apply to:

1. A peace officer performing law enforcement duties; or
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of the District.

LAW
ENFORCEMENT
DUTIES

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g)

RESTRAINT REPORTS

The District shall report electronically to TEA, in accordance with standards provided by Commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties [see LAW ENFORCEMENT DUTIES, above] on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by Commissioner rule for reporting the use of restraint involving students with disabilities [see FOF]. *Education Code 37.0021(i)*

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. *Education Code 37.0021(b)(1)*

CORPORAL
PUNISHMENT

If the Board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a District educator may use corporal punishment to discipline a student unless the student’s parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. *Education Code 37.0011(b)*

PARENT
STATEMENT

To prohibit the use of corporal punishment as a method of student discipline, each school year a student’s parent or guardian or other person having lawful control over the student must provide a

STUDENT DISCIPLINE

FO
(LEGAL)

separate written, signed statement to the Board in the manner established by the Board. The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the Board at any time during the school year by submitting a written, signed revocation to the Board in the manner established by the Board. *Education Code 37.0011(c)-(d)*

DEFINITION

"Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. *Education Code 37.0011(a)*

USE OF FORCE TO
MAINTAIN DISCIPLINE

The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

VIDEOTAPES AND
RECORDINGS

A District employee may, without consent of a child's parent, make a videotape or recording of the child if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)* [See FNG]

REPORTS

The District shall annually report to the Commissioner:

DISCIPLINARY
ALTERNATIVE
EDUCATION
PROGRAMS

1. For each placement in a DAEP:
 - a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 - b. Information indicating whether the placement was based on:
 - (1) Conduct violating the Student Code of Conduct;
 - (2) Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];
 - (3) Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or

STUDENT DISCIPLINE

FO
(LEGAL)

- (4) Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);
- c. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and
- d. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.

EXPULSIONS

- 2. For each expulsion:
 - a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 - b. Information indicating whether the expulsion was based on:
 - (1) Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or
 - (2) Conduct for which expulsion is permitted;
 - c. The number of full or partial days the student was expelled;
 - d. Information indicating whether:
 - (1) The student was placed in a juvenile justice alternative education program;
 - (2) The student was placed in a DAEP; or
 - (3) The student was not placed in a juvenile justice or other DAEP; and
 - e. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Education Code 37.020

STUDENT DISCIPLINE
REMOVAL BY TEACHER OR BUS DRIVER

FOA
(LEGAL)

INFORMAL REMOVAL A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline management techniques, consistent with the Student Code of Conduct. *Education Code 37.002(a)* [See FO]

DISCRETIONARY
REMOVAL A teacher may remove from class a student:

1. Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or
2. Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

Education Code 37.002(b)

PLACEMENT OF
STUDENT If a teacher removes a student from class under the provisions above, the principal may place the student in another appropriate classroom, in-school suspension, or a disciplinary alternative education program (DAEP).

PROHIBITIONS
ON ACTIVITIES The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activities.

Education Code 37.002(c)

MANDATORY
REMOVAL BY A
TEACHER A teacher shall remove from class and send to the principal for placement in a DAEP or expulsion, as appropriate, a student who engages in conduct described in Education Code 37.006 (removal) or 37.007 (expulsion). [See FOC and FOD] *Education Code 37.002(d)*

The student may not be returned to the regular class pending the required conference [See FOC]. *Education Code 37.009(a)*

RETURN TO CLASS The principal may not return the student to the class of the teacher who removed the student without the teacher's consent, unless the placement review committee determines that such placement is the best or only alternative available.

If the teacher removed the student from class because the student engaged in the elements of an offense listed in Education Code 37.006(a)(2)(B) or 37.007(a)(2)(A) or (b)(2)(C) (assault, sexual assault, attempted murder) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

Education Code 37.002(c), (d)

STUDENT DISCIPLINE
REMOVAL BY TEACHER OR BUS DRIVER

FOA
(LEGAL)

PLACEMENT REVIEW
COMMITTEE

Each school shall establish a three-member committee to determine the placement of a student when a teacher refuses the return of a student to the teacher's class. The committee shall make recommendations to the District regarding readmission of expelled students.

COMPOSITION

Committee members shall be appointed as follows:

1. Campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and
2. The principal shall choose one member from the professional staff of a campus.

The teacher refusing to readmit the student may not serve on the committee.

Education Code 37.003

REMOVAL BY SCHOOL
BUS DRIVER

The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus.

The principal shall respond by employing appropriate discipline management techniques consistent with the Student Code of Conduct.

Education Code 37.0022

Note: See FOF for provisions concerning students with disabilities.

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

GKA
(LEGAL)

APPLICABILITY OF CRIMINAL LAWS	The criminal laws of the state apply to the areas under the control and jurisdiction of the Board. <i>Education Code 37.101</i>
TRESPASS	<p>The Board or its authorized representative may refuse to allow persons having no legitimate business to enter on property under the Board's control and may eject any undesirable person from the property on his or her refusal to leave peaceably on request. Identification may be required of any person on the property. <i>Education Code 37.105</i></p> <p>A person who trespasses on the grounds of the District commits a Class C misdemeanor. <i>Education Code 37.107</i></p>
VEHICLES ON SCHOOL PROPERTY	The Board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule or regulation promulgated by the Board or set forth in Education Code Chapter 37, Subchapter D. [See CLC] <i>Education Code 37.106</i>
DISRUPTION OF LAWFUL ASSEMBLY	<p>A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of a public school.</p> <p>Disruptive activity means:</p> <ol style="list-style-type: none">1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity;3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

COMMUNITY RELATIONS
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FREE SPEECH

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

DISRUPTION OF
CLASSES

A person, other than a primary or secondary grade student enrolled in the school, commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age.

Disrupting the conduct of classes or other school activities includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.
2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or use of loud or profane language, disrupting class activities.

“School property” includes a public school campus or school grounds on which a public school is located, and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

“Public property” includes a street, highway, alley, public park, or sidewalk.

Education Code 37.124

DISRUPTION OF
TRANSPORTATION

A person, other than a primary or secondary grade student, commits a Class C misdemeanor if the person intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school, or to or from activities sponsored by a school, on a vehicle owned and/or operated by the District. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

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(LEGAL)

TOBACCO	The Board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property. Students are prohibited from possessing tobacco products at a school-related or school-sanctioned activity on or off school property. School personnel shall enforce these policies on school property. <i>Education Code 38.006</i>
SMOKING IN BUILDINGS	The District shall not permit smoking within any indoor facility used for provision of routine or regular kindergarten, elementary, or secondary education or library services to children; or regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of employees who provide such services. <i>20 U.S.C. 6083; 20 U.S.C. 7183</i>
CRIMINAL PENALTY	A person commits an offense if he or she is in possession of a burning tobacco product or smokes tobacco in a facility of a public school or an elevator.
DEFENSE	It is a defense to prosecution that the District does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such place and that an offense is punishable by a fine not to exceed \$500.
FACILITIES FOR EXTINGUISHMENT	The District shall be equipped with facilities for extinguishment of smoking materials. <i>Penal Code 48.01(a)-(c)</i>
ALCOHOL	The Board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. <i>Education Code 38.007(a)</i> [See FNCF regarding alcohol-free zones]
INTOXICANTS	A person commits a Class C misdemeanor if the person possesses an intoxicating beverage for consumption, sale, or distribution while: <ol style="list-style-type: none">1. On the grounds or in a building of a public school; or2. Entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a public school is being held. <i>Education Code 37.122</i> [See also FNCF]
FIREWORKS	A person may not explode or ignite fireworks within 600 feet of any school unless the person receives authorization in writing from the school. <i>Occupations Code 2154.251(a)(1)</i>

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

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FIREARMS / WEAPONS
– IN GENERAL

A person commits a third degree felony if the person knowingly, intentionally, or recklessly possesses or goes with a firearm, illegal knife, or prohibited weapon [see FNCG]:

1. Onto the physical premises (a building or portion of a building) of a school;
2. Onto any grounds or into a building in which an activity sponsored by a school is being conducted; or
3. On a passenger transportation vehicle of a school.

This offense does not apply if the person is acting pursuant to written regulations or written authorization of the District.

It is not a defense to prosecution that the person possessed a handgun and was licensed to carry a concealed handgun.

Penal Code 46.03(a)(1), (f)

PREMISES DEFINED

“Premises,” for purposes of this policy, means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.035(f)(3)*

EXCEPTED
PERSONS

Penal Code 46.03(a)(1) does not apply to:

1. Peace officers or special investigators regardless of whether engaged in the actual discharge of the officer’s or investigator’s duties;
2. Parole officers while engaged in the actual discharge of the officer’s duties;
3. Community supervision and corrections department officers while engaged in the actual discharge of the officer’s duties;
4. An active judicial officer who is licensed to carry a concealed handgun;
5. An honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency and is carrying a photo identification verifying that the officer or investigator qualifies for this exception;
6. A district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun;

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7. An assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun;
8. A bailiff designated by an active judicial officer who is licensed to carry a concealed handgun and engaged in escorting the judicial officer; or
9. A juvenile probation officer who is authorized to carry a firearm.

Penal Code 46.15(a)

EXHIBITION OF
FIREARMS

A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses or threatens to exhibit or use a firearm:

1. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or
2. On a school bus being used to transport children to and from school-sponsored activities.

Education Code 37.125

CONCEALED
HANDGUN LICENSE
HOLDER

A concealed handgun license holder commits a Class A misdemeanor if the license holder:

1. Carries a handgun on the property of another without effective consent; and
2. Received notice that entry on the property by a license holder with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was forbidden and failed to depart.

NOTICE / SIGN

For purposes of Penal Code 30.06, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun.”; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in

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contrasting colors with block letters at least one inch in height;
and is displayed in a conspicuous manner clearly visible to
the public.

EXCEPTION

Penal Code 30.06 does not apply to property owned or leased by
the District that is not a building, portion of a building, or at a high
school sporting event, interscholastic event, or Board meeting.

Penal Code 30.06 [See also FNCG]

INTERSCHOLASTIC
EVENTS

A license holder commits a Class A misdemeanor if the license
holder intentionally, knowingly, or recklessly carries a handgun un-
der the authority of Subchapter H, Chapter 411, Government Code,
regardless of whether the handgun is concealed, on the premises
where a high school, collegiate, or professional sporting event or
interscholastic event is taking place.

Penal Code 46.035(b)(2) does not apply if the license holder is a
participant in the event and a handgun is used in the event.

Penal Code 46.035(b)(2)

BOARD MEETINGS

A license holder commits a Class A misdemeanor if the license
holder intentionally, knowingly, or recklessly carries a handgun, re-
gardless of whether the handgun is concealed, at any meeting of
the Board.

Penal Code 46.035(c) does not apply unless the license holder
was given effective notice under Penal Code 30.06. [See
NOTICE/SIGN, above].

Penal Code 46.035(c), (i)

DEFENSE TO
PROSECUTION

It is a defense to prosecution under Penal Code 46.035(b) and (c)
[see INTERSCHOLASTIC EVENTS and BOARD MEETINGS,
above] that the actor, at the time of the offense, was:

1. A judge or justice of a federal court;
2. An active judicial officer;
3. A district attorney, assistant district attorney, criminal district
attorney, assistant criminal district attorney, county attorney,
or assistant county attorney; or
4. A bailiff designated by an active judicial officer and engaged in
escorting the officer.

Penal Code 46.035(h-1)

RELATIONS WITH GOVERNMENTAL ENTITIES
EMERGENCY MANAGEMENT

GRC
(LEGAL)

EMERGENCY
ASSISTANCE

The District may provide emergency assistance to another local government, whether or not the District and the local government have previously agreed or contracted to provide that kind of assistance, if:

1. In the opinion of the presiding officer of the other local government, a state of civil emergency exists that requires assistance from the District and the presiding officer requests assistance; and
2. Before the emergency assistance is provided, the Board authorizes the District to provide the assistance by resolution or other official action.

Similarly, if in the opinion of the Board President a civil emergency exists in the District that requires assistance from another local government, the Board President may request assistance.

Gov't Code 791.027

MUTUAL AID

A district that maintains the capability to provide mutual aid may render mutual aid to other local government entities under mutual aid agreements or the Texas Statewide Mutual Aid System. *Gov't Code 418.107(c)*

The District may provide mutual aid assistance on request from another local government entity or organized volunteer group. The Superintendent, with the approval and consent of the Board President, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the Board. *Gov't Code 418.109(d)*

DEFINITIONS

LOCAL
GOVERNMENT
ENTITY

"Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under Texas law that maintains the capability to provide mutual aid.

MUTUAL AID

"Mutual aid" means a homeland security activity, as defined by Government Code 421.001, performed under the system or a written mutual aid agreement.

Gov't Code 418.004

REQUESTS FOR
ASSISTANCE

A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing. *Gov't Code 418.115*

ABILITY TO RENDER
ASSISTANCE

When contacted with a request for mutual aid assistance, the District shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

RELATIONS WITH GOVERNMENTAL ENTITIES
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A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Gov't Code 418.1151

SUPERVISION AND
CONTROL

When providing mutual aid assistance under the system:

1. The response effort must be organized and function in accordance with the National Incident Management System guidelines;
2. The personnel, equipment, and resources of the District being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;
3. Direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the District;
4. The designated supervisory personnel of the District shall:
 - a. Maintain daily personnel time records, material records, and a log of equipment hours;
 - b. Be responsible for the operation and maintenance of the equipment and other resources furnished by the District; and
 - c. Report work progress to the requesting local government entity;
5. The District's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Gov't Code 418.1152

DURATION OF AID

The provision of mutual aid assistance under the system may continue until:

1. The services of the District are no longer required; or
2. The District determines that further assistance should not be provided.

Gov't Code 418.1153

RELATIONS WITH GOVERNMENTAL ENTITIES
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EMPLOYEE RIGHTS
AND PRIVILEGES

A person assigned, designated, or ordered to perform duties by the district employing the person in response to a request under the Texas Statewide Mutual Aid System is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

The district employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Gov't Code 418.116

REIMBURSEMENT
OF COSTS

If the division of emergency management in the office of the governor requests the provision of assistance and the District responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the District. A request for reimbursement made to the division must be made in accordance with procedures developed by the division. *Gov't Code 418.118*

If a local government entity requests mutual aid assistance from the District under the system that requires a response that exceeds 12 consecutive hours, the local government entity shall reimburse the actual costs of providing mutual aid assistance to the District, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the District in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Government Code 418.111. *Gov't Code 418.1181*

EMERGENCY
MANAGEMENT
TRAINING

This section applies only to an appointed public officer:

1. Whose position description, job duties, or assignment includes emergency management responsibilities; or
2. Who plays a role in emergency preparedness, response, or recovery.

An appointed public officer shall complete a course of training provided or approved by the division of emergency management in the office of the governor of not less than three hours regarding the responsibilities of state and local governments under Government Code Chapter 418 not later than the 180th day after the date the person:

RELATIONS WITH GOVERNMENTAL ENTITIES
EMERGENCY MANAGEMENT

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1. Takes the oath of office, if the person is required to take an oath of office to assume the person's duties as an appointed public officer; or
2. Otherwise assumes responsibilities as an appointed public officer, if the person is not required to take an oath of office to assume the person's duties.

The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer's completion of the training.

Gov't Code 418.005

[See CKC for emergency management within the District]