

Vantage Points

A Board Member's Guide to Update 90

Vantage Points is an executive summary, prepared specifically for board members, of the TASB Localized Update. The topic-by-topic outline and the thumbnail descriptions focus attention on key issues to assist local officials in understanding changes found in the policies. The description of policy changes in *Vantage Points* is highly summarized and should not substitute for careful attention to the significantly more detailed, district-specific Explanatory Notes and the policies within the localized update packet.

PLEASE NOTE: This Update 90 *Vantage Points* and the Localized Update 90 packet may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

We welcome your comments or suggestions for improving *Vantage Points*. Please write to us at TASB Policy Service, P.O. Box 400, Austin, TX 78767-0400, e-mail us at policy.service@tasb.org, or call us at 800-580-7529 or 512-467-0222.

For further information about Policy Service, check out our Web site at <http://www.tasb.org/services/policy>.

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Update 90 focuses largely on two key topics, the new State of Texas Assessment of Academic Readiness (STAAR) program and various technology issues. Other topics include issues related to intellectual property, disability discrimination and service animals, employee standards of conduct, access to district records, board training requirements, and district financial operations.

**State of Texas
Assessment of
Academic
Readiness**

Several changes at Update 90 come as a result of the new STAAR program to be implemented in the 2011–12 school year as a replacement for the Texas Assessment of Knowledge and Skills (TAKS). Provisions regarding new end-of-course (EOC) assessments are included at several codes:

- At EKB(LLEGAL), new provisions outline the 12 courses in which the new EOC assessments will be given and specify that a student's EOC assessment score must count for 15 percent of the student's final grade for the course. A student must achieve a satisfactory performance based on a cumulative score for each foundation subject and must retake an EOC assessment if he or she fails to achieve a set minimum score. In addition, a student may retake an EOC assessment for any reason at any of the scheduled testing administrations and does not have to retake a course in order to retake the assessment.
- We have updated a provision at EHBC(LLEGAL) requiring a district to provide accelerated instruction to a student who does not perform satisfactorily on an EOC assessment.
- At EIA(LLEGAL), new provisions call for a district to adopt local policy requiring a student's performance on an EOC assessment to count for 15 percent of the student's final grade for the course. A district is not required to use a student's retake score in the final course grade calculation. TASB Policy Service has made local policy development materials regarding the STAAR program available to district administrators on the myTASB Web site.
- EI(LLEGAL) now reflects that a district must include a student's EOC assessment results on the student's transcript.

EI(LOCAL) AND FMH(LOCAL) POLICY CONSIDERATIONS

In accordance with the new STAAR program, students entering grade 9 in the 2011–12 school year must achieve certain scores on the EOC assessments in order to graduate, while students in grades 10 and above during

the 2011–12 school year must still pass exit-level TAKS tests to graduate. To accommodate both graduation requirements, we recommend at EI(LOCAL) and FMH(LOCAL) replacing references to “exit-level” testing requirements with “state” testing requirements.

For districts with provisions on partial credit at EI(LOCAL), we recommend revisions to clarify the text concerning a student who earns a passing grade in only one semester of a two-semester course.

At EIF(LEGAL), Administrative Code rules incorporating the new STAAR program specify that to receive a high school diploma under the Recommended or Advanced/Distinguished Achievement Program, a student receiving special education services must achieve satisfactory performance on the required state assessments. A student receiving special education services who is graduating under the Minimum Program or receiving modified instruction must participate in state assessments, but the student’s ARD committee will determine whether the student must achieve satisfactory performance on the required state assessments for graduation.

**Technology
Issues**

With Update 90, Policy and Legal Services reviewed technology issues addressed in the manual and redeveloped several relevant policies. As discussed in more detail below, the restructuring of the technology provisions prompted the creation of two new codes, BBI on board member use of district technology resources, and CY on intellectual property, copyright, and trademarks. Other topics addressed in the technology review include use of district technology resources, use of student-owned electronic devices for instructional purposes, and searches of electronic devices.

**Access to
Electronic
Communica-
tions**

Provisions from the federal Electronic Communication Privacy Act and the Stored Wire and Electronic Communications and Transactional Records Access Act have been added at CQ(LEGAL) to address district access to electronic communications. Provisions from the Stored Communications Act have also been added at FNF(LEGAL) regarding district searches of student-owned telecommunications and other electronic devices. The Act limits access to electronic communications while they are in electronic storage, which can include some content on a student’s device; however, a student can give permission for the district to view an electronic communication.

**Digital
Signatures**

At CQ(LEGAL), we have also added existing statutory text to address requirements for using a digital signature to authenticate a written electronic communication sent to a district.

CQ(LOCAL) AND FNC(LOCAL) POLICY CONSIDERATIONS

Recommended changes at CQ(LOCAL) broaden the scope of the policy to cover all district technology resources, including electronic equipment, available to employees and students, while recommended changes at FNC(LOCAL) reflect corresponding terminology changes.

At CQ(LOCAL), we recommend adding a requirement that filtering devices or software be installed on a district's network systems in addition to the filtering devices federally required for each district computer with Internet access. A new provision is also recommended to ensure employees understand their obligations to retain electronic records in accordance with the district's records management program.

For districts that did not previously have such provisions at CQ(LOCAL), we recommend adding language that allows employees and students limited personal use of the district's technology resources subject to the guidelines listed in the policy, as well as language regarding use by members of the public. New recommended text provides that members of the public who use the district's technology resources are subject to monitoring by district staff to ensure appropriate use.

Provisions on student and employee intellectual property rights have been moved from CQ to the new code on that topic, CY.

BBI(LOCAL) POLICY CONSIDERATIONS

This new local policy is recommended in response to requests from districts for guidance on board member use of district technology resources. As defined by the policy, "technology resources" includes both electronic equipment and use of the electronic communications system. As with employee and student use at CQ(LOCAL), this policy allows board members limited personal use of district technology resources and requires board members to sign a user agreement and be subject to monitoring by the superintendent or designee to ensure appropriate use.

The new policy also includes a standard disclaimer of liability and provisions on a board member's responsibility regarding retention of electronic records.

**Student-
Owned
Electronic
Devices**

FNCE(LOCAL) POLICY CONSIDERATIONS

In the subtitle to this policy and throughout the text, recommended changes clarify that this code refers to "personal" telecommunications devices rather than district-owned devices, which are addressed at CQ.

We have added new margin notes to distinguish existing provisions addressing personal use from new provisions on instructional use. We recommend new provisions requiring a student to obtain prior approval before using his or her own electronic device for on-campus instructional purposes, and to comply with applicable regulations and sign a user agreement.

Recommended text also clarifies that only "authorized" employees may confiscate a telecommunications device, and a reference to policy FNF has been added to point to provisions on searches of student-owned devices.

**Intellectual
Property**

The legally referenced policy at new code CY houses existing statutory material on intellectual property, including copyright, trademarks, and patents, along with copyright provisions formerly at EFE(LEGAL), which is no longer an active code.

CY(LOCAL) POLICY CONSIDERATIONS

This new local policy on intellectual property, copyright, and trademarks includes updates to existing local policy provisions moved from CQ and EFE and new provisions on trademarks. The text has been updated throughout to refer to the district's "technology resources" to match update changes at CQ.

Recommended provisions regarding intellectual property clarify that an employee owns work created on the employee's own time with personal equipment and materials and provide that an employee must obtain permission to use district materials or equipment for the employee's creative projects. New provisions also address the district's ability to enter into a works-for-hire agreement with an independent contractor. Upon termination of any person's association with the district, all intellectual property belonging to the district must be returned to the district.

Recommended provisions on copyright state that an employee or student is responsible for obtaining permission before using copyrighted material for instructional, curricular, or extracurricular purposes, unless the material falls under the "fair use" exception. A license or permission must be obtained before using motion pictures or other audiovisual materials in the classroom,

unless the materials are used in the course of face-to-face teaching activities as defined by law. A new provision also clarifies that the policy does not apply to work considered to be in the public domain.

A new recommended provision states that district trademarks, including district and campus names, logos, mascots, and symbols, are protected from unauthorized use, although students, student and parent organizations, and other district-affiliated school-support or booster organizations are permitted to use district trademarks to promote school-related business or activities without obtaining written approval. The policy gives the superintendent the authority to revoke permission if the use is improper or does not conform to administrative regulations. Other entities or groups must obtain permission from the superintendent before using the district's trademarks.

**Disability
Discrimination**

At FB(LEGAL), we have added existing provisions from the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act addressing student disability discrimination, including provisions prohibiting a district from excluding a qualified individual with a disability from participating in the services, programs, or activities of the district and provisions requiring a district to make reasonable modifications to avoid disability discrimination, unless the modification would fundamentally alter the nature of the service, program, or activity. New provisions also state that a district does not have to allow an individual to participate in the district's services, programs, or activities if the individual poses a direct threat to the health or safety of others.

Service Animals

As a result of Department of Justice amendments to the regulations implementing the ADA, we have created a new legally referenced policy, FBA(LEGAL), addressing service animals. The policy includes a definition of "service animal" as a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, though the rules permit the use of a trained miniature horse as an alternative, subject to certain limitations. Other provisions in this new policy include the following:

- An individual with a disability must be allowed to take his or her service animal in all areas of a district's facilities that members of the public are allowed to go, except when the service animal is out of control or not house-broken.
- A district is limited in the types of inquiries it can make about service animals.

- A district must modify its policies, practices, or procedures to permit the use of service animals unless the district can show that the modification would fundamentally alter the nature of a service, program, or activity.

In addition to the provisions from federal regulations regarding service animals, we have also added to this new policy existing state law provisions addressing assistance animals. To assist districts in complying with the new rules on service animals, TASB Policy Service has created a sample administrative regulation on student use of service and assistance animals, available on the myTASB Web site to district administrators.

Employee Issues

We have added at DH(LEGAL) Administrative Code provisions requiring a report to the State Board for Educator Certification (SBEC) regarding educator misconduct to describe in detail the factual circumstances prompting the report and to include specific information to identify the subject of the report.

Standards of Conduct

At DH(EXHIBIT), we have incorporated SBEC's recent amendments to the Code of Ethics and Standard Practices for Texas Educators, which include new standards on electronic communications with students.

Termination of Employment

At DF(LEGAL), regarding termination of employment, we have revised the definition of "abuse" to reflect amended Administrative Code rules and have moved several provisions to more appropriate codes.

We have added at DFE(LEGAL) Administrative Code provisions on determining the deadline for a board to file a complaint with SBEC asserting an educator's abandonment of contract, including provisions on determining an employee's resignation date if he or she does not submit a written resignation.

Access to Records

At BBE(LEGAL), we have added a provision from a 2004 attorney general opinion detailing board member access to records when there are confidentiality or security concerns. New provisions have also been added explaining that a board member may access student records only when acting in his or her official capacity with a legitimate educational interest, and outlining a board member's obligations to maintain the integrity of public records.

Several existing statutory provisions regarding student records have been added at FL(LEGAL), including provisions requiring a district to furnish records to a new school district within ten working days after the date the district receives a request and to notify a parent or other person with legal control who makes a request for a student's records that he or she may pick up an unofficial copy of the records to deliver to the new school.

Board Training

At BBD(LEGAL), we have added details about Open Meetings Act training and Public Information Act training and have deleted some provisions included at other codes. Provisions on training required by the State Board of Education (SBOE) have been grouped together and provisions have been added from new SBOE rules requiring the board president to annually distribute the SBOE's framework for governance to other board members and the superintendent and to announce at the last regular board meeting of the calendar year whether each board member has satisfied training requirements, rather than at the meeting calling for board member elections, as before. The latter provision is also reflected at BR(LEGAL).

BBD(LOCAL) POLICY CONSIDERATIONS

We have added a cross-reference to GBAA regarding the public information coordinator and recommend for deletion the provisions listing the various board member training methods for districts that included these provisions in policy.

Board Meetings

At BED(LEGAL), we have added the holding of *Fairchild v. Liberty Independent School District*, which clarified that a board can create a limited public forum for the purpose of hearing public comments as long as the board does not engage in viewpoint discrimination, imposes only restrictions that are reasonable in light of the purpose served by the forum, and provides alternative paths for the public to express speech that is excluded from the forum.

District Financial Operations

Several changes were made at Update 90 regarding district financial operations:

- For all but the nine districts still subject to Civil Order 5281, we have deleted text at CDB(LEGAL) requiring districts to notify the Commissioner when real property is sold, leased, or otherwise conveyed.
- At CFA(LEGAL), we have incorporated changes to the Administrative Code regarding requirements for a district's annual financial management report. New language clarifies that the purpose of disclosing the superintendent's contract or other written documentation of employment is to report all compensation and benefits paid to the superintendent. Changes also clarify that the summary schedule for the fiscal year includes expenditures paid on behalf of the superintendent and board members in addition to reimbursements they received.

- At CFC(LEGAL), we have added new Administrative Code rules regarding TEA's financial solvency review process for school districts. The rules define financial solvency, list the data reviewed by TEA and the information TEA will request from districts, and describe the methodology used in the analysis and the activities required if a projected deficit is identified, as well as address which documents will be subject to open records requests during the financial solvency review process.

***More
Information***

For further information on these policy changes, refer to the policy-by-policy Explanatory Notes—customized for each district's policies—and the policies themselves, found in your localized update packet.

(LOCAL) Policy Comparison Packet

Each marked-up (LOCAL) policy in this collection reflects an automated comparison of the updated policy with its precursor, as found in the TASB Policy Service records.

The comparison is generated by an automated process that shows changes as follows.

- *Deletions* are shown in a red strike-through font: ~~deleted text~~.
- *Additions* are shown in a blue, bold font: **new text**.
- Blocks of text that have been *moved* without alteration are shown in green, with double underline and double strike-through formatting to distinguish the text's destination from its origin: ~~moved text~~ becomes ~~moved text~~.
- *Revision bars* appear in the right margin, as above.

While the annotation software competently identifies simple changes, large or complicated changes—as in an extensive rewrite—may be more difficult to follow.

For further assistance in understanding changes, please refer to the explanatory notes in your Localized Policy Manual update packet or contact your policy consultant.

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BOARD MEMBERS
TRAINING AND ORIENTATION

BBD
(LOCAL)

PUBLIC INFORMATION
COORDINATOR

The Superintendent shall fulfill the responsibilities of the public information coordinator and shall receive, on behalf of Board members, the training specified by Government Code 552.012. [\[See GBAA\]](#)

DATE ISSUED: ~~5/23/2011~~11/29/2005
UPDATE ~~9077~~
BBD(LOCAL)-AB

ADOPTED:

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TECHNOLOGY RESOURCES~~ELECTRONIC COMMUNICATION AND DATA MANAGEMENT~~

CQ

(LOCAL)

Note: For Board member use of District technology resources, see BBI. For student use of personal ~~The Superintendent or designee shall implement, monitor, and evaluate~~ electronic devices, see FNCE.

~~For media resources for instructional and administrative~~ purposes of this policy, “technology resources” means electronic communication systems and electronic equipment.

AVAILABILITY OF ACCESS

~~LIMITED PERSONAL USE~~

Access to the District’s **technology resources**~~electronic communications system~~, including the Internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with administrative regulations. ~~Limited personal use of the system shall be permitted if the use:~~

LIMITED PERSONAL USE

Limited personal use of the District’s technology resources shall be permitted if the use:

1. Imposes no tangible cost on the District;
2. Does not unduly burden the District’s **technology**~~computer or network~~ resources; and
3. Has no adverse effect on an employee’s job performance or on a student’s academic performance.

USE BY MEMBERS OF THE PUBLIC

Access to the District’s **technology resources**~~electronic communications system~~, including the Internet, shall be made available to members of the public, in accordance with administrative regulations. Such use shall be permitted so long as the use:

1. Imposes no tangible cost on the District; and
2. Does not unduly burden the District’s **technology**~~computer or network~~ resources.

ACCEPTABLE USE

The Superintendent or designee shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the District and with law and policy.

Access to the District’s **technology resources**~~electronic communications system~~ is a privilege, not a right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the **District’s technology resources**~~system~~ and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance may result in suspension of access or termination of privileges and other disciplinary action consistent with District policies. [See DH, FN series, FO series, and the Student Code of

TECHNOLOGY RESOURCES~~ELECTRONIC COMMUNICATION AND DATA MANAGEMENT~~

CQ
(LOCAL)

	<p>Conduct] Violations of law may result in criminal prosecution as well as disciplinary action by the District.</p>
INTERNET SAFETY	<p>The Superintendent or designee shall develop and implement an Internet safety plan to:</p> <ol style="list-style-type: none">1. Control students' access to inappropriate materials, as well as to materials that are harmful to minors;2. Ensure student safety and security when using electronic communications;3. Prevent unauthorized access, including hacking and other unlawful activities;4. Restrict unauthorized disclosure, use, and dissemination of personally identifiable information regarding students; and5. Educate students about cyberbullying awareness and response and about appropriate online behavior, including interacting with other individuals on social networking Web sites and in chat rooms.
FILTERING	<p>Each District computer with Internet access and the District's network systems shall have a-filtering devicesdevice or software that blocks access to visual depictions that are obscene, pornographic, inappropriate for students, or harmful to minors, as defined by the federal Children's Internet Protection Act and as determined by the Superintendent or designee.</p> <p>The Superintendent or designee shall enforce the use of such filtering devices. Upon approval from the Superintendent or designee, the filtering device may be disabled for bona fide research or other lawful purpose.</p>
MONITORED USE	<p>Electronic mail transmissions and other use of the District's technology resourceselectronic communications system by students, and-employees, and members of the public shall not be considered private. Designated District staff shall be authorized to monitor the District's technology resourcessuch communication at any time to ensure appropriate use.</p>
INTELLECTUAL PROPERTY RIGHTS	<p>Students shall retain all rights to work they create using the District's electronic communications system.</p> <p>As agents of the District, employees shall have limited rights to work they create using the District's electronic communications system. The District shall retain the right to use any product created in the scope of a person's employment even when the author is no longer an employee of the District.</p>

TECHNOLOGY RESOURCES~~ELECTRONIC COMMUNICATION AND DATA MANAGEMENT~~

CQ
(LOCAL)

DISCLAIMER OF LIABILITY

The District shall not be liable for users' inappropriate use of **the District's technology**~~electronic communication~~ resources, violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. The District shall not be responsible for ensuring the **availability of the District's technology resources or the** accuracy, age appropriateness, or usability of any information found on the Internet.

RECORD RETENTION

A District employee shall retain electronic records, whether created or maintained using the District's technology resources or using personal technology resources, in accordance with the District's record management program. [See CPC]

SECURITY BREACH NOTIFICATION

Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law.

The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Electronic mail, if the District has electronic mail addresses for the affected persons.
3. Conspicuous posting on the District's Web site.
4. Publication through broadcast media.

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ACADEMIC ACHIEVEMENT

EI
(LOCAL)

CERTIFICATE~~CERTIFI~~
CATES OF
COURSEWORK
COMPLETION
PARTIAL CREDIT

The District shall not issue **a certificate**~~certificates~~ of coursework completion to **a student**~~students~~ who **fails**~~fail~~ to meet all state and local requirements for graduation. [See EIF, FMH]

When~~Credit for an individual semester shall be earned by~~ a student ~~who~~ earns a passing grade **in only for** one semester **of a two-semester course and the**, ~~but whose~~ combined grade for the two ~~semesters~~~~semesters~~ is lower than 70, **the District shall award**. ~~In this circumstance,~~ the student **credit for the semester with the passing grade. The student** shall be required to retake only the semester in which **he or she earned** the failing grade.

Note: For provisions addressing end-of-course assessments and course credit, see EIA. ~~was earned.~~

DATE ISSUED: ~~5/23/2011~~4/3/2000
UPDATE 90~~LDU-15-03~~
EI(LOCAL)-B2

ADOPTED:

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091914

STUDENT ACTIVITIES
COMMENCEMENT

FMH
(LOCAL)

COMMENCEMENT
EXERCISES

To be eligible to participate in commencement activities and ceremonies, a student~~Students~~ shall meet all state and local graduation requirements, including all applicable **state exit level** testing., ~~to be eligible to participate in commencement activities and ceremonies.~~ [See EI, EIF]

DATE ISSUED: ~~5/23/2011~~7/1/2002
UPDATE ~~9068~~
FMH(LOCAL)-B

ADOPTED:

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STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

FNC
(LOCAL)

STUDENT HANDBOOK
— STUDENT CODE OF
CONDUCT

The District's rules of conduct and discipline, maintained in the student handbook and/or the Board-adopted Student Code of Conduct, are established to achieve and maintain order in the schools, and to teach respect toward others and responsible behavior. [See FO series]

EXTRACURRICULAR
ACTIVITIES:
STANDARDS OF
BEHAVIOR

With the approval of the principal and Superintendent, **a sponsor or a coach**~~sponsors and coaches~~ of **an** extracurricular **activity**~~activities~~ may develop and enforce standards of behavior that are higher than the District-developed Student Code of Conduct and may condition membership or participation in the activity on adherence to those standards. [See FO]

PROHIBITED
HARASSMENT

A student~~Students~~ shall not engage in prohibited harassment, including sexual harassment, of:

1. **Another student**~~Other students~~, as defined at FFH.
2. **A District employee**~~employees~~, as defined at DIA.

While subject to the disciplinary control of the District, **a student**~~students~~ shall not engage in prohibited harassment, including sexual harassment, of **another person**~~other persons~~, including **a** Board **member, vendor, contractor, volunteer**~~members, vendors, contractors, volunteers~~, or **parent**~~parents~~.

A student~~Students~~ who **violates**~~violate~~ this prohibition **shall be**~~are~~ subject to appropriate discipline in accordance with the Student Code of Conduct.

BEHAVIORAL
STANDARDS

The following specific policies address student conduct in the areas of:

1. **Use of District technology resources — CQ**
- ~~2.~~ Attendance — FEC
- ~~3.~~ Bullying — FFI
- ~~3.~~4. School-sponsored publications — FMA
- ~~4.~~5. Appropriate attire and grooming — FNCA
- ~~5.~~6. Damage to school property — FNCB
- ~~6.~~7. Prohibited organizations and hazing — FNCC
- ~~7.~~8. Tobacco use — FNCD
- ~~8.~~9. **Use of personal telecommunications devices and other electronic**~~Telecommunications~~ devices — FNCE
- ~~9.~~10. Drug and alcohol use — FNCF

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STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

FNC
(LOCAL)

- ~~40~~.11. Weapons — FNCG
- ~~11~~.12. Assault — FNCH
- ~~12~~.13. Disruptions — FNCI, GKA

DATE ISSUED: 5/~~23/2011~~19/2008
UPDATE 90~~83~~
FNC(LOCAL)-A

ADOPTED:

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Note: For searches of **personal** telecommunications **devices** or other **personal electronic devices**, see **FNCE**.

TELECOMMUNICATIONS DEVICES

An authorized District **employee**~~employees~~ may confiscate a **personal** telecommunications **device**~~devices~~, including a mobile **telephone**~~telephones~~, used in violation of applicable campus rules.

A confiscated **personal** telecommunications device shall be released for a fee determined by the Board. In accordance with the student handbook, the student or the student's parents may retrieve the device after paying the fee.

If a **personal** telecommunications device is not retrieved, the District shall dispose of the device after providing notice required by law.

OTHER ELECTRONIC DEVICES

Guidelines regarding other **personal** electronic devices shall be addressed in the student handbook.

INSTRUCTIONAL USE

A student shall obtain prior approval before using personal telecommunications or other personal electronic devices for on-campus instructional purposes. The student shall also acknowledge receipt and understanding of applicable regulations and shall sign the appropriate user agreements. [See CQ].