

Explanatory Notes

TASB Localized Policy Manual Update 87

District: Brackett ISD

A (LEGAL) BASIC DISTRICT FOUNDATIONS

We have revised the A section table of contents to add new codes on Accountability, including AIA, Accreditation and Performance Indicators; AIB, Performance Reporting; AIC, Investigations and Sanctions; and AID, Federal Accountability Standards.

AIA (LEGAL) ACCOUNTABILITY
ACCREDITATION AND PERFORMANCE INDICATORS

Much of the content of this new policy on accreditation and performance indicators was revised by HB 3 and moved from GND(LEGAL). Citations have been updated throughout. Substantive changes are as follows:

- At ACCREDITATION, we added an existing statutory provision explaining that a district that is not accredited may not receive funds from TEA or hold itself out as a public school.
- A new provision was added at ACCREDITATION CRITERIA explaining that a district's accreditation status may be lowered based on the performance of a campus.
- Throughout the policy, references to "academic excellence indicators" have been replaced with "STUDENT ACHIEVEMENT INDICATORS," which include the results of assessments that are retaken by students in addition to indicators previously in law. Other factors previously listed as academic excellence indicators have been moved to the list of QUALITY OF LEARNING INDICATORS beginning on page 2.
- The Commissioner, rather than the State Board of Education, will assign each district and campus a PERFORMANCE RATING of acceptable or unacceptable performance. Ratings no longer include exemplary, recognized, academically acceptable, or academically unacceptable. Ratings are based on evaluation of state standards and student achievement indicators. The Commissioner may assign an acceptable performance rating if the campus or district meets 85 percent of the student achievement indicators and does not fail the same measure for two consecutive school years.
- The Commissioner is also responsible for awarding districts and campuses ACADEMIC EXCELLENCE DISTINCTION DESIGNATIONS of exemplary or recognized. The criteria for CAMPUS DESIGNATIONS are listed in the policy. HB 3 deleted gold performance ratings from statute.

AIB (LEGAL) ACCOUNTABILITY
PERFORMANCE REPORTING

In this new policy, material at DISTRICT PERFORMANCE REPORT and CAMPUS PERFORMANCE REPORT has been moved from BR(LEGAL) and revised as a result of HB 3. The annual district performance report was previously referred to as the Academic Excellence Indicator System (AEIS) report and contains the same information as the AEIS report did. As under previous law, a district must hold a PUBLIC HEARING to discuss the annual report and provide WEB SITE NOTICES of the report.

A new provision from HB 3 requires districts to provide, in a written NOTICE TO PARENTS, annual improvement in student performance as reported by TEA. For parents of students who failed a state assessment, the written notice must include information relating to online educational resources and assessment information.

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Another new provision from HB 3 at NOTICE TO TEACHERS AND STUDENTS requires districts to provide reports on student performance to teachers and students. The report given to each teacher will indicate performance for all students who took a state assessment, including incoming students. The report given to students will indicate how the teacher's previous students performed on state assessments.

AIC (LEGAL) ACCOUNTABILITY INVESTIGATIONS AND SANCTIONS

The provisions in this new policy addressing ON-SITE INVESTIGATIONS and SPECIAL ACCREDITATION INVESTIGATIONS were previously at GND(LEGAL). Additional detail from existing statute has been added regarding the process for conducting an on-site investigation. New reasons from HB 3 for which the Commissioner will authorize a special accreditation investigation are:

- A pattern of decreased academic performance resulting from promotion of students who did not pass state assessments;
- Excessive numbers of graduates under the minimum high school program;
- Excessive numbers of students who fail to complete Algebra II or other courses in the recommended high school program; and
- Resource allocations showing a potential for significant improvement.

The remaining provisions addressing INTERVENTIONS AND SANCTIONS were not previously included in the policy manual. These provisions address the sanctions available to the Commissioner when a district or campus fails to satisfy performance standards. Major revisions from HB 3 include the following:

- A campus that met satisfactory performance for the current year but that is projected not to meet that standard for the following year does not have to be assigned a campus intervention team (CIT). Rather, the campus-level decision-making and planning committee must revise the relevant portions of the campus improvement plan and submit it to TEA. See CAMPUS-LEVEL, beginning on page 4.
- Also at CAMPUS-LEVEL, for a campus that receives an unacceptable performance rating, the Commissioner may order a hearing at TEA or assemble a school community partnership team and will assign a CIT to prepare a targeted improvement plan. The school board must conduct a hearing, post the plan on the Web site, and submit the plan to the Commissioner.
- In a reconstituted campus, the CIT may choose to retain a principal if the CIT decides retention would be more beneficial than removal. See RETENTION OF STAFF on page 6.
- If reconstitution is unsuccessful, the Commissioner may order REPURPOSING of the campus. The district must then develop a comprehensive plan that the Commissioner must approve. Unless the Commissioner grants exceptions, the plan must allow for student transfers to another campus and may not permit the principal or teachers to be retained at the campus.
- For-profit entities may be considered to assume management of the campus if the Commissioner orders ALTERNATIVE MANAGEMENT and no non-profit responds to the request for proposal.
- The Commissioner is prohibited from requiring that the name of a campus be changed as part of a sanction. See NO NAME CHANGE on page 7.

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AID (LEGAL) ACCOUNTABILITY FEDERAL ACCOUNTABILITY STANDARDS

Provisions from the No Child Left Behind Act addressing accountability and other requirements applicable to Title I, Part A schools have been moved to this new code from EHBD(LEGAL). Text throughout the policy has been revised for clarity and to better match statutory language, and provisions have been reordered for better flow. The policy is divided into three main sections addressing the district plan, campus-level interventions and sanctions, and district-level interventions and sanctions.

At DISTRICT PLAN, we have added existing statutory text requiring a district to adopt a plan approved by TEA before receiving funds under Title I, Part A and have added an existing provision on TRANSFER OF DISCIPLINARY RECORDS.

Significant revisions to the text addressing CAMPUS-LEVEL INTERVENTIONS AND SANCTIONS include:

- Addition of existing statutory text describing the consequences for failure to make adequate yearly progress (AYP).
- At PRE-IDENTIFICATION REVIEW on page 2, addition of existing statutory text explaining the process a district must follow before identifying a school for improvement, corrective action, or restructuring.
- Deletion of the definition of "academic assessments," since this term is now commonly understood, and addition of the existing statutory definition of "SUPPLEMENTAL SERVICES" beginning on page 3. Also at this margin note, removal of provisions regarding TEA's obligations in response to a district's request for a waiver from TEA regarding supplemental educational services.
- Addition of existing statutory text regarding a student's OPTION TO TRANSFER if assigned to a school that fails to make AYP for two consecutive years. See page 4.
- Replacement of the list of TECHNICAL ASSISTANCE services that a district must provide to a school in need of improvement with a reference to the relevant statute.
- At FAILURE TO MAKE AYP FOR FOUR YEARS on page 5, deletion of the definition of "corrective action" and the paragraph addressing notice of corrective action, since both concepts are already included in the list of corrective actions a district must take if a school fails to make AYP by the end of the second year after being identified for improvement.

We have also made revisions to the text addressing DISTRICT-LEVEL INTERVENTIONS AND SANCTIONS. We have added existing statutory provisions addressing:

- The process TEA must follow before identifying a district for improvement or corrective action at PRE-IDENTIFICATION REVIEW;
- The district's obligation to develop a DISTRICT PLAN addressing improvement;
- Possible corrective action TEA may take with respect to a district that has been identified for improvement (see IDENTIFICATION FOR CORRECTIVE ACTION); and
- TEA's obligations to provide notice and a HEARING to the district before implementing corrective action and to provide NOTICE TO PARENTS about corrective actions taken.

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B (LEGAL) LOCAL GOVERNANCE

We have revised the B section table of contents to add the new code BRB, on Web Site Postings.

BBFA (LEGAL) ETHICS CONFLICT OF INTEREST DISCLOSURES

We have revised the provision at ANNUAL FINANCIAL MANAGEMENT REPORT on page 5 to eliminate the reference to the Commissioner's duties and to delete the reference to the superintendent, since this code addresses board member conflict of interest disclosures and includes only a summary of the financial management report provisions. Additional detail regarding the report is at CFA, which also addresses the superintendent's duties.

We have also updated the citation at this section, as a result of HB 3, and the cross-reference, since annual financial management report provisions have moved from BR(LEGAL) to CFA(LEGAL).

BBFB (LEGAL) ETHICS PROHIBITED PRACTICES

The existing statute making the receipt of commissions, rebates, gifts, services, or favors related to textbook purchases a criminal offense has been expanded by HB 4294, effective June 19, 2009, to apply to electronic textbooks, instructional materials, and technological equipment. See items 9 and 10 on page 5.

BF (LEGAL) BOARD POLICIES

At DURATION, we have added an existing statutory provision addressing continuation of a waiver beyond the initial three-year term.

Item 2 at RESTRICTIONS was revised by HB 3. Districts may not receive a waiver relating to essential knowledge or skills, or "high school" graduation requirements. Previously this item referred to "minimum" graduation requirements. To better reflect statutory language, we have also revised item 4 to refer to UIL activities: districts may not receive a waiver relating to extracurricular activities or participation in a UIL area, regional, or state competition.

Text throughout this policy has been updated to better match statutory language.

BJA (LEGAL) SUPERINTENDENT QUALIFICATIONS AND DUTIES

At QUALIFICATIONS, we have substituted language from Education Code 21.003 for language from 21.046, which related to obtaining superintendent certification. The new language clarifies that a person may not be employed as a superintendent unless the person holds an appropriate certificate or permit.

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We have made the list of DUTIES more structurally consistent by deleting the statutory citations from several duties in the list and adding cross-references to other codes that include additional detail. Changes at item 9 are a result of HB 3. The reference to "academic excellence indicators" was changed to "student achievement and quality of learning indicators." The reference to the State Board of Education has been replaced with a reference to the Commissioner.

Text throughout this policy has been updated to better match statutory language.

**BJCD (LEGAL) SUPERINTENDENT
EVALUATION**

As a result of HB 3, we updated the citation at ANNUAL PERFORMANCE REPORT. The provision specifying the penalty for not evaluating the superintendent annually has been moved below APPRAISAL PROCESS for better flow.

We have also added an existing statutory provision making a document evaluating the performance of a superintendent confidential.

**BJCD (EXHIBIT) SUPERINTENDENT
EVALUATION**

As a result of HB 3, we have modified item 9 in the list of domains and descriptors that may be used to evaluate a superintendent: "academic excellence indicators" was changed to "student achievement indicators."

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

To conform with changes from HB 3, effective September 1, 2009, references to "academic excellence indicators" have been changed to "student achievement indicators" throughout.

**BQA (LEGAL) PLANNING AND DECISION-MAKING PROCESS
DISTRICT-LEVEL**

To conform with changes from HB 3, effective September 1, 2009, the reference to "academic excellence indicators" at DISTRICT IMPROVEMENT PLAN has been changed to "student achievement indicators."

HB 3646, effective September 1, 2009, deleted Education Code, Chapter 21, Subchapter N on the Awards for Student Achievement Program, which contained the requirement for the district- and campus-level planning and decision-making committees to develop and approve a campus incentive plan. As a result, we have deleted that material.

In addition, we have deleted an unnecessary cite at DROPOUT PREVENTION REVIEW.

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BQB (LEGAL) PLANNING AND DECISION-MAKING PROCESS CAMPUS-LEVEL

As mentioned at BQA(LEGAL), above, HB 3646, effective September 1, 2009, deleted Education Code, Chapter 21, Subchapter N on the Awards for Student Achievement Program, which contained the requirement for the district- and campus-level planning and decision-making committees to develop and approve a campus incentive plan. As a result, we have deleted that material.

As at BQA(LEGAL), we have also deleted an unnecessary cite at DROPOUT PREVENTION REVIEW.

BR (LEGAL) REPORTS

As mentioned above, material on student accountability, including the Academic Excellence Indicator System (AEIS) report and the school report card was moved to AIB. Material on the annual financial management report was moved to CFA.

This code now includes a list of required reports, in the order they appear in the policy manual, that the district must publish or distribute. As indicated in the **Note** at the beginning of the policy, the list is not all-inclusive. Each listed item includes the relevant deadline (when listed in statute), whether the reporting requirement is applicable to certain districts, the relevant legal citation, and a cross-reference to the policy code that includes more detail about the topic of the report.

BRB (LEGAL) REPORTS WEB SITE POSTINGS

This new code was created to provide a list of items that the district is required to post on its Internet Web site. Each listed item includes a cross-reference to the policy code that includes more detail about the topic of the posting. As indicated in the **Note** at the beginning of the policy, the list is not all-inclusive.

CCA (LEGAL) LOCAL REVENUE SOURCES BOND ISSUES

HB 3646, effective September 1, 2009, and SB 2274, effective June 19, 2009, clarify that a district can raise funds through bonds and ad valorem taxes in an amount sufficient to pay the principal and interest on the bonds as *or before* the bonds become due. See BONDS AND BOND TAXES on page 1.

HB 3646 also amended the provisions governing EXISTING DEBT ALLOTMENT. Districts are now eligible for guaranteed state funding if the district made payments on the bonds during the final school year of the preceding state fiscal biennium. Previously the statute required payment to have been made in the 2006-07 school year.

HB 1720 and SB 2085, both effective September 1, 2009, modify the prohibition on the use of district funds for POLITICAL ADVERTISING to situations in which the officer or employee knowingly expends or authorizes the expenditure of funds for this purpose. These bills also add a new prohibition against the use of district funds for a communication on a measure that the officer or employee knows is false and that is likely to influence voting. In addition, a district can now request an advance written advisory opinion from the Texas Ethics Commission stating whether the district's communication complies with these prohibitions.

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On page 5, at GUARANTEED BONDS, we have added changes from HB 3646 regarding guarantee of bonds by the permanent school fund.

The CREDIT ENHANCEMENT PROGRAM, added by HB 3646, allows districts to apply for credit enhancement of bonds and is available when a district's application for guarantee by the permanent school fund is rejected.

For the guarantee program and the credit enhancement program, the State Board of Education may set an applicable fee in an amount to cover administration of the programs.

CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

Reflected at this code are changes from HB 3646 that allow a district, beginning with the 2010 tax year, to adopt a tax rate based on estimated property values rather than waiting for a certified appraisal roll. Appraisal districts are required to prepare a CERTIFIED ESTIMATE by April 30. The bill creates an EXCEPTION from the requirement that a budget be adopted before the adoption of the tax rate. (See page 3.) A district that chooses to adopt a tax rate based on a certified estimate may adopt the tax rate before the budget. The district's effective and rollback tax rates will both be based on the certified estimate.

HB 2291, effective June 19, 2009, amends the wording required in the motion to adopt an ordinance to set a tax rate that exceeds the EFFECTIVE TAX RATE. The motion must now include the percentage by which the proposed tax rate exceeds the effective tax rate. If the ordinance will set a tax rate that will exceed the effective MAINTENANCE AND OPERATIONS TAX RATE, the ordinance must include the percentage by which the proposed tax rate exceeds the effective M&O rate.

Provisions about ordering a tax ratification election from HB 3646 have been added at CALL FOR ELECTION and NOTICE TO COUNTY CLERK.

HB 1257, effective June 19, 2009, expands the provisions governing installment tax payments by owners of real property located in a DISASTER AREA. Now the option applies to real property that is owned or leased by certain business entities.

HB 1257 also expands the homestead exemption as reflected at HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE on page 10. If a residence is uninhabitable because of a casualty or wind or water damage, the owner may continue receiving the exemption while constructing a replacement structure.

DISABLED VETERANS with a 100 percent disability rating are entitled to an exemption from taxation for the total appraised value of the residence homestead. This provision is from HB 3613, effective June 19, 2009.

Districts may grant ADDITIONAL EXEMPTIONS for certain tax-exempt corporations pursuant to HB 2555, effective January 1, 2010.

HB 1770 and HB 3646 trigger revisions at COLLECTION AND DEPOSIT OF TAX INCREMENTS on page 11. HB 1770 clarifies that even if a reinvestment zone is terminated, the district must make its payment of the appropriate taxes within 90 days after the delinquency date for district property taxes. A district is not required to pay any of its tax increment into the tax increment fund for a reinvestment 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 county or municipality that created the zone.

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CCH (LEGAL) LOCAL REVENUE SOURCES APPRAISAL DISTRICT

HB 3611, effective January 1, 2010, allows the boards of directors of two or more adjoining APPRAISAL REVIEW BOARDS to enter into an interlocal contract for the operation of a consolidated appraisal review board. This provision was approved by voters in the November 2009 election.

Generally, members of an appraisal review board are appointed by the appraisal district board of directors. HB 1030 adds an EXCEPTION to this general rule. The exception, effective January 1, 2010, provides that members of an appraisal review board in Harris, Montgomery, and Fort Bend counties are appointed by the local administrative district judge.

CE (LEGAL) ANNUAL OPERATING BUDGET

HB 3646 created an exception to the provision prohibiting a district from using its employees, property, or resources for improvements to real property not owned or leased by the district. A district may now contribute funds to the design, improvement, or construction of an instructional facility or stadium owned by or under the control of an institution of higher education (including any public community college) if the district is permitted to use the facility. This new provision has been added at CX(LEGAL) and is referenced in this policy at USE OF DISTRICT RESOURCES.

As noted in the explanatory note for CCG(LEGAL), and as reflected at BUDGET ADOPTION AFTER TAX RATE ADOPTION on page 4, HB 3646 permits a district relying on a certified estimate of property values to adopt a tax rate before adopting the budget. In this circumstance, the district must publish notice and hold a meeting to discuss the proposed tax rate. Following adoption of the tax rate, the district must publish notice and hold another public meeting before the district adopts the budget.

HB 3, effective September 1, 2009, governs PUBLICATION OF THE ADOPTED BUDGET. Each district must post its final approved budget on its Web site and must keep the budget available on the Web site for three years after adoption.

Citations have been updated throughout this policy.

CFA (LEGAL) ACCOUNTING FINANCIAL REPORTS AND STATEMENTS

Material on the ANNUAL FINANCIAL MANAGEMENT REPORT has been moved with no substantive changes from BR(LEGAL).

At PROJECTED DEFICIT on page 4, we have added a new reporting requirement from HB 3, effective September 1, 2009. As part of the financial accountability system, TEA will develop a review process to anticipate the future financial solvency of each school district. The review process will analyze revenues and expenditures for the preceding year, the current year, and the following two years. See the explanatory note for CFC(LEGAL). If the review process reveals a projected deficit for a district general fund within the following three years, the district must provide TEA with information for TEA to evaluate the district's current budget status.

Please note that although the initial review process described in CFC will only analyze projected revenues and expenditures for the current school year and *the following two school years*, the reporting requirements referred to in this policy would apply if the review process reveals a projected deficit within *the following three school years*.

If the projected deficit is substantiated, the district must develop and submit a financial plan to TEA.

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CFC (LEGAL) ACCOUNTING AUDITS

As mentioned at CFA, above, TEA must develop a process to review the future FINANCIAL SOLVENCY of each district. The review process will analyze revenues and expenditures for the preceding year, the current year, and the following two years. Several factors will be considered in the review process, as listed in the policy. To assist districts in submitting information to TEA, the agency will develop a system for districts to submit relevant information electronically.

See also the explanatory note for CFA(LEGAL).

CFEA (LEGAL) PAYROLL PROCEDURES SALARY DEDUCTIONS AND REDUCTIONS

We have clarified the text at item 15, CAFETERIA PLANS, to indicate that the cafeteria plan referenced in the text is the district's cafeteria plan.

CH (LOCAL) PURCHASING AND ACQUISITION

As reflected at CH(LEGAL) in Update 86, districts are now permitted to receive electronic bids or proposals in the purchasing process, in accordance with HB 987, effective June 19, 2009. If the board chooses this option, the board must adopt rules to ensure that the bids or proposals are secure and remain unopened until the appropriate time. We now have text available to include at CH(LOCAL), CVA(LOCAL), and CVB(LOCAL) for districts that wish to take advantage of this new law. Please contact your policy consultant if your district will be accepting electronic bids or proposals. Sample administrative regulations on this topic were included in Update 35 to the *TASB Regulations Resource Manual*, released in December.

CK (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT

We have created this new code to include materials on safety and security in general. HB 1831, effective September 1, 2009, created a requirement for each district to establish a SAFETY AND SECURITY COMMITTEE. The committee will develop and implement emergency plans, provide information needed for an audit or report, and review each report that the district must submit to the Texas School Safety Center (TxSSC).

Other changes from HB 1831 include:

- A new provision protecting documents and information collected, developed, or produced during a safety and security audit from DISCLOSURE under the Public Information Act; and
- A requirement for a district that enters into a memorandum of understanding or mutual aid AGREEMENT addressing issues that affect school safety and security to submit, when requested, information about the agreement to the TxSSC.

Finally, we have moved from CKC(LEGAL) to this policy the provision requiring the district to conduct a security audit. The scope of the audit provision was expanded by HB 1831, effective September 1, 2009, to encompass safety issues in addition to security issues. See SAFETY AND SECURITY AUDIT.

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CKC (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT
EMERGENCY PLANS

Text at EMERGENCY OPERATIONS PLAN is revised as a result of HB 1831, effective September 1, 2009. A district's emergency operations plan (EOP) must now:

- Include school drills and *exercises* to prepare students for emergencies; and
- Ensure coordination with the Texas Department of State Health Services.

HB 1831 also adds a list of circumstances under which a document relating to an EOP is subject to DISCLOSURE. Mainly these focus on whether the document would enable someone to confirm that the district has met its statutory requirements regarding development of the EOP.

The paragraph requiring the district to conduct a security audit once every three years has been moved to CK(LEGAL).

CNB (LEGAL) TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

Based on new bus advertising rules adopted by the Texas Department of Public Safety (DPS) effective March 18, 2009, we have updated citations and contact information for DPS.

CQ (LEGAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

A new provision from HB 2004, effective September 1, 2009, requires a district that owns, licenses, or maintains computerized data with sensitive personal information to provide notice, as required by the Business and Commerce Code, to affected individuals in the event of a breach of the security system. (See SECURITY BREACH NOTIFICATION on page 5.) Sensitive personal information includes an individual's name in combination with items such as a social security number, driver's license number, government-issued identification number, credit or debit card number, and health information.

CRG (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT
DEFERRED COMPENSATION AND ANNUITIES

Changes to provisions on salary reduction agreements come from HB 3480, effective September 1, 2009. See PROHIBITIONS ON DISTRICT, beginning on page 2. Previously a district could not enter into a salary reduction agreement with an employee if the qualified investment product in which the employee wished to invest was not eligible under TRS rules. This bill creates an exception, permitting a salary reduction agreement for an *ineligible* investment product if the district first provides the employee with written notice listing the reason the qualified investment product is not eligible. If the reason for ineligibility is that TRS has denied, suspended, or revoked the certification of the company offering the product, the notice must indicate the reason the company's certification was denied, suspended, or revoked. The written notice must also clearly state that, by signing the notice, the employee is agreeing to enter into or continue the salary reduction agreement.

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CX (LEGAL) RENTING OR LEASING FACILITIES FROM OTHERS

HB 3646 created an exception to the provision prohibiting a district from using its employees, property, or resources for improvements to real property not owned or leased by the district. A district may now contribute funds to the design, improvement, or construction of an instructional facility or stadium owned by or under the control of an institution of higher education (including any public community college) if the district is permitted to use the facility. See DESIGN OR CONSTRUCTION OF AN INSTRUCTIONAL OR ATHLETIC FACILITY. See also CE(LEGAL), above.

Revisions at USE OF ATHLETIC FACILITIES also come from HB 3646. If a district enters into a contract with a corporation, city, or state university or college for the use of a stadium or other athletic facility owned by or under the control of the other entity, the contract may not exceed a 75-year term.

Minor revisions to better match statutory text have been made at MAINTENANCE TAX LEVY AUTHORIZATION and ELECTION PROCEDURES.

DFBB (LOCAL) TERM CONTRACTS
NONRENEWAL

HB 3, addressing school district accountability, made several changes to accountability interventions and sanctions, effective for the 2009–10 school year. The Commissioner may now order repurposing of a previously reconstituted campus in specific circumstances. With certain exceptions, a teacher employed at the campus in the school year immediately preceding the repurposing of the campus cannot be retained at the campus. Likewise, the principal may not be retained, absent certain exceptions. The law allows a district to reassign to another position in the district an educator who has not been retained under the repurposing provisions. When reassignment of the educator is not appropriate, the district may decide to pursue nonrenewal. As a result, we have revised nonrenewal REASON item 11 to permit nonrenewal of an employee who is not retained at a repurposed campus. [See the explanatory note at AIC(LEGAL).]

To match the practice common in most districts, we have deleted the requirement that the superintendent deliver written notice of proposed renewal to the employee by hand or certified mail, return receipt requested, not later than the 45th day before the last day of instruction required in the contract. Most districts comply with the requirement to give notice of proposed renewal by providing the teacher with a copy of the contract for the following school year. See NOTICE OF PROPOSED NONRENEWAL for these changes.

At REQUEST FOR HEARING and HEARING PROCEDURE, we have changed “board president” to “presiding officer” to accommodate those instances when someone other than the board president is presiding over the nonrenewal hearing.

DFE (LEGAL) TERMINATION OF EMPLOYMENT
RESIGNATION

This policy has been revised based on a recent Commissioner decision. In *Fantroy v. Dallas Independent School District*, the Commissioner determined that a resignation that is submitted by an educator before the penalty-free resignation date is a “unilateral resignation.” A district cannot reject such a resignation. It is effective upon filing with the district, thus the district does not need to officially consent to or accept the resignation, and the educator cannot revoke the resignation once it is submitted. See RESIGNATION WITHOUT CONSENT (UNILATERAL RESIGNATION). A previous Commissioner decision from 2006, *Garcia v. Miles Independent School District*, which supports *Fantroy*, was also added.

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We have also added two previous Commissioner decisions that address SANCTIONS FOR ABANDONMENT OF CONTRACT. These decisions explain that if a district accepts a resignation, it indicates consent, and the district may no longer pursue sanctions for abandonment of the contract.

DFE (LOCAL) TERMINATION OF EMPLOYMENT RESIGNATION

For consistency with the changes at DFE(LEGAL), we have restructured this policy to distinguish between unilateral resignations, which do not require acceptance by the district, and all other resignations. At CONTRACT EMPLOYEES, we have revised the text to specify that the superintendent is authorized to "receive" rather than "accept" a resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. As reflected in the policy, such resignations are automatically accepted upon receipt; the district does not take any action to accept them.

The revised policy continues to reflect the superintendent's authority to accept other resignations or submit them to the board in order for the district to pursue sanctions. We have deleted a sentence specifying that acceptance of a resignation submitted after the penalty-free resignation date is contingent on finding a suitable replacement. The removal of this sentence allows the superintendent to consider a variety of factors in deciding whether to accept such a resignation without limiting the decision to this single factor.

The provision requiring board consent for withdrawal of an accepted resignation remains unchanged. (See WITHDRAWAL OF RESIGNATION.) If your district practice is to allow the superintendent, rather than the board, to approve the withdrawal of a previously accepted resignation, for example, to match the district's hiring authority provisions in DC(LOCAL), please contact your policy consultant for revisions to this policy.

DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

We have updated the text to clarify that only districts that receive a "direct" federal grant must comply with the FEDERAL DRUG-FREE WORKPLACE ACT. At item 4, we have added statutory detail: districts to which the Act is applicable must provide a drug-free workplace by imposing a sanction on an employee convicted of a drug violation or requiring the employee to satisfactorily participate in a drug abuse or rehabilitation program.

The 79th Texas Legislature repealed the statutory authority for the Texas Department of Insurance, Division of Workers' Compensation, to adopt rules governing the administration of the Texas Drug-Free Workplace Program. As a result, we have deleted the Texas Administrative Code provision that required a district with 15 or more employees to adopt a policy for eliminating drug and alcohol abuse. The Administrative Code provision was repealed effective October 1, 2009.

DI (LOCAL) EMPLOYEE WELFARE

As reflected in DH(LEGAL), districts that receive federal grant money directly, including Impact Aid, have long been required by federal law to provide a drug-free workplace. In addition, state law required a district with 15 or more employees to adopt a policy for elimination of drug abuse, including alcohol. As a result of the repeal of the state law, we have deleted reference to the state requirements. We have also added a cross-reference to DH and clarified that the program is a "drug-free awareness" program.

See the explanatory note for DH(LEGAL).

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DI (EXHIBIT) EMPLOYEE WELFARE

This exhibit has been revised to serve as the required notice under the federal Drug-Free Workplace Act. As part of the revisions we have made changes to the formatting and added detail about employees' obligations under the Act as a condition of their employment, including a provision requiring employees to notify the superintendent in writing of a criminal drug statute conviction in accordance with the reporting timelines in DH(LOCAL).

DNB (LEGAL) PERFORMANCE APPRAISAL
EVALUATION OF OTHER PROFESSIONAL EMPLOYEES

As a result of HB 3, we have amended the provision at PRINCIPALS. The appraisal of a principal will now include consideration of "student achievement indicators" rather than "academic excellence indicators." We have made a similar change to the language at DOMAINS on page 2.

EEL (LEGAL) INSTRUCTIONAL ARRANGEMENTS
CONTRACTS WITH OUTSIDE AGENCIES

HB 339 and HB 2730, both effective September 1, 2009, specify that a DRIVER TRAINING SCHOOL with which a district enters into an agreement for driver education must be licensed under Education Code Chapter 1001.

EHAD (LEGAL) BASIC INSTRUCTIONAL PROGRAM
ELECTIVE INSTRUCTION

HB 339 and HB 2730, both effective September 1, 2009, and applicable beginning with the 2010-11 school year, require a district to consider offering a DRIVER EDUCATION and traffic safety course during each school year. If the district decides to offer the course, the district may teach the course for a fee or contract with a licensed driver education school.

See the explanatory note for EEL(LEGAL).

EHB (LEGAL) CURRICULUM DESIGN
SPECIAL PROGRAMS

We have made a correction at READING PROGRAM. A district "shall," not "may," purchase a reading program or develop its own reading program.

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EHBD (LEGAL) SPECIAL PROGRAMS FEDERAL TITLE I

Provisions from the No Child Left Behind Act addressing accountability and other requirements applicable to Title I, Part A schools have been moved to AID(LEGAL). Remaining provisions focus on parental involvement, policy requirements, comparability, private schools, and homeless children.

Other changes include:

- Rephrasing of the provision at PARENTAL INVOLVEMENT to clarify that a district may receive Title I, Part A funding only if it implements the relevant programs;
- Addition of detail from the statute regarding COMPARABILITY, including an EXCEPTION from comparability requirements for districts that do not have more than one building for each grade level and the provision that a district is considered in compliance with comparability requirements if it files a written assurance with TEA; and
- Addition of detail regarding a district's obligation to provide special education services and benefits to eligible children enrolled in PRIVATE SCHOOLS.

EHDE (LEGAL) EXTENDED INSTRUCTIONAL PROGRAMS DISTANCE LEARNING

We have added detail from the Education Code on the state virtual school network, including:

- A requirement for districts to give NOTICE to parents and students of the option to enroll in an electronic course offered through the virtual school network;
- Provisions governing how a district should handle student REQUESTS TO ENROLL in an electronic course offered through the state virtual school network; and
- A provision allowing a parent to APPEAL to the Commissioner a district's denial of the parent's request to enroll his or her child in an electronic course offered through the network.

EKD (LEGAL) TESTING PROGRAMS MATHEMATICS ASSESSMENT

We have deleted from this code the requirement for the Commissioner to develop an end-of-course Algebra I assessment instrument and the statutory provision requiring a special education student's ARD committee to consider modifications regarding end-of-course assessments. This material is incorporated by reference at EKB, which includes provisions on state assessments.

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EMI (LEGAL) MISCELLANEOUS INSTRUCTIONAL POLICIES STUDY OF RELIGION

A 2008 attorney general opinion, cited in the policy, confirms that although a district must include in its enrichment curriculum "religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature," [see policy EHAA(LEGAL)], the district is not required to offer an elective course on the Hebrew Scriptures and its impact or on the New Testament and its impact.

Effective for the 2009–10 school year, a district may offer an ELECTIVE COURSE to high school students on the impact of the Old or New Testaments. If fewer than 15 students at a campus register for the course, the district is not obligated to offer the course at that campus for that semester. In the alternative, a district may offer an elective course based on the books of a religion other than Christianity or on the academic study of the Hebrew Scriptures, the New Testament, or both.

FB (LOCAL) EQUAL EDUCATIONAL OPPORTUNITY

Based on a recommendation by the U.S. Department of Education, Office for Civil Rights (OCR), we have incorporated into this policy an ADA/SECTION 504 COORDINATOR to ensure compliance with Title II of the Americans with Disabilities Act (ADA) of 1990. The ADA regulations require each district with 50 or more employees to list the name, position, address, and phone number of the individual who will coordinate the district's efforts to comply with and carry out its responsibilities under Title II with regard to students. Although districts with fewer than 50 employees are not required by law to list a Title II coordinator, we recommend that they do so as a practical matter in order to assist the district in complying with Title II. Title II is intended to protect qualified individuals with disabilities from discrimination on the basis of disability in district services, programs, and activities. Additionally it extends the prohibition of discrimination on the basis of disability established by Section 504 of the Rehabilitation Act of 1973.

Please note that we have added Title II responsibilities to those of the Section 504 coordinator. If someone other than the Section 504 coordinator will serve as the Title II coordinator, contact your policy consultant so that your policy can be adjusted.

Another change, at TITLE IX COORDINATOR, replaces the word "employee" with "person" to accommodate the practice of naming someone other than a district employee as the coordinator, for example an attorney or other similar individual.

See also the explanatory note for FFH(LOCAL).

FDA (LEGAL) INTERDISTRICT TRANSFERS PUBLIC EDUCATION GRANTS

Eligibility for a student to receive a public education grant (PEG) has been amended by HB 3, effective September 1, 2009. Prior to HB 3, an ELIGIBLE STUDENT was one who was assigned to attend a campus that was considered academically unacceptable at any time in the preceding three years. Pursuant to HB 3, a student is eligible if the student was assigned to attend a campus that failed to satisfy any standard under Education Code 39.054(d) at any time in the preceding three years. That section includes the criteria for an acceptable performance rating.

Citations have been updated throughout the policy.

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FFAC (LOCAL) WELLNESS AND HEALTH SERVICES
MEDICAL TREATMENT

Your district's policy reflects that the district provides nonprescription medication to students only on an emergency basis and consistent with parental consent. Some districts have chosen to discontinue the practice of providing nonprescription medication to students, even in the circumstances listed above. If your district no longer purchases and provides nonprescription medication to students, please contact your policy consultant for adjustments to your policy.

FFAF (LEGAL) WELLNESS AND HEALTH SERVICES
INDIVIDUALIZED HEALTH PLAN

Additional detail from statute has been added to this policy, which addresses diabetes management, including requirements for the student's school to:

- Review a diabetes management and treatment plan (DMTP) submitted by a parent (see SUBMISSION TO SCHOOL);
- Allow a student to attend to the management and care of the student's diabetes, such as performing glucose checks, administering insulin, treating hypoglycemia and hyperglycemia, and possessing necessary equipment (see INDEPENDENT MONITORING AND TREATMENT); and
- Ensure that if a school nurse is assigned to the campus, the nurse will coordinate the training of school employees acting as UDCA's (unlicensed diabetes care assistants) (see UDCA TRAINING on page 3).

In addition, we have added a **Note** on page 4 referencing the Texas Diabetes Council's Guidelines for Training School Employees who are not licensed health-care professionals to care for students with diabetes. The Council was required by law to develop the Guidelines.

FFC (LEGAL) STUDENT WELFARE
STUDENT SUPPORT SERVICES

Because of the 2008 repeal of the Administrative Code rule, we have deleted a provision requiring the LIAISON FOR COURT-RELATED STUDENTS to assist in ensuring that such students have the opportunity to complete missed assignments. The Administrative Code provision was repealed because the Education Code already provides that a student absent for a court appearance will be allowed a reasonable time to make up school work missed. [See FEA(LEGAL).]

Citations have been updated throughout the policy.

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FFH (LOCAL) STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND
RETALIATION

Based on a recommendation by the U.S. Department of Education, Office for Civil Rights (OCR), we have incorporated into this policy an ADA/SECTION 504 COORDINATOR to ensure compliance with Title II of the Americans with Disabilities Act (ADA) of 1990. The ADA regulations require each district with 50 or more employees to list the name, position, address, and phone number of the individual who will coordinate the district's efforts to comply with and carry out its responsibilities under Title II with regard to students. Although districts with fewer than 50 employees are not required by law to list a Title II coordinator, we recommend that they do so as a practical matter in order to assist the district in complying with Title II. Title II is intended to protect qualified individuals with disabilities from discrimination on the basis of disability in district services, programs, and activities. Additionally it extends the prohibition of discrimination on the basis of disability established by Section 504 of the Rehabilitation Act of 1973.

Please note that we have added Title II compliance responsibilities to those of the Section 504 coordinator. If someone other than the Section 504 coordinator will serve as the Title II coordinator, contact your policy consultant so that your policy can be adjusted.

Another change, at TITLE IX COORDINATOR, replaces the word "employee" with "person" to accommodate the practice of naming someone other than a district employee as the coordinator, for example an attorney or other similar individual.

Other minor changes include a cross-reference to DF at SEXUAL HARASSMENT, BY AN EMPLOYEE and a new margin note under DATING VIOLENCE to highlight the EXAMPLES listed in the policy.

See also the explanatory note for FB(LOCAL).

FNCC (LEGAL) STUDENT CONDUCT
PROHIBITED ORGANIZATIONS AND HAZING

The provision requiring a board or educator to recommend DAEP PLACEMENT for students involved in public school fraternities or sororities, secret societies, or gangs was moved directly under MISDEMEANOR OFFENSE on page 1 to clarify when it applies.

HB 2187, effective September 1, 2009, revised the Penal Code FELONY OFFENSE of coercing, soliciting, or inducing a child to join a gang to include threats to a member of the child's family.

In addition, we have deleted the item at PERSONAL HAZING OFFENSE in which a person would commit an offense by recklessly permitting hazing to occur. That provision was held unconstitutional in *State v. Zascavage*, 216 S.W.3d 496 (2007).

A new provision from HB 2086, effective June 19, 2009, requires the student handbook to include INFORMATION REGARDING GANG-FREE ZONES. (See page 3.)

FNCF (LEGAL) STUDENT CONDUCT
ALCOHOL AND DRUG USE

HB 2467, effective September 1, 2009, expands DRUG-FREE ZONES, in which a criminal offense is enhanced, to include playgrounds. Now, in addition to the other drug-free zones, a person commits an offense if the person knowingly or intentionally possesses a controlled substance in, on, or within 1000 feet of a playground.

We have updated a citation at PARAPHERNALIA on page 2.

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

We have made a correction at REPORTING on page 9. A district "may," not "shall," include the number of students removed to a DAEP in its annual performance report.

G (LEGAL) COMMUNITY AND GOVERNMENTAL RELATIONS

We have revised the G section table of contents to reflect that GRB has been renamed from County Governmental Authorities to Interlocal Cooperation Contracts.

GNB (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES
REGIONAL EDUCATION SERVICE CENTERS

In addition to making conforming changes from HB 3 at CORE SERVICES, item 3, regarding performance ratings, we have revised the text throughout this policy to better match statutory language.

Since Education Code 8.051 does not list as a core service the requirement for ESCs to provide assistance to districts entering into agreements for cooperative shared services arrangements, we have moved this statutory provision to ADDITIONAL SERVICES.

GND (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES
STATE EDUCATION AGENCY

As mentioned above, the text previously at this code addressing accreditation, performance indicators, investigations, and sanctions has been moved to the newly created codes AIA and AIC.

GR (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES

Information on interlocal cooperation contracts has been moved to a new interlocal cooperation contracts code, GRB(LEGAL).

We have added to this policy provisions from SB 1003, effective September 1, 2009, regarding a district's obligation to report to the Office of Federal-State Relations a contract between the district and a federal-level governmental relations consultant.

Provisions on MUNICIPAL ANNEXATION of land have been moved from GRA(LEGAL) and updated to include more detail. A recent attorney general opinion, GA-697, has been added at MUNICIPAL ORDINANCES. In this opinion, the attorney general concluded that a home rule city may enforce its reasonable land development regulations against a school district for the purposes of aesthetics and the maintenance of property values.

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**GRA (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
LOCAL GOVERNMENTAL AUTHORITIES**

Changes to this policy include:

- Deletion of a provision regarding notice to the district by a residential facility, since this information is already covered at FD(LEGAL);
- Moving the provision on municipal annexation of land to GR(LEGAL); and
- Moving the provision on contracts with municipalities regarding school crossing guards to GRB(LEGAL), which focuses on interlocal contracts.

**GRA (EXHIBIT) RELATIONS WITH GOVERNMENTAL ENTITIES
LOCAL GOVERNMENTAL AUTHORITIES**

Reflected at item 4n is a change from HB 2086, effective June 19, 2009. Several types of conduct, such as escaping from custody, helping another escape from custody, and providing someone in custody with controlled substances now constitute a criminal offense under section 71.02 of the Penal Code. Principals are required to report offenses under section 71.02 to law enforcement.

In addition to this legislative change, the exhibit has been updated with parentheticals to assist the reader, and citations throughout have been updated.

**GRB (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
INTERLOCAL COOPERATION CONTRACTS**

This new policy was created to address provisions on contracts with other governmental entities. As a result, we have moved from GR(LEGAL) general information on interlocal contracts and have included a reference to Chapter 791 of the Government Code for reference to the detailed legal requirements that apply to these contracts. We have also added a cross-reference to CH(LEGAL).

Provisions on contracts regarding HEALTH-CARE AND HOSPITAL SERVICES and SCHOOL CROSSING GUARDS have been moved to this policy from GR(LEGAL) and GRA(LEGAL), respectively, and have been updated to better reflect statutory text.

**GRC (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
EMERGENCY MANAGEMENT**

We have added to this policy an existing statutory provision from the Government Code permitting a district to provide EMERGENCY ASSISTANCE to another local government as long as the presiding officer of the other local government requests assistance and the board authorizes the district to provide assistance by resolution or other official action. Likewise, the board president of the district may request assistance from another local government.

As a result of HB 1831, the definition of "LOCAL GOVERNMENT ENTITY" now includes a public junior college district.

